RBC Capital Markets

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June 28, 2011

BY ELECTRONIC MAIL
British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Registrar of Securities, Nunavut

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Dear Sirs/Mesdames:

Re: Notice and Request for Comments on the Proposed Securitized Product Rules

RBC Capital Markets ("**RBC**") has reviewed the proposed rules and rule amendments relating to securitized products (the "**Proposed Securitized Product Rules**"), as contained in the Request for Comments issued by the Canadian Securities Administrators ("**CSA**") on April 1, 2011. We are pleased to have the opportunity to participate in the review process by providing comments on the proposals as contained in the attached document.

RBC is fully supportive of regulatory reform initiatives that will further enhance the market's integrity, efficiency and transparency. In particular, we share the goal of ensuring a consistent level and quality of upfront and ongoing disclosure. As a global participant in the securitization

market, we have closely followed similar regulatory initiatives in other jurisdictions, which have been crafted in response to the experiences they encountered in their respective markets during the recent credit crisis.

In Canada, we believe it is very important to recognize that our experience was one of two separate and distinct markets. Firstly, the traditional securitized product market, backed by assets such as credit card receivables, residential mortgages, auto loans and leases, etc., performed as expected through the events of 2007 and 2008. This part of the market benefited from stable asset types, but also from strong program sponsorship provided by the major banks, as well as robust product disclosure.

Secondly, the very different experience with the non-bank sponsored ABCP which involved issuers acquiring CDOs and other long-term structured credit products and funding those assets through the issuance of ABCP without, at a minimum, appropriate liquidity support. In our view, the conditions that allowed those entities to participate in the Canadian market have been remedied, and that negative past experience is unlikely to be repeated.

With the Canadian securitized product market now consisting of only traditional asset types, we believe that the proposed rules that will govern this market need to be proportionate to the low risk and strong historic performance of these types of securitized product. On balance, the Proposed Securitized Product Rules in our opinion have tended to overstate the risk of this market and understate the level of disclosure currently made available to investors.

We would highlight for example the structural protections and disclosure provided by the major bank-sponsored ABCP conduits in the market, all of which carry the highest ratings from at least two credit rating agencies. The quality of these investments is not reflected in the new Exempt Distribution Rules for ABCP, where the prospectus exemption is tied to the eligibility of the investor. In our view, determining eligibility criteria at the instrument level and based on the current general investor criteria would serve this market best, rather than also including further securitized products investor criteria.

We welcome the opportunity to discuss with you the proposed prospectus exemptions or any of the Proposed Securitization Product Rules at your convenience. RBC has taken a lead role in the restoration of trust in the securitized product market after the credit crisis. We are strongly supportive of regulatory reform initiatives that enhance this trust but also reflect the quality and security of the types of securitized product available in the Canadian market.

Yours truly,

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CSA - Proposed Securitized Product Rules

RESPONSE TO REQUEST FOR COMMENTS

June 28, 2011

RBC Capital Markets®

This response document was prepared exclusively for the benefit and internal use of the Canadian Securities Administrators ("CSA") in order to provide comments on the Proposed Securitized Product Rules as outlined in the summary dated April 1, 2011. Neither this document nor any of its content may be used for any other purpose without the prior written consent of the Royal Bank of Canada ("RBC").

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Introduction

Overview of Response

RBC Capital Markets ("RBC") has reviewed the proposed rules and rule amendments relating to securitized products (the "Proposed Securitized Product Rules"), as contained in the Request for Comments issued on April 1, 2011 by the Canadian Securities Administrators ("CSA"). RBC's comments on the Proposed Securitized Product Rules are contained in our responses to each of the 47 questions posed by the CSA.

RBC's perspective on the proposals comes from over 20 years experience in the Canadian securitized product market, as an originator, servicer, arranger, and sponsor. We took part in the establishment and growth of the Canadian securitized product industry, witnessed the emergence and decline of the non-bank-sponsored CDO conduits, and took a lead role in the restoration of trust in the securitized product market after the credit crisis.

With the clear exception of the non-bank sponsored CDO conduits, the Canadian securitized product industry has delivered on its promise of providing investors with a low-risk alternative to government securities, while providing asset originators with a predictable and affordable means of financing. This mainstream sector of the market, which includes securitized product backed by auto and equipment loans and leases, credit card receivables and residential mortgages, drove the growth in this industry through 2005, and now comprises 100% of the securitized product available in Canada. Since the inception of this sector of the market in the late 80's, no investor has ever experienced a default or loss.

Following the events that occurred with the non-bank CDO conduits in 2007 and 2008, the Canadian securitized product market evolved to limit the possibility of a repeat occurrence. Changes have been as follows:

- Increased disclosure on an upfront and ongoing basis for all types of securitized products
- Greater diligence on the part of investors
- Disappearance of CDOs and other structured credit products as an asset class
- Cessation of all non-bank sponsored ABCP conduits
- Transition to "global-style" liquidity back-up lines, which can be drawn down at any time and for any reason to repay outstanding ABCP
- Emergence of multiple credit ratings on ABCP

In this environment, the scope of the Proposed Securitized Product Rules is disproportionate to the risks associated with the current Canadian market. Based on our experience and feedback from securitized product investors, we are of the opinion that no new rules or rule amendments are needed for this market. We are also concerned that increased regulation could cause smaller Canadian issuers to forego this market due to the increased costs and complexity associated with securitized product.

That being said, within the proposed rules, there are certain concepts that we would not be averse to seeing implemented, because they most closely resemble the best market practices currently being exhibited:

- Specific securitized product prospectus disclosure along the lines of Form 41-103F1
- Continuous disclosure along the lines of Forms 51-106F1 and 51-106F2
- Prospectus exemptions should be consistent for all commercial paper issuers. To the extent it is considered necessary for securitized products to have separate prospectus exemptions, the

exemptions should include one for those ABCP issuers that comply with the Bank of Canada's criteria for eligibility under the Bank's Standing Liquidity Facility

RBC's detailed responses to the specific questions are contained in the following sections.

General Questions

1. Comments on Principles

Question:

We welcome any comments on the three principles we have taken into account in developing the Proposed Securitized Products Rules. Are these the right principles? Are there additional principles we should take into account and if so, what should these be?

Background on Principles from CSA:

1. Rules should provide investors with information to understand the features and risks, and provide investors with information to value the investment at time of issuance and on an ongoing basis.
2. Rules should facilitate transparency, so the market functions in time of stress, and doesn't spill-over into other markets.
3. Rules should be proportionate to the risks associated with particular types of securitized products available in Canada, and should not unduly restrict investor access to securitized product.

Comments from RBC:

- The three principles are appropriate, but the Proposed Securitized Product Rules overstate the level of risk and complexity in the securitization products and structures that exist today in the Canadian market
- Securitized products now available in Canada are standard, well-understood asset types – auto loans and leases, credit card receivables, mortgages, personal loans, etc.
  - This segment of the ABS market functioned in time of stress
  - Any disruption that did occur in 2007-2008 was a spillover from the affected CDO conduits
  - Canadian investors have not experienced any defaults, or incurred any losses, from these types of securitized products
- There is no presence of securitized product backed by CDOs or other structured credit products in the Canadian market, other than the legacy product from the affected CDO conduits
- Current regulations and market practices provide sufficient information to investors to understand the underlying assets and evaluate risks
  - Investors now require, and are receiving, increased disclosure on an upfront and ongoing basis
- Rating agencies have tightened their criteria and multiple agencies are now rating ABCP
  - Global-style liquidity back-up lines are mandatory for all issuances of ABCP, which significantly reduces the risk of a market freeze, such as occurred in 2007

2. Need for Risk Retention

Question:

The Dodd-Frank Act requires federal banking agencies and the SEC to jointly prescribe rules that will require a "securitizer" (generally the issuer, sponsor or depositor) to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of securitized products, transfers, sells or conveys to a third party, subject to certain mandatory exemptions and discretionary exemptions. The SEC recently published proposed risk retention rules. The SEC April 2010 Proposals also contain a risk retention requirement as one of the proposed conditions of shelf-eligibility for asset-backed securities, which are intended to replace the current credit rating eligibility criteria. Is it necessary or appropriate for us to make rules prescribing mandatory risk retention for securitized products in order to mitigate some of the risks associated with securitization? If so, what are the appropriate types and levels of risk retention for particular types of securitized products?

Comments from RBC:

- Assumes prevalence of originate-to-distribute model in Canada, in which all risks are passed through to securitized product investors
- Risk-retention has always been a standard feature of the Canadian securitized product market
  - Originators bear first risk of loss
  - Removes incentive to maximize origination volume by lowering credit standards
- One of the key exceptions is the CMBS market, where pools of Canadian commercial mortgages are sold to securitized product investors through multiple tranches of ABS securities
  - Buyers of non-investment-grade classes of CMBS certificates (the "B-piece buyer") play a unique role in the transaction structure
    - These are sophisticated institutional investors, knowledgeable in real estate lending
    - The B-piece buyer undertakes a re-underwriting of the mortgage files as part of their due diligence
    - All pertinent information in the hands of the originating lender is made available to the B-piece buyer and access to the properties arranged as requested
    - The B-piece buyer has the opportunity to reject mortgages which do not meet their criteria
  - Retention by the sponsor / originator of the mortgage loans runs counter to the purpose of many, if not most, CMBS mortgage originators, which is to achieve risk transference as a means of meeting client needs without retaining an imprudent level of commercial real estate exposure on balance sheet
    - RBC held $22 billion of commercial real estate exposure to business borrowers as at April 30, 2011, the largest among our Business credit risk exposure
  - Absent the ability to maintain an outlet for moderating our commercial real estate exposure, RBC could have to turn away existing and potential clients from time to time, resulting in a less competitive market and higher costs for commercial real estate borrowers
    - Further limits on this structure could reduce RBC's support of this market
- Measures proposed by the Joint Regulators in the US are proving problematic for CMBS
  - The proposed regulations include "qualifying" commercial real estate loan requirements designed to identify low-risk loans that, if satisfied, would exempt such loans from any retention requirements
    - Unfortunately, if appears that extremely few outstanding CMBS loans would satisfy the "qualifying" criteria and consequently, it is unclear if the entire exemption concept will have any practical import
    - The existing CSA rules for CMBS already provided for specific disclosure requirements in lieu of financial statement disclosure of the issuer and the market already provides

detailed disclosure of the key features of the applicable pool of commercial mortgage loans

3. Prohibition on Conflicts of Interest

Question:

The Dodd-Frank Act amends the Securities Act of 1933 to prohibit sponsors, underwriters or placement agents of securitized products, or affiliates of such entities, from engaging in any transaction that would involve or result in any material conflict of interest with respect to any investor in a sale of securitized products. The prohibition against such activity will apply for one year after the closing date of the sale and provides for certain exceptions that relate to risk mitigating hedging activities intended to enhance liquidity. Should there be a similar prohibition in our rules? If so, what practical conflicts would this rule prevent that are seen in Canada today?

Comments from RBC:

- Not a prevalent risk in the Canadian market, so a similar prohibition wouldn't prevent any practical conflict
- These types of conflicts of interest are typically associated with the structured credit market where there are buyers and sellers of protection related to credit default swaps
- CDO's and other structured credit products are not presently securitized in the Canadian market and are not likely to be part of the Canadian market in the foreseeable future

4. Requirement for Independent Parties

Question:

Are there circumstances where we should require that certain material parties be independent from each other and if so, what are they? For example, should we require that an underwriter in a securitization be independent from the sponsor by proposing amendments to National Instrument 33-105 Underwriting Conflicts? Should we require that auditors who audit the annual servicer report be independent from the sponsor?

Comments from RBC:

- There is currently, and there should continue to be, disclosure of the roles played by the various parties to a transaction, so an investor can make an independent judgement on the potential for conflicts, and obtain information as needed to ensure that potential conflicts are adequately addressed
- It is not necessary that an underwriter of a securitization be independent from the sponsor
  - There is no reason to treat securitized product differently from the larger bank note market where deals are led by the bank-owned dealers
  - Rating agency and investor assessments provide sufficient scrutiny over the transaction structure to ensure mitigation of potential conflicts of interest
- It would be appropriate that any required audit of the servicer reports be completed by a firm that is independent of the sponsor

5. Definition of Securitized Product

Question:

Is the definition of “securitized product” sufficiently clear, particularly for those persons who will be involved in selling these products to investors? Do elements of the definition, e.g., “collateralized mortgage obligation”, “collateralized debt obligation”, “synthetic”, need to be defined?

Background on Definition from CSA:

Under the proposed National Instrument 41-103, “securitized product” means any of the following:

(a) a security that entitles the security holder to receive payments that primarily depend on the cash flow from self-liquidating financial assets collateralizing the security, such as loans, leases, mortgages, and secured or unsecured receivables, including:

(i) an asset-backed security;

(ii) a collateralized mortgage obligation;

(iii) a collateralized debt obligation;

(iv) a collateralized bond obligation;

(v) a collateralized debt obligation of asset-backed securities;

(vi) a collateralized debt obligation of collateralized debt obligations;

(b) a security that entitles the security holder to receive payments that substantially reference or replicate the payments made on one or more securities of the type described in paragraph (a) but that do not primarily depend on the cash flow from self-liquidating financial assets that collateralize the security, including:

(i) a synthetic asset-backed security;

(ii) a synthetic collateralized mortgage obligation;

(iii) a synthetic collateralized debt obligation;

(iv) a synthetic collateralized bond obligation;

(v) a synthetic collateralized debt obligation of asset-backed securities;

(vi) a synthetic collateralized debt obligation of collateralized debt obligations

Comment from RBC:

- The definition of "securitized products" should not be applicable to (i) NHA Mortgage-Backed Securities ("NHA MBS") issued pursuant to the NHA MBS program of Canada Mortgage and Housing Corporation ("CMHC") and (ii) Canada Mortgage Bonds issued pursuant to the Canada Housing Trust program of CMHC.
  - In both cases, such securities are fully guaranteed as to payments of principal and interest by CMHC, an agent of her Majesty in right of Canada
- The definition may be too broad and could potentially pull in things like:
  - Bank’s tier-1 capital trusts
  - Corporate syndicated loans secured by pools of receivables
  - OTC derivatives

6. Carve-Out for Covered Bonds

Question:

Is the proposed carve-out for covered bonds from the Proposed Securitized Products Rules appropriate? Should there be additional conditions imposed in order for the carve-out to be available and if so, what should these be?

Comment from RBC:

- The carve-out of covered bonds is appropriate given the well established market for this debt product issued by deposit taking financial institutions

7. Carve-Out of Non-Debt Securities of Mortgage Investment Entities

Question:

Is the proposed carve-out for non-debt securities of MIEs from the Proposed Securitized Products Rules appropriate? Should there be additional conditions imposed in order for the carve-out to be available and if so, what should these be?

Comment from RBC:

- The carve-out of non-debt securities of MIEs is appropriate given the specific regulation of this product

Proposed Prospectus Disclosure Rule

Eligibility for the Shelf System

8. ABS Eligibility Restrictions for the Shelf System

Question:

Should there be restrictions on the kinds of asset-backed securities distributions that are eligible for the shelf system and if so, what should those be and why? Should there be similar restrictions to those in Reg AB, such as prescribed time limits on revolving periods for transactions backed by non-revolving assets, caps on prefunding amounts, and restrictions on pool assets (e.g., no non-revolving assets in a master trust, caps on the proportion of delinquent assets in the pool, and prohibitions against non-performing assets)?

Comments from RBC:

- We do not believe that there should be regulatory restrictions on the kinds of asset-backed securities distributions that are eligible for the shelf system
- Blanket restrictions, time limits or caps may ignore the unique aspects of each pool of receivables
  - Revolving periods for non-revolving assets in a master trust may be warranted
  - Delinquent assets are normally excluded, but certain pools may exhibit normal levels of delinquencies that do not necessarily translate into losses
  - Not aware of any Canadian transaction that could include non-performing assets in the pool eligible for funding
- Disclosure of information in combination with a review by rating agencies and investors should be a sufficient control on the kinds of asset-backed securities distributions that are eligible for the shelf system

9. Timing of Shelf Supplements

Question:

Do investors need additional time to review shelf supplements prior to sale? Should we require the supplement (without price-related information) to be filed on SEDAR prior to first sale? What would be an appropriate amount of time, and would it change if loan- or asset-level disclosure was mandated)?

Comments from RBC:

- We are not aware of any feedback from any investors that indicates additional time is needed to review shelf supplements prior to sale
- The underlying legal and credit structures of a deal are already detailed in the base prospectus
- Additional time could be needed if loan- or asset-level disclosure was mandated, but that would be dependant on the scope of the investor's review

10. Rating Eligibility Criteria for the Short Form and Shelf System

Question:

Should the approved rating eligibility criterion for the short form and shelf prospectus systems be replaced with alternative criteria? In the alternative, if the approved rating eligibility criterion is maintained, should the issuer also satisfy one or more additional criterion such as those in the SEC April 2010 Proposals:

I. 5% vertical slice risk retention;

II. Third party review of repurchase or replacement obligations in connection with alleged breaches of representations and warranties;

III. A certificate from the CEO of a sponsor and an issuer that at the time of each offering off a shelf prospectus that the assets in the pool have characteristics that provide a reasonable basis to believe that they will produce, taking into account internal credit enhancements, sufficient cash flows to service any payments due and payable on the securities as described in the prospectus?

Comments from RBC:

- The existing approved rating eligibility criterion for the short form and shelf prospectus system should be maintained given the positive manner in which this criterion has worked to date
- Additional criteria are not needed for the types of securitized product currently available in Canada

11. Timeliness of Information Disclosure

Question:

Do offerings of asset-backed securities through the MTN/continuous distributions prospectus supplement provisions under Part 8 of National Instrument 44-102 (Shelf Distributions) give investors enough time to review the information or provide the public disclosure of the offering on a sufficiently timely basis?

Comments from RBC:

- We are not aware of any feedback from any investors that indicates additional time is needed to review shelf distributions prior to sale
- Deal structures are set in the shelf and do not change across deals that are covered under the same shelf
- Timing should not affect public disclosure

Pool Asset & Payment Disclosure

12. Need for Asset- or Loan-Level Disclosure

Question:

The SEC April 2010 Proposals require disclosure of asset- or loan-level data in some cases, and grouped asset disclosure in others (e.g. for credit card receivables). We are not proposing to require asset- or loan-level disclosure or grouped asset disclosure. Is this level of disclosure necessary and if so, what are appropriate standardized data points?

Comments from RBC:

- Asset- or loan-level data disclosure, or grouped asset disclosure is not necessary
- Investors rely on the summarized data provided in the prospectus as represented by the issuer
- Specific to CMBS, the Pool characteristics listed for "an asset pool containing one or more commercial mortgages" (3.2 (2) (p) of Schedule A – Proposed Prospectus Disclosure Rules), contains a number of elements that have been regularly included in Canadian CMBS prospectuses, however, additional elements listed – or enhanced details for elements historically included, would prove problematic
- While the Prospectus Disclosure Rules with respect to commercial mortgages contemplate providing the information, "to the extent material", our concern here lies not with the "materiality" of the additional information contemplated. The issuers are already satisfying the disclosure requirements and the general "no misrepresentation" requirement
- Our concern is in the feasibility of obtaining the information and for potential unintended consequences
  - For example, under s. (p) (ii) (H) 3, "[t]he annual rental represented by such [maturing] leases", the granularity of the information could result in the identity of the tenant being deduced
  - While the landlord may have consented to disclose certain information to the lender for the purposes of obtaining a mortgage, the terms of the lease (and certainly the tenant's expectations) may not contemplate such information reaching the public domain in a prospectus, with potential adverse competitive implications
    - We assume that the lease expiration information contemplated under (H) is for the future ten years rather than the previous ten years as currently written, as the prospective maturities would be more meaningful to investors than historical in gauging the sustainability of the occupancy level and cash flow
  - Canadian CMBS prospectuses have traditionally contained a schedule of future maturities, outlining the number of leases expiring, the total net rentable square footage expiring and the percentage of total net rentable square footage expiry for each year when leases are maturing – not limited to ten years, and for each of the top five loans – or loan concentrations if cross-collateralized and cross-defaulted (not limited to exposures of 10% or more)
  - More onerous disclosure requirements may result in borrowers being unwilling – or unable – to have tenant information disclosed in this manner, placing CMBS originators at a disadvantage compared to traditional lenders, resulting in less competition for commercial real estate financing
- Likewise, depending on the granularity contemplated by "the components of net operating income and net cash flow for each mortgaged property" (s. (p) (i) (B)), borrowers and/or their tenants (particularly in single-tenant properties) may be unwilling – or unable – to agree to the additional disclosure for confidentiality or competitive reasons

- Given the different characteristics of each pool, each issuer is required to satisfy the "no misrepresentation" disclosure requirement, and, as highlighted above, this has resulted in the offering documents to date already having material detailed disclosure on the terms of the applicable assets, including in respect of large CMBS loans

13. Need for Provision of Computer Cash Flow Model

Question:

The SEC April 2010 Proposals require that issuers provide a computer waterfall payment program to investors. We currently are not proposing to impose a similar requirement. Is this type of program necessary and if so, why?

Comments from RBC:

- Provision of computer cash flow models is not necessary
- Investors rely on summarized data provided in the prospectus
- The prospectus also contains waterfall details
- For some asset classes the prospectus contains scenarios of possible outcomes

Other Prospectus Disclosure Questions

14. Mandatory Review of Pool Assets for Prospectus Offerings

Question:

In connection with the requirements of the Dodd-Frank Act, the SEC has made a rule requiring that issuers who offer asset-backed securities pursuant to a registration statement must perform a review of the pool assets underlying the asset-backed securities. The issuer may conduct the review or an issuer may employ a third party engaged for purposes of performing the review provided the third party is named in the registration statement and consents to being named as an expert, or alternatively, the issuer adopts the findings and conclusions of the third party as its own. Should we introduce a similar requirement for prospectus offerings of securitized products?

Comments from RBC:

- Every Canadian prospectus offering of securitized product currently features a pool audit and review conducted by an independent audit firm as part of normal market terms.
- There have not been requests from the market for disclosure regarding these pool audits

15. Risk Factor Disclosure

Question:

We are not proposing to prescribe risk factor disclosure. Should Form 41-103F1 contain prescribed risk factor disclosure and if so, what disclosure should be prescribed? For example, are there standard risk factors associated with particular underlying asset classes that should always be included in a prospectus?

Comments from RBC:

- There is no need for standardized risk factor disclosure
- Risk factors should be evaluated on a pool-by-pool basis
- This type of disclosure is seriously considered by sellers and other parties involved in transactions and is already disclosed as appropriate given the no misrepresentation disclosure requirement

16. Incorporation of Previous Disclosure by Reference

Question:

Should Form 51-106F1 and Form 51-106F2 filings previously filed by a reporting issuer be required to be incorporated by reference in other short form prospectus offerings by the same issuer? What types of filings are appropriate or necessary for incorporation, and which are not? Would the requirements regarding static pool disclosure in Item 4 (historic performance information relevant to the pool) of the proposed Form 41-103F1 be sufficient?

Background on Specified Forms:

- 51-106F1 relates to historic payment and performance information
- 51-106F2 relates to a report of significant events
- Proposed Form 41-103F1 is based on IOSCO ABS Disclosure Principles and original Reg AB, with some modifications, and is intended to provide specific disclosure requirements relating to securitized products:
  i. Parties with significant functions: sponsor, arranger, depositor and originator, etc.
  ii. Significant obligors (10% or more of the asset pool)
  iii. Description of assets and overview of pool characteristics
  iv. Historic pool performance information
  v. Description of securitized product
  vi. Retention of securitized product
  vii. Structure of the transaction
  viii. Credit enhancement and other support
  ix. Use of derivatives
  x. Credit ratings
  xi. Description of reporting

Comments from RBC:

- The requirements regarding static pool disclosure in Item 4 of the proposed Form 41-103F1 would be sufficient, without incorporating other Forms by reference
- Information contained in Form 51-106F1 and Form 51-106F2 would have been previously filed and would be available to investors for additional reference

17. Adequacey of Existing Registration Categories and Exemptions

Question:

Are there any existing registration categories or registration exemptions that should be modified or made unavailable for the distribution of securitized products under a prospectus, or their subsequent resale?

Comments from RBC:

- The existing registration categories and exemptions do not need to be changed

Proposed CD Rule and Certification Amendments

18. Interaction with NI 51-102

Question:

The Proposed CD Rule requires reporting issuers that issue securitized products to make several new filings in addition to the filings required by NI 51-102. In light of these new proposed filings, should reporting issuers be exempt in whole or in part from the requirements of NI 51-102 and related forms? For example, do the costs associated with preparing and filing audited financial statements of the issuer outweigh the benefits to investors? We believe there may be circumstances where financial information about the issuer may be important to investors, such as information relating to derivative transactions to which the issuer is a party, or information relating to other liabilities of the issuer that may rank higher to or equally with the notes held by investors, and thereby reduce the potential recovery of investors in the case of an insolvency of the issuer. If we propose an exemption from the requirement to prepare and file audited financial statements, how should we address these concerns? What conditions should we include?

Background on NI 51-102 and the Proposed CD Rule:

- NI 51-102 sets out the current continuous disclosure obligations for a reporting issuer:
  - Annual and interim financial statements
  - Annual and interim MD&A
  - Annual Information Form
- Non-Reporting Issuers have no reporting requirements under current securities laws
- The proposed Continuous Disclosure rules for reporting issuers currently incorporate NI 51-102, but also contain specific securitized product disclosure under NI 51-106:
  - Payment and performance reporting (Form 51-106F1, filed 15 days after payment)
    - All pool performance information material to investors
    - Demands to repurchase ineligible pool assets
    - Material pool changes, including additions and removals of accounts, or material changes in underwriting or origination standards
    - Breaches of reps, warranties or covenants
    - Signed by servicer or CEO or CFO of reporting issuer
    - May file existing form of payment and performance report if it contains all material information
  - Report of significant events (Form 51-106F2 filed within two business days of event)
    - Addition of credit enhancement
    - Difference of 5% or more in the material pool characteristics
    - Change in the credit rating of securitized products or a material obligor
    - Entry into, or amendment or termination of, material agreements
  - Annual servicer report
    - Assess compliance with applicable servicing standards
  - Annual servicer certificate
    - Confirms compliance with applicable servicing agreement

Comments from RBC:

- Disclosure under NI 51-102 provides little relevant information to a securitized product investor
- It would be unusual for an adverse event to occur that would not be caught up in the reporting requirements under NI 51-106

Application to all Outstanding Series or Class of Securitized Product

19. Grandfathering or Transitional Provisions for 51-106F1 Disclosure

Question:

The proposed continuous disclosure requirements apply in respect of all securitized products issued by the reporting issuer, regardless of whether they were distributed under a prospectus or on a prospectus-exempt basis. For example, a reporting issuer must file a Form 51-106F1 in respect of each outstanding series or class of securitized products it has issued, regardless of whether it was issued under a prospectus or on a prospectus-exempt basis. Should there be a "grandfathering" or transitional provision put in place?

Comments from RBC:

- There should be "grandfathering" for existing transactions on the basis that existing investors are obviously satisfied with the level of reporting, and there would be time and expense to modify existing reports to provide the additional information

20. Applicability of Proposed Disclosure Requirements

Question:

Should the proposed continuous disclosure requirements only apply in respect of securitized products that the reporting issuer distributed via prospectus? If yes, how should we address the concern that other securitized products issued by the same issuer on an exempt basis may become freely tradeable but without the reporting issuer being required to provide any ongoing disclosure about these other securities?

Comments from RBC:

- Securitized products distributed through a prospectus should be held to a market standard for disclosure
- Private issuers and their investors should be free to determine the required amount of disclosure
- Securitized products issued by a reporting issuer on a private placement basis should continue to be able to become freely tradeable, as other exempt securities of a reporting issuer since the reporting issuers are already subject to continuous disclosure requirements
  - This is especially relevant when the securitized products are supported by the same pool of assets which is subject to the continuous disclosure requirements

21. Legending or Notice Requirements for Resale Restrictions

Question:

Should there be a legending or notice requirement to explain resale restrictions for securitized products that have been distributed on an exempt basis?

Comments from RBC:

- If there is a private note purchase, there would typically be a paragraph within the note explaining the resale restrictions

22. Disclosure of Significant Events

Question:

Section 5 of NI 51-106 requires timely disclosure of a range of enumerated "significant" events largely derived from Form 8-K. Would adding, modifying or deleting any of the criteria on this list make it a better regime for timely disclosure? If so, what changes should be made?

Background on "Significant" Events as per Section 5 of NI 51-106:

1. If an event described in subsection (2) occurs in respect of a reporting issuer, the reporting issuer must do the following:
   a. Immediately issue and file a news release authorized by an executive officer disclosing the event;
   b. As soon as practicable, and in any event no later than two business days after the date on which the event occurs, file a Form 51-106F2 with respect to this event
2. For purposes of subsection (1), the events are:
   a. A failure to make payment to holders of outstanding securitized products on a payment date specified by a transaction agreement;
   b. A change of servicer, trustee of the reporting issuer or trustee for outstanding securitized products;
   c. A termination of, or change to, any existing credit enhancement or other support relating to outstanding securitized products, that would be material to an investor, other than by expiration of the agreement on its stated termination date or as a result of all parties completing their obligations under such agreement;
   d. The addition of any material credit enhancement or support relating to outstanding securitized products;
   e. The bankruptcy or receivership of a sponsor, a depositor, a servicer, a trustee of the reporting issuer, a trustee for outstanding securitized products, a significant obligor, a provider of any material credit enhancement or other support relating to outstanding securitized products, or any other material party to a securitized product transaction under which outstanding securitized products were issued;
   f. An early amortization, performance trigger or other event, including an event of default, as specified in a transaction agreement, that would materially alter the payment priority or distribution of cash flows relating to outstanding securitized products or the amortization schedule for the securitized products;
   g. A difference of 5% or more occurring in a material pool characteristic of an asset pool for outstanding securitized products from the time of issuance of the securitized products, other than as a result of the pool assets converting into cash in accordance with their terms;
   h. A change in the sponsor's interest in outstanding securitized products that would be material to an investor;
   i. A change in the credit rating of outstanding securitized products;
   j. A change in the credit rating of a significant obligor;
   k. The entry into, or amendment or termination of, an agreement that is material to a securitized product transaction under which outstanding securitized products were issued;

l. Any event that results in a material modification to the rights of holders of outstanding securitized products;

m. Any other event that affects payment or pool performance that would be material to an investor.

Comments from RBC:

- With respect to the reporting in 1(a), we suggest that the timing for the news release should be within two business days of the issuer becoming aware of the event
  - The issuer may not be immediately aware of certain events occurring, such as a change in a pool characteristic that may only be known during a review of the month-end reporting
- For the prescribed filing in 1(b), this should be within 10 days following the issuer becoming aware of the event
  - 10 days is the current deadline for filing a "Material Change Report" under existing prospectus disclosure rules
  - Time is needed to determine the severity of the event and the issuer's response
- From the list of significant events, we basically agree with (a) to (f), (i), and (k) to (m)
  - In (b) above, a change in a trustee should not be considered a significant event
- With respect to changes in pool characteristics (from (g) in the above list), there can often be normal levels of variability in performance due to seasonal or non-recurring factors, and it's unclear whether the 5% refers to a relative or absolute change
  - A difference of +/- 5% relative to the average of a performance ratio from the normal level is not unusual
    - For example, if a normal loss ratio is 1.0%, it wouldn't be unusual to have an expected range of 0.95% to 1.05%
  - Even in absolute terms, delinquency or other ratios can normally fluctuate by +/- 5%
- For (h), we are not in favour of a required level of sponsor's interest, so we do not believe that it's relevant to disclose changes in a sponsor's interest
- Under (j), changes in credit ratings of material obligors may be relevant to the CDO and structured credit markets, but have little relevance to conventional securitizations
  - Unusual to have an obligor representing more than 10% of a conventional pool
  - Where concentrations to material obligors exist in a conventional pool, the required practice is to reduce allowed exposure in response to reductions in credit ratings
    - It's not unusual to have positive and negative changes in credit ratings in standard securitization transactions, but the structure should be immune to such changes
  - May present an onerous reporting obligation with little benefit to the investor
  - Reporting may overstate the significance of the event in a standard transaction
  - May not be aware of the change within two business days
    - Typically reviewed as part of the monthly reporting cycle

Statutory Civil Liability

23. Secondary Civil Liability

Question:

Should the new documents that are required to be filed under the Proposed CD Rule be prescribed as core documents for secondary market civil liability?

Background on "Core Documents":

- "Core documents" under the *Securities Act* (Ontario) are prospectuses, take-over bid circulars, issuer bid circulars, directors' circulars, rights offering circulars, management's discussion and analysis, annual information forms, information circulars, annual financial statements, interim financial statements and material change reports
- With respect to misrepresentations in non-core documents, a plaintiff must show that the misrepresentation was made knowingly or recklessly, or otherwise as a result of "gross misconduct" in a civil action for secondary market disclosure under the *Securities Act* (Ontario)
- In contrast, in the case of core documents, a plaintiff need not prove that there was fraud or negligence on the part of the defendant in making the misrepresentation. The onus will be on the defendant to establish a due diligence or other defence

Comments from RBC:

- We do not believe that the new documents that are required to be filed under the Proposed CD Rule should be prescribed as core documents for secondary market civil liability as doing so would be treating ABS issuers in a different manner than non-ABS issuers
- In fact, ABS issuers would be the only class of issuers to have additional documents designated as "core documents" under Section 138.1 of the *Securities Act* (Ontario), potentially creating the false perception of increased risks associated with the types of asset-backed securities available in the Canadian market

Certification

24. Exemption from Part 2 of NI 52-109

Question:

Is it appropriate to exempt reporting issuers that issue securitized products and that are subject to the Proposed CD Rule from the requirements to establish and maintain disclosure controls and procedures and internal control over financial reporting in Part 2 of NI 52-109?

Comments from RBC:

- Consistent with our response to Question 18, reporting issuers of securitized products should be exempt from financial reporting
- Issuers should also be exempt from the requirements to establish and maintain disclosure controls and procedures, and internal control over financial reporting as per Part 2 of NI 52-109
- In particular, we note the following:

- Annual Servicer Report required under Section 6 of Proposed Instrument 51-106 and Annual Servicer Certificate required under Section 7 of Proposed Instrument 51-106 themselves function as "controls" for the purpose of the servicer reports that certification forms speak to.
- The transaction documents for securitization transactions often provide some of the controls covered by disclosure controls and procedures ("DC&P") in that the nature of the transactions require ongoing reporting on transaction performance and occurrence of certain events, thereby creating an ongoing recording, processing, summary and reporting that helps ensure that information is able to then be reported within the time periods specified in securities legislation.
- Other aspects of DC&P are to a large degree not relevant for ABS issuers to the extent that they relate to communication of financial information to management, including certifying officers, in a timely manner. For ABS issuers, the administrative and servicing personnel accumulating the financial information are often also the certifying officers.
- The Payment and Performance Report for Securitized Products (Form 51-106F1), the Annual Servicer Report required under Section 6 of Proposed Instrument 51-106 and Annual Servicer Certificate required under Section 7 of Proposed Instrument 51-106 cover many of the aspects of internal control and financial reporting ("ICFR") in that they pertain to the maintenance if records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer and would prevent or allow for the timely detection of unauthorized acquisition, use or disposition of the issuer's assets
- Other aspects of ICFR relate to the preparation of financial statements in accordance with GAAP and, consistent with our response to Question 18, we are of the view that ABS issuers should be exempt from the preparation and filing of financial statements.

25. Note to Reader in Proposed Forms of Certification

Question:

The proposed forms of certification for reporting issuers that issue securitized products does not contain a note to reader similar to the note to reader required for venture issuer forms of certification. Should there be a note to reader required for the certifications and if so, what information should the note to reader contain?

Background on Note to Reader in Venture Issuer Certification Forms:

- The note to reader in venture issuer certification forms makes it clear that the form does not include representations relating to the establishment and maintenance of DC&P and ICFR and informs investors that inherent limitations on the ability of certifying officers of a venture issuer to design and implement on a cost effective basis DC&P and ICFR may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

Comments from RBC:

- Many aspects of DC&P and ICFR are covered by other features of securitization transactions and related reporting and other aspects of DC&P and ICFR are not relevant to ABS issuers. As a result, we don't believe it is necessary or appropriate for the proposed forms of certification for ABS issuers to contain a note to reader similar to the note to reader required for venture issuer forms of certification. Also, see our response to Question 24 above

Other

26. Report of Requests for Repurchase & Replacement:

Question:

We are proposing that if an originator, sponsor or other party has repurchase or replacement obligations in respect of pool assets collateralizing securitized products distributed under a prospectus, the prospectus must provide historical demand, repurchase and replacement information for those parties in respect of other securitizations where those parties had similar obligations, where the same class of assets was securitized, and where the securitized products were distributed under a prospectus. Subsequently, demand, repurchase and replacement information must be provided in Form 51-106F1. Is this type of disclosure adequate, or is it necessary to have this type of information provided by originators and sponsors for all securitizations in which they have been involved (including those in the exempt market)? For example, in connection with the requirements of the Dodd-Frank Act, the SEC has made a rule requiring any securitizer to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by the securitizer, so that investors may identify asset originators with clear underwriting deficiencies. The securitizer must file an initial “look-back” report, and subsequently update the information on a quarterly basis

Comments from RBC:

- Assumes prevalence of originate-to-distribute model, which is not part of the Canadian market
- Proposal overstates the frequency and risk of these types of events since, in our experience, it’s unusual to have a claim against the originator for repurchase or replacement for the types of transactions in the Canadian market
- Historic demand, repurchase and replacement information will likely show very little, if any, activity
- The low frequency of these types of events may make it difficult to compile historic information
- Normal reporting of portfolio loss information will identify asset originators with underwriting deficiencies

Proposed Exemption Distribution Rules

General Approach

27. Appropriateness of New Securitized Product Exemption

Question:

We are proposing a new Securitized Product Exemption which focuses on a specific product that has unique features and risks. Is this product-centered approach appropriate? Should we instead be focusing on reforming the exempt market as a whole?

Background on Securitized Product Exemption:

- New regulatory regime for distributions of securitized products on a prospectus-exempt basis
- Removal of existing prospectus exemptions for securitized products:
  - Accredited investor exemption
  - Minimum of $150,000 to invest
  - Maturity of less than one year
- The Securitized Product Exemption is a prospectus exemption for distributions of securitized products to an "eligible securitized product investor"
  - The definition of eligible securitized product investor is essentially the same as the definition of "permitted client" in NI 31-103
  - Individual with financial assets in excess of $5 million
  - Person, other than individual or investment fund, with net assets of at least $25 million

Comments from RBC:

- There is no need to create a specific exemption for securitized product, or a specific class of securitized product investor
  - Overstates the level of complexity and risk associated with the types of securitized product currently available in Canada
  - May deter investment due to negative connotations associated with a product-centered approach
- It would be unusual to have regulations that exclude certain clients from investing in securitized products, who could otherwise purchase other prospectus-exempt products
- The focus should be on the exempt market as a whole

28. Sale of Securitized Products in the Exempt Market

Question:

Should securitized products be allowed to be sold in the exempt market, or should they only be sold under a prospectus?

Comments from RBC:

- They should absolutely continue to be sold in the exempt market
  - Many current issuers would not go to the public market, since it's too costly for a relatively small issuer

  - Sophisticated parties should be able to transact on a private placement basis based on mutually agreeable terms, such as issuers of securitized products to banks or bank sponsored conduits
  - These issuances should continue to be available to market participants to provide liquidity to the market and should not be subject to burdensome requirements, such as the preparation of an information memorandum where the purchaser is a sophisticated purchaser, such as a bank or a bank sponsored conduit
- Information Memorandum disclosure that is already being provided to investors in bank sponsored conduit's short term securitized products already provides prospectus-level disclosure

Who Can Buy

29. Continuation of Prospectus Exemptions for Securitized Products

Question:

We are proposing to remove a number of existing prospectus exemptions through which securitized products can be sold. Should we permit securitized products to continue to be sold through some existing exemptions and if so, which exemptions? Should securitized products be allowed to be sold in the exempt market, or should they only be sold under a prospectus?

Background on Proposed Removal of Exemption:

- The CSA is proposing to remove the following exemptions:
  - Accredited investor exemption
  - Private issuer exemption
  - Offering Memorandum exemption
  - Minimum of $150,000 to invest
  - Short-term debt exemption

Comments from RBC:

- Securitized products should continue to be sold under the existing exemptions
- Securitized products should not be treated differently than the rest of the exempt market
- The securitized product currently available in the Canadian market is conventional, low risk product that should be available to all investors
- Mandated disclosure will ensure that there will continue to be information available to investors to assess the investment opportunity

30. Should Investor Access to Securitized Products be Restricted

Question:

The proposed Securitized Product Exemption in section 2.44 only permits certain "highly-sophisticated" investors (i.e., eligible securitized product investors) to buy securitized products on a prospectus-exempt basis. Other investors generally would only be able to buy securitized products that are distributed through a prospectus. Is this the right approach? If not, what approach should we take? In particular, should we permit other investors to purchase securitized products in the exempt market through a registrant subject to suitability obligations in respect of the purchaser? Would having a registrant

involved adequately address our investor protection concerns? Please refer to Question 32 for additional related questions.

Comments from RBC:

- Specific Securitized Product Exemptions are not necessary, and overstate the risk and complexity of the securitized product available in Canada
- Securitized products should not be treated differently than the rest of the exempt market

31. Determination of Eligible Securitized Product Investor

Question:

If our proposed approach to restrict access to securitized products to "highly sophisticated" investors is appropriate, is the proposed list of eligible securitized product investors the right one? If not, how should it be modified? In particular, we would appreciate feedback on the following:

A. Expanded list of who would qualify as an eligible securitized product investor
   - Should we expand the list of eligible securitized product investors? For example:
     1) Individuals (paragraph (n) of the definition)
        - Should we include high-income individuals and if so, at what level of income, e.g. $1 million?
        - Should we permit inclusion of spousal income or assets when calculating applicable income or asset thresholds for individuals?
        - Should other types of assets be included when calculating asset thresholds for individuals, not just net realizable financial assets and if so, what types of assets should be permitted?
     2) Persons or companies who are not individuals (paragraph (p) of the definition)
        - Should we lower the net asset threshold of $25 million for persons or companies (other than individuals or investment funds)? If so, what is the appropriate net asset threshold for these entities?
     3) Other investors
        - Are there other categories of investors who should be included in the list of eligible securitized product investors and if so, what should those be? For example, should we include an individual registered or formerly registered under securities legislation?

B. Should we require that each beneficiary of the managed account in paragraph (k) of the proposed definition meet the criteria set out in the other paragraphs of the definition of eligible securitized product investor?

C. Should the list of eligible securitized product investors be narrowed? For example, should the financial thresholds under the proposed definition of eligible securitized product investor be raised? Are there entities in the proposed definition who should not qualify as eligible securitized product investors?

Comments from RBC:

- This question demonstrates the difficulty in setting rules for eligible securitized product investors that deviate from those used for investors in the rest of the exempt market
  - May be difficult for investors and dealers to understand who qualifies
  - Could cause market participants to avoid securitized product

- We don't believe it's necessary to restrict access to securitized product to "highly sophisticated" investors
- Complexity of the eligible securitized product investor concept is disproportionate to the risks associated with the types of securitized product available in Canada

32. Prospectus Exemptions for Securitized Products

Question:

We continue to consider other possible prospectus exemptions for securitized products, along with appropriate conditions to such prospectus exemptions. We would appreciate your feedback on the following possible exemptions and conditions, and whether they should be in lieu of, or in addition to, the proposed Securitized Product Exemption:

A. Enhanced accredited investor or minimum amount investment prospectus exemption
   - Should we maintain availability of the accredited investor and minimum investment amount prospectus exemptions? Should their continued availability require additional conditions and if so, what should those be?
   - For example, should we require either or both of the following additional conditions:
     - Issuer must provide an information memorandum and possibly ongoing disclosure; and,
     - The investor must buy the securitized product from a registrant

B. Minimum amount investment prospectus exemption specifically for securitized products
   - Should we have a prospectus exemption that would permit an investor to purchase securitized products provided the minimum amount invested is relatively high? If so, what would be an appropriate minimum amount threshold?

C. Specified ABCP prospectus exemption
   - Should investors who are neither eligible securitized product investors nor accredited investors be permitted to invest in ABCP provided certain risk-mitigating conditions are met? If so, what conditions should we impose on these distributions? Would ABCP that satisfies the following conditions be appropriate for non-accredited investors:
     - the ABCP has received a minimum of two prescribed credit ratings;
     - the ABCP is backed by a committed global-style liquidity facility that represents at least 100% of the outstanding face value of the ABCP and is provided by an entity with a minimum prescribed credit rating;
     - the sponsor is federally or provincially regulated and has a minimum prescribed credit rating;
     - the ABCP does not have direct or indirect actual or potential exposure to highly structured products such as collateralized debt obligations or credit derivatives (except for obtaining asset-specific protection for the ABCP program);
     - the ABCP program does not use leveraged credit derivatives that could subject the program to collateral calls; and
     - the issuer must provide an information memorandum and ongoing disclosure?

   - If the ABCP satisfies the above conditions, should we also require that an investor, or certain types of investors (for example, a "retail" investor) must buy the securitized product from a registrant? If so, what types of investors would benefit from this requirement

Comments from RBC:

- We would be in favour of the use of the exemptions and conditions listed in (A) and (C) above, in lieu of the proposed Securitized Product Exemption
  - We agree with the continued availability of the accredited investor and minimum investment amount prospectus exemptions, subject to the Issuer providing an information memorandum to purchasers, other than banks, bank sponsored conduits and similar investors
  - We would also agree with the condition that an investor must buy securitized product from a registrant
- We would be in favour of (B) only if such minimum amount threshold was applied equally to all exempt products, not just securitized products
- Conditions listed in (A) and (C), subject to the comments above, provide a good match with current best practices in the Canadian securitization market, and better reflect the risks associated with the types of securitized products available in this market

33. Additional Limits on Access for Securitized Products

Question:

Should we provide for more limited access to securitized products than has been proposed?

Comments from RBC:

- No. Apart from the adverse experience of the non-bank CDO conduits, which are no longer part of the Canadian market, the mainstream Canadian securitized product market has functioned flawlessly since its inception in the late 80's, with zero defaults or losses to investors
- The market has responded to the events with the non-bank CDO conduits with tighter standards around all aspects of securitized products to ensure that this experience is not repeated

Disclosure

34. Impact of Proposed Requirements on Disclosure

Question:

The objectives of requiring disclosure for prospectus-exempt distributions of securitized products are to:
- create incentives for enhanced due diligence by sponsors and underwriters who must prepare the disclosure, and investors who will be expected to take the disclosure into account in making their investment decision;
- improve the quality and consistency of disclosure;
- facilitate a transparent, and thus stable, securitization market.

Will our proposed requirements for disclosure in the exempt market achieve or further these objectives?

Background on Proposed Requirements on Disclosure:

- Currently, no offering document is required for the use the following exemptions to issue ABCP:
  - Accredited investor exemption
  - Minimum $150,000 investment
  - Short-term debt exemption

- Under the proposed regulations, ABCP issuers will be required to provide an Information Memorandum ("IM") to investors and make it accessible to investors on a website:
  - The IM must be in a prescribed form and contain information that an investor would reasonably require to make an informed investment decision
  - Must not contain a misrepresentation
  - Must be certified as to its accuracy by an issuer/promoter/sponsor/underwriter
- ABCP issuers will also be required to provide monthly reports using a prescribed format, which are posted to an investor accessible website within 15 days of each month end
- Issuers will also be required to prepare and distribute a timely disclosure report within two days of the occurrence of:
  - A change to the information in the most recent monthly report or IM
  - An event that affects payment distribution or performance of the pool

Comments from RBC:

- ABCP issuers are currently making available the types of information contained in the proposed requirements, so there should be little positive impact on the transparency or stability of the market
- Proposed requirements would only serve to standardize the IM and the type of information contained in the monthly reporting for short term securitized products, which is not something that investors have requested; however, the disclosure requirements may have disruptive effects on the non-short term securitized products market since issuers of securitized products will have to now satisfy the IM requirement, including on issuances to banks and other financials
- Please note that information contained in the monthly reports, which are required to be posted within 15 days of each month end, will be on a one-month lagged basis, since the reports are based on seller information that is provided during the month following the month referenced in the report
- Requirements for this information to be updated on a more frequent basis may be impractical given the fact that the bank sponsored conduits are continually buying assets and issuing commercial paper, sometimes on a daily basis
  - Monthly asset reporting is more appropriate

35. Degrees of Investor Disclosure for Purchases on Exempt Basis

Question:

Is there a class of investor for whom it is not necessary to require that some form of disclosure be provided in connection with the purchase of securitized products on a prospectus-exempt basis? If so, what type of investor?

Comments from RBC:

- This should include ABCP conduits or Banks purchasing securitized product
  - It's common for these entities to purchase notes issued by a conduit established by an originator of assets to facilitate the funding of a pool of assets

36. Necessity of Disclosure for all Securitized Products

Question:

Is there a type of "private-label" (as opposed to government-issued or -guaranteed) securitized product for which disclosure is not necessary? If so, what type of securitized product?

Comments from RBC:

- There is likely overlap between this question and question #35 above
- Securitization conduits established by asset-originators to facilitate the financing of those assets through the sale of notes to issuing conduits or banks should be exempt from regulated disclosure requirements

37. Specific Disclosure on Initial Distribution

Question:

We are not prescribing specific disclosure for the initial distribution of securitized products, other than short-term securitized products such as ABCP. Is this an appropriate approach? What impact would require an information memorandum for distributions of non short-term securitized products have on costs, timing and market access?

Comments from RBC:

- Your approach is correct to not prescribe specific disclosure for prospectus-exempt distributions of securitized product
- Investors in these transactions seem to be satisfied with current disclosure and their ability to obtain additional information if required
- Requiring an information memorandum would substantially impact the cost and timeline of a transaction and would restrict market access for smaller issuers in the market
- This proposed requirement would add significant costs to issuers that have not had to prepare an offering document with little benefit to the purchaser which is a sophisticated party, such as a bank or bank sponsored conduit

38. Specific Disclosure on Initial Distribution of ABCP

Question:

We are prescribing certain disclosure for short-term securitized products such as ABCP (proposed Form 45-106F7 Information Memorandum for Short-Term Securitized Products). Is this an appropriate approach? Would adding, modifying, or deleting any of the prescribed disclosure improve the requirements? Should we mandate the format in which any of the disclosure is provided, for example, XML? What impact will requiring prescribed disclosure for distributions of short-term securitized products have on costs, timing and market access?

Background on Proposed Form 45-106F7:

The IM must be in plain language and provide sufficient information about the short-term securitized product for a prospective purchaser to make an informed investment decision. At a minimum it is required to describe the following:

1. Significant parties
2. The basic structure of the program
3. How the program works
4. The types of assets that may be acquired
   - Requires a current summary of program assets
5. Legal structure of securitized product offering
6. Flow of funds
7. Conflicts of interest
8. All fees to be paid or payable, and the reason for those fees
9. All significant risk factors
10. Program documents
11. Financial leverage
12. Credit rating, and risk factors identified by the credit rating organization
13. Resale restrictions
14. Purchaser's and securitized product holder's rights
15. Ongoing reporting obligations

The IM must also contain a signed certificate of the issuer and sponsor stating that there is no misrepresentation. A similar certificate is also required of the underwriter.

- Establishes right of action against issuer, directors, sponsor and each underwriter for a misrepresentation
- Proposed liability for anyone signing the offering memorandum
- Proposal is that an investor would not have to prove reliance on the misrepresentation

Comments from RBC:

- The Canadian ABCP market consists entirely of conduits sponsored by Canadian Schedule 1 and Schedule II banks
  - All carry the highest ratings from at least two national rating agencies
- All Canadian ABCP conduits are supported by global-style liquidity back-up lines
- No investor in a Canadian bank-sponsored ABCP conduit has ever experienced a default or loss
- This market continued to function through the credit crisis of 2007-2008
- Information of the type described in Form 45-106F7 is generally available for all Canadian bank-sponsored conduits
  - Availability of this type of information was a requirement of the Bank of Canada for these conduits' ABCP to qualify as collateral under the Bank of Canada's Standing Liquidity Facility
- The information contained in the IMs for RBC's Canadian conduits is consistent with the requirements of the Bank of Canada

- Investors in RBC's Canadian conduits have been complimentary of the information contained in the existing IM for our Canadian conduits
  - A summary of the content of Storm King Funding's IM is attached in Exhibit 1
- We have received no investor requests for additional disclosure of IM information, so there is no evidence that investors perceive a deficiency in the amount of available information
- It should not be necessary to standardize the forms of the Information Memoranda to conform to a specific template, providing the required information is contained therein
- Comments on the prescribed disclosure under 45-106F7 are as follows:
  - The IM should be a generally static, factual document that describes the structure and operation of the ABCP conduit
  - The focus should be on the program and program-level information, rather than on specific pools
  - For information that changes from a day-to-day or month-to-month basis, reference should be provided to the monthly reports, or timely disclosure reports. This would include the following:
    - Item 4.2 (summary of pool assets)
  - Item 1.1(c) (description of general experience of major parties and with respect to similar pools of assets) isn't necessary for the bank-sponsored ABCP market in Canada and doesn't fit well with the straight factual nature of the IM
  - Item 4.3 requests disclosure on whether pool assets will include CDOs and other structured credit products, which is fine, however, under (h), issuers are requested to report on current or potential exposure to sub-prime assets, which is difficult to do:
    - There is no recognized standard for what constitutes a sub-prime asset
    - Diversified pools of consumer payment obligations (i.e. credit card receivables and auto loans/leases), could contain some level of weaker credits from time-to-time
    - We also note that there has never been an active market in Canada for the securitization of entire pools of less-than-prime assets
    - There has never been evidence of any defaults or losses in Canada on securitized product secured by less-than-prime assets
  - Item 5.1(d) (maximum principal amount of notes outstanding at any one time) is not relevant to the Canadian market since most issuers are not restricted by legal limits
  - Item 6.1 (flow of funds) asks for a description of cash flows, including payment dates, which is extremely broad
    - This section should be restricted to payment priorities of the trust
  - Item 8 (fees and expenses) should not be relevant to noteholders, providing payment of principal and interest on the notes ranks senior in the priority of payments to any other fees and expenses
  - In Item 12 (credit rating of the securitized product), the requirements under (c) (description of factors or considerations identified by each rating agency) and (d) (reporting of any current or pending rating action), does not fit with the static, factual nature of the IM
    - There should be some responsibility on the part of the investor to review relevant ratings reports
- The prescribed disclosure for distributions of short-term securitized products will increase issuers' costs to conform their IMs to the prescribed format without any material benefit; the prescribed disclosure would not be expected to have an impact on the ability of ABCP conduits to obtain wider access to the investor community
  - Canadian investors seem satisfied with the current level of disclosure

Exhibit 1 – Table of Contents – Storm King Funding's Existing Information Memorandum

39. General Requirement for Ongoing Disclosure

Question:

We are requiring that ongoing disclosure be made available to investors in securitized products. Is this an appropriate approach? Are the prescribed forms (Form 51-106F1 in the case of non short-term securitized products, and Form 45-106F8 Periodic Disclosure Report for Short-Term Securitized Products Distributed under an Exemption from the Prospectus Requirement) appropriate? Would adding, modifying or deleting any of the prescribed disclosure improve the requirements? Should we mandate the form in which any of the disclosure is provided, for example, XML? What impact will requiring ongoing disclosure for securitized products have on costs, timing and market access?

Background on Proposed Form 45-106F8:

The report must be in plain language and easy to understand for an investor. At a minimum it is required to provide the following information:

1. Diagram containing the identity and role of each party with a significant function or responsibility, including the sponsor, liquidity providers and credit enhancement providers
2. Program Information, including:
    a. Aggregate commitments
    b. Number of transactions, and amount of ABCP issued for each transaction
    c. Listing of conduit credit ratings
    d. In respect of liquidity facilities:
        i. The name of each liquidity provider
        ii. Amount of liquidity available from each provider
        iii. Description of liquidity support, whether full or partial
        iv. Listing of credit ratings for each liquidity provider
    e. In respect of program level credit enhancement:
        i. The form of credit enhancement
        ii. The amount required and available
        iii. The percentage that credit enhancement is of aggregate commitments
    f. For each credit enhancement provider:
        i. Name of provider
        ii. Amount and form of enhancement provided
        iii. The percentage that credit enhancement is of aggregate commitments
        iv. Listing of credit ratings
    g. Average maturity in days
    h. Any other information an investor would reasonably require
3. Program compliance events, including:
    a. Bankruptcy of issuer
    b. Program event of default
    c. Program-wide credit enhancement draw

   d. Program-wide liquidity draw
4. Composition of Series, through charts showing a breakdown by:
   a. Asset type
   b. Industry
   c. Assets acquired from each seller
5. Transaction Summary
   a. Transaction number
   b. Description of assets including,
      i. Average remaining term
      ii. Dollar amount of outstanding ABCP related to this transaction
      iii. Whether the transaction is revolving or amortizing
      iv. Number of obligors
      v. Weighted average life expressed in months
   c. Industry of seller
   d. Credit ratings of seller
   e. Explicit credit ratings, if any, of the transaction
   f. Description of financial leverage used
   g. Asset performance, including:
      i. Collections
      ii. Outstanding balance
      iii. Available credit enhancement
      iv. Default ratio, including basis of presentation
      v. 12-month average default ratio
      vi. Default ratio relative to credit enhancement
      vii. Delinquency ratio, including basis of presentation
      viii. Other material performance ratios
      ix. Whether an amortization event has occurred and, if so, a description of the event and the current status
   h. Description of hedges
6. Second-Level Assets
   a. Description of any second-level assets and the program issuing them
   b. Summary of performance
   c. If the second level assets are those of a reporting issuer, state the identity of that issuer and the location where ongoing reporting can be found
7. Program Activity
   a. Description of new assets added to the program

b. Description of assets removed from the program

c. Reason for assets being added or removed from the program

d. Commitment reductions and increases

Comments from RBC:

- Ongoing disclosure should continue to be made available to investors in securitized products, as is currently done in the existing market environment
- It should not be necessary to standardize the form of the reporting to conform to a specific template, providing the relevant information is contained therein
  - Reporting for RBC's conduits provides most of the information specified under Form 45-106F8
  - The format of these reports is consistent with that used for our US conduits
  - Investors are comfortable with the format and have no ongoing concerns about the content
- Investors in RBC's Canadian conduits have been complimentary of the form of reporting
  - A view of the content of Storm King Funding's monthly reporting is attached in the following exhibits

Exhibit 2 – Storm King Funding March Report – Program Summary

Storm King Funding
Investor Report - Program Summary — March 2011

Placement Agents: RBC Dominion Securities Inc.
Issuing & Paying Agents: Royal Bank of Canada

Program Summary information as of month-end

Program Purchase Limits:	$	1,612,707,668
Program Outstandings:	$	1,118,823,946
Number of Asset Pools:		11
New Asset Pools Added:		0
Asset Pools rolled off/removed:		0
Total face value of Commercial Paper as of month-end:	$	1,121,034,946
Total amount of Uncommitted Liquidity Loan Funding:	$	-
Program wide credit support provided by Royal Bank of Canada	$	161,270,767
% of face value of Commercial Paper:		14.39%
% of Program Purchase Limits:		10.00%

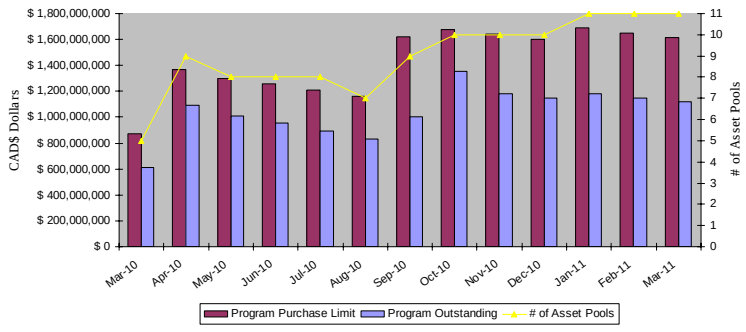
Report Specific Information

Current violations since Last Report:	None
Percentage R-1(High) liquidity providers:	100.00%
Percentage R-1(Middle) liquidity providers:	0.00%

Three largest transactions by Purchase Limit:

Pool Number	Asset Type	Amount	Percent
54	Autos	$ 644,708,596	39.98%
52	Dealer Floor Plan	$ 250,000,000	15.50%
47	Autos	$ 184,227,567	11.42%

Historical Program Activity

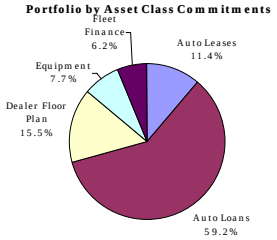


Monthly Compliance Information

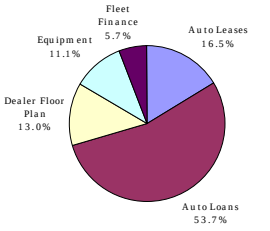
1. Occurrence of a Program Event of Default	No
2. Occurrence of a Commercial Paper Note with a Maturity of greater than 270 days	No

Investor Report Contacts:
Richard Hunt (416) 842-3822, Kim Wagner (302) 892-5903, Tony Cowart (212) 428-6291

Portfolio by Asset Class Commitments



Portfolio by Asset Class Outstandings



Portfolio by Seller/Servicer Ratings

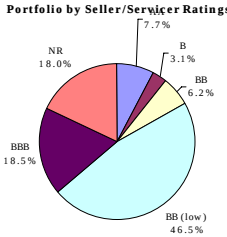


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Exhibit 3 – Storm King Funding March Report – Seller and Transaction Information

Storm King Funding
Investor Report
March 2011

Seller Information				Transaction Information						
Asset Type	Pool Number	Industry	Seller/Servicer Ratings (DBRS/ S&P/Moody's)	Purchase Limit	Total Receivables	Eligible Receivables	Collections	Charge-offs	Cash Defeasance	Net Investment
Autos	42	Finance Company	NR/NR/NR	40,171,765	43,502,009	43,502,009	3,276,676	141,060	3,553,818	36,617,946
	43	Finance Company	NR/BBB+/Baa2	113,573,859	114,646,600	114,646,600	6,909,858	19,152	6,930,331	106,643,528
	45	Finance Company	BB/BB-/Ba2	105,291,404	128,429,973	128,429,973	10,089,118	93,545	9,100,373	96,191,031
	47	Finance Company	NR/BBB+/Baa2	184,227,567	198,000,190	198,000,190	16,765,670	328,633	16,765,670	167,461,897
	48	Finance Company	BB (low)/B/B1	17,700,357	49,042,868	49,042,868	8,755,784	(6,661)	8,377,276	9,323,081
	49	Finance Company	BB (low)/B/B1	27,000,000	38,084,171	38,084,171	-	(4,307)	-	27,000,000
	50	Finance Company	BB (low)/B/B1	5,400,000	6,347,362	6,347,362	-	(718)	-	5,400,000
	54	Finance Company	BB/BB-/Ba2	644,708,596	327,152,434	327,152,434	9,474,183	78,834	8,673,544	282,942,584
Dealer Floor Plan	52	Finance Company	NR/NR/NR	250,000,000	211,626,124	211,626,124	63,165,473	18,786	-	145,000,000
Equipment	20	Finance Company	NR/AA+/Aa2	124,634,121	142,527,336	142,527,336	8,998,143	(51,094)	9,367,716	115,266,405
Fleet Finance	53	Finance Company	NR/BB+/Ba2	100,000,000	68,679,016	68,443,384	2,073,050	-	2,073,050	62,135,695
			Asset Pool Information Totals	**$ 1,612,707,668**	**$ 1,328,038,082**	**$ 1,327,802,450**			**$ 1,118,823,946**	

Exhibit 4 – Storm King Funding March Report – Assets and Credit Enhancement

Storm King Funding
Investor Report
March 2011

Asset Information				Credit Enhancement				
Asset Type	Pool Number	Estimated Number of Obligors/ Accounts	Average Obligor Size	Form of Enhancement	Minimum Required Enhancement	Receivable Enhancement Percentage ("Overcollateralization")	Cash Collateral/ Excess Spread/ Other Enhancement Percentage	Total Enhancement
Autos	42	4,185	10,395	Overcollateralization Cash Collateral Account	6.50%	18.80%	4.84%	23.64%
	43	4,792	23,925	Overcollateralization Excess Spread Cash Collateral Account	4.75%	7.50%	2.09%	9.60%
	45	13,596	9,446	Overcollateralization Cash Collateral Account Excess Spread	4.17%	21.77%	19.27%	41.04%
	47	29,400	19,412	Overcollateralization Cash Collateral Account Subordination Excess Spread	20.30%	16.97%	8.82%	25.78%
	48	13,041	3,841	Cash Collateral Account Overcollateralization Excess Spread Subordination	5.03%	95.20%	19.81%	115.01%
	49	13,041	3,841	Cash Collateral Account Overcollateralization Subordination Excess Spread	2.51%	30.49%	19.81%	50.30%
	50	13,041	3,841	Cash Collateral Account Overcollateralization Excess Spread	2.00%	17.54%	19.81%	37.35%
	54	12,034	27,186	Overcollateralization Cash Collateral Account Excess Spread	5.26%	6.69%	13.74%	20.43%
Dealer Floor Plan	52	185	1,143,925	Cash Collateral Account Overcollateralization Excess Spread	27.00%	43.95%	4.66%	48.61%
Equipment	20	5,480	118,485	Guarantee Excess Spread Overcollateralization	3.00%	23.65%	10.08%	33.73%
Fleet Finance	53	241	854,926	Cash Collateral Account Overcollateralization Subordination Excess Spread	11.25%	9.53%	6.14%	15.67%

Exhibit 5 – Storm King Funding March Report – Portfolio Loss Information

Storm King Funding
Investor Report — March 2011

Portfolio Loss Information

Asset Type	Pool Number	Current Month's Loss Ratio	Annualized Loss Ratio	Coverage Multiple (1 Month Loss Ratio)	Loss Ratio since Inception	Coverage Multiple (Loss Ratio since inception)
Autos	42**	0.3006%	3.6069%	79	2.0904%	11
	43**	0.0158%	0.1890%	609	0.2347%	41
	45**	0.0675%	0.8098%	608	0.7923%	52
	47**	0.0557%	0.6682%	463	0.1657%	156
	48**	-0.0116%	-	Infinite Times	0.4263%	270
	49**	-0.0116%	-	Infinite Times	0.4263%	118
	50**	-0.0116%	-	Infinite Times	0.4263%	88
	54	0.0234%	0.2809%	873	0.0404%	506
Dealer Floor Plan	52	0.0089%	0.0288%	5,476	0.0093%	5,206
Equipment	20**	-0.0336%	-	Infinite Times	0.4141%	81
Fleet Finance	53	0.0000%	-	Infinite Times	0.0000%	Infinite Times

The monthly loss ratio calculation for amortizing pools is charge-offs/prior month total receivables, for revolving pools it is losses/total receivables.
The loss ratio since inception calculation for amortizing pools is net losses since inception/initial purchase amount, for revolving pools it is average losses since inception/average total receivables since inception.

Amortizing Pools

Exhibit 6 – Storm King Funding March Report – Portfolio Calculations & Other Information

Storm King Funding
Investor Report — March 2011

		Portfolio Calculations			Other Information		
Asset Type	Pool Number	Asset Coverage Percentage	Collections/ Eligible Receivables	Implied Turnover (number of days)	Liquidity Draws	Events of Default	Comments
Autos	42	123.64%	7.53%	398	No	No	Transaction is explicitly rated "AAA" by DBRS.
	43	109.60%	6.03%	498	No	No	
	45	152.78%	7.86%	382	No	No	
	47	127.05%	8.47%	354	No	No	
	48	545.85%	17.85%	168	No	No	
	49	160.86%	0.00%	-	No	No	
	50	137.35%	0.00%	-	No	No	
	54	129.36%	2.90%	1,036	No	No	
Dealer Floor Plan	52	150.61%	29.85%	101	No	No	
Equipment	20	133.73%	6.31%	475	No	No	CP issued for this transaction is in CAD and USD and the receivables purchased are in CAD and USD. The Bank of Canada noon spot rate on the 10th business day of the month was used to convert USD to CAD.
Fleet Finance	53	116.29%	3.03%	990	No	No	

- Comments on the prescribed reporting under 45-106F8 are as follows:
  - The monthly reporting should only be required to contain dynamic information about an issuer, that is, information that changes on a month-to-month basis
    - This is in contrast to the IM, which contains the generally static information about the structure and operation of the issuer
    - The two documents should be complementary and not overlap
  - Item 1 requests information on the parties and relative roles, which should not be required in the monthly reporting since it is already provided in the IM, and it generally remains unchanged for the duration of the program
    - Any changes would have to be disclosed through an amendment to the IM
  - Item 2(c), 2(d) and 2(e) requests information on the ratings of the issuer and the form of liquidity support and program-wide credit enhancement, which are all contained in the IM, and is more appropriate for that document
  - Item 2(f) should be clarified to ensure that the credit enhancement referred to is on a program level and is not transaction-specific
  - Item 2(g) (average maturity of the assets), is not normally calculated on a program-wide basis and is not something that investors request

    - Average maturity is provided for each of the specific pools
- In item 4(b), a graphical breakdown of asset types by industry would not add significant value, since the vast majority of Canadian sellers would be considered part of the "financial services" industry as either banks, or captive finance companies of equipment or auto manufacturers
- Item 4(c), (breakdown of assets by seller), would also be of limited value since seller names are not disclosed, recourse is to the pool of financial assets, and risk to a seller is mitigated in the securitization structure
    - Better to show a breakdown of the portfolio by seller/servicer rating to provide an indication of the credit quality of the parties doing the servicing of the portfolios
- In item 5(b), (i) and (iv) seem to be basically the same (average remaining term and weighted average life)
- In item 5(e), it could be misleading to show a credit rating issued in respect of a transaction, because it could imply that non-rated transactions are of weaker credit quality, when in fact the transactions could be structured to achieve the same credit quality
- Item 5(f) (financial leverage) is not relevant to the Canadian short term securitized product market as it currently exists
- Item 5(g)(iv-vii) should refer to a loss ratio instead of a default ratio, since loss data is more relevant and quantifiable, while default data could be subject to variable definitions for what is considered a defaulted asset
- Item 5(g)(vii) (delinquencies) is not generally reported, since the basis for calculating delinquency can vary between conduit, pool, originator and asset type, making the comparison between conduits and asset pools difficult and subject to misinterpretation
    - Certain pools may normally have higher levels of delinquency, without impacting the risk of the transaction
- For item 5(h) (hedges), the specific hedges are not typically reported since it's very common to use standard fixed-floating hedges for many pools to match funding costs with the fixed-rate interest stream from the assets
    - Currency hedges may also be used to mitigate exchange risk
    - None of the hedges are exotic and both are employed to mitigate risk to the issuer
    - Disclosure on the "types" of hedges used by the issuer is appropriate and sufficient (as required as part of the prescribed IM); disclosure at the asset level is too detailed a requirement
- There is no reason for separate disclosure of "Second-level Assets", as described in Item 6
    - In today's market, with conventional asset classes, there is no difference in the risk profile of Second Level Assets when compared with direct purchases
    - Separate identification implies a different or greater risk, which is not accurate
    - Disclosure of these assets as part of the general asset description as per Item 5 is appropriate
- In Item 7, program activity should be apparent to an investor when comparing one month's report to the next
    - It shouldn't be necessary to itemize a reason for adding or removing assets to the program unless it is out of the ordinary course of the issuer's business
    - In the current market, the majority of an issuer's asset pools are amortizing, so commitment levels on these pools will normally change every month as funding amounts are repaid

- Requiring the prescribed reporting for short-term securitized products will result in upfront costs and time related to the amendment of existing reporting
- Investors are satisfied with the current level of reporting, so changing the content would not have an impact on market access

40. Method of Providing Financial Disclosure

Question:

We have proposed that certain ongoing disclosure be made available to investors in securitized products via the issuer's website. We propose that the issuer be required to provide access to prospective investors who request access. Is there a better method of making disclosure available to prospective investors and if so, what? Should the disclosure be generally publicly available via the issuer's website or SEDAR?

Comments from RBC:

- The normal practice in the Canadian industry is to make ongoing disclosure available to investors via an issuer's or sponsor's website
  - This is an effective medium for making information available
- SEDAR reporting is not needed
- Regarding the reference to providing disclosure of "significant events" to investors, it is impractical for there to be delivery to each investor given the timing requirements
  - Disclosure on the website should be sufficient, without the need for investors to agree to this form of disclosure

41. Method of Providing Ongoing Disclosure

Question:

We have proposed that the information memoranda and all disclosure required to be provided to investors be delivered to securities regulators. We expect that, subject to requests under freedom of information legislation, these documents will not be generally available to the public. We thought this appropriate given that the securitized products are not generally available to the public. Is this an appropriate approach?

Comments from RBC:

- It is appropriate for securities regulators to not make the required disclosure available to the public
- It would be more efficient for the issuers if the requirement for delivery of information to the regulators could be satisfied by posting the required documents to the issuer's website

Statutory Civil Liability

42. Statutory Civil Rights of Action for Misrepresentation

Question:

We propose that there should be statutory civil rights of action against issuers, sponsors and underwriters for misrepresentations in an information memorandum provided in connection with a distribution of securitized products in the exempt market. Have we identified the appropriate parties whom an investor should be able to sue? If not, should any parties be added or removed?

Background on Statutory Civil Liability:

- CSA is proposing that civil liability for a misrepresentation extend to directors, sponsors and each underwriter
  - Rights of action would include rescission in lieu of damages
  - The CSA proposal is for an investor to not be required to prove reliance on the misrepresentation
- Would require legislative amendments to implement in Ontario, since misrepresentation in a prescribed offering document only applies against an issuer (not sponsors or underwriters)

Comments from RBC:

- The proposed rule is disproportionate to the risk of misrepresentation in the Canadian securitization market, which is dominated by the major Canadian banks and finance companies
- There is no known instance of an investor suing for misrepresentation in the mainstream Canadian securitization market
  - Any issues of this type would have been restricted to the non-bank sponsored CDO conduits, which have not been part of the Canadian landscape since 2008

43. Civil Liability for Misrepresentation in Continuous Disclosure

Question:

Should there be statutory civil liability for misrepresentations in the continuous disclosure provided by an issuer of securitized product? If so, who should the investor be able to sue and why?

Comments from RBC:

- We do not believe that it is necessary to extend statutory civil liability to the continuous disclosure for the same reasons specified in our response to Question 42. Further, regarding the issuer, the continuous disclosure obligation is already its responsibility so the introduction of statutory liability does not seem necessary; also this periodic information is not readily available to other deal participants and, as such, these parties should not have statutory liability
- If the applicable disclosure is referenced as part of the IM or forms part thereof, as updated from time to time, the statutory liability for a misrepresentation in the IM could be applicable

44. Investor Rights of Withdrawal

Question:

In certain jurisdictions, there are statutory provisions which also provide an investor with a right to withdraw from the purchase within two days of receiving a prescribed offering document. Should these rights of withdrawal apply to information memoranda used for the distribution of short-term securitized products? Should these rights of withdrawal apply to information memoranda used for the distribution of securitized products that are not short-term?

Comments from RBC:

- There is no evidence in the market that investors in the securitized product currently available in Canada want, or would make use of, a right of withdrawal
- These should not be extended to the distribution of securitized products, especially for the daily issuance of short term securitized products

Resale

45. Resale Restrictions for Product Not Issued Under a Prospectus

Question:

We propose that the first trade of a securitized product distributed under the Proposed Securitized Product Exemption is a distribution, creating a specialized "closed-system" for securitized products that are not issued under a prospectus. Is the proposed resale treatment appropriate?

Comments from RBC:

- The resale of securitized product should be treated the same as other prospectus exempt securities and not as a separate category
  - Please refer to our responses to questions 20 and 32 above
- The reality of the market is that there is no secondary trading of securitized product distributed under a prospectus exemption

Registration

46. Registration of Securitized Products in the Exempt Market

Question:

Are there any existing registration categories or registration exemptions that should be modified or made unavailable for the distribution and resale of securitized products in the exempt market?

Comments from RBC:

- No, the existing registration categories and exemptions are sufficient for the distribution and resale of securitized products in the exempt market

47. Registrant Identification of Securitized Products

Question:

In order to qualify for the proposed Securitized Product Exemption in section 2.44, registered firms and individuals will need to be able to identify which products are securitized products. Are there categories of registrants that will not have the appropriate proficiency to identify securitized products and understand their risks? For example, should exempt market dealers be restricted in any way from dealing in securitized products?

Comments from RBC:

- The potential confusion over identifying which products are securitized products is another reason why we disagree with the need for a Securitized Product Exemption that is different from the rest of the exempt market

- The only prospectus exemption that we could be in favour of for securitized products is the "Specified ABCP Prospectus Exemption" shown in Question 32(c), which restricts qualifying issuers to those that meet the Bank of Canada standards
  - This standard reflects the current composition of the Canadian ABCP market, which features bank-sponsored conduits and standard, staple asset types

Contacts

RBC Review Team

Exhibit 6 – RBC Team

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