

## NOTICE TO INTERESTED PARTIES

On April 27, 2007, BNP Paribas Securities Corporation (the "Applicant") filed an application with the United States Department of Labor (the "Department") to allow the Applicant to participate as underwriters and/or placement or selling agents in transactions which may involve investment by employee benefit plans in securities which represent fractional undivided interests in the following categories of issuers: (i) single and multi-family residential, manufactured housing or commercial mortgage investment; (ii) motor vehicle receivable investment issuers; (iii) consumer or commercial receivable investment issuers; or (iv) guaranteed governmental mortgage pool certificate investment issuers.

The transactions are the subject of EXPRO Submission Number: E-00549 under PTCE 96-62 with the Department. The submission has met the requirements for tentative authorization by the Department. Any sale of these securities to employee benefit plans will only take place following the date of final authorization by the Department for the transactions.

Reference is made to five prior exemptions that are substantially similar to the transaction and provide relief from the same restrictions: (i) PTE 2006-7 (Harris Nesbitt Corp.), 71 Fed. REg. 32135 (June 2, 2006), (ii) PTE 04-16E (Terwin Capital, LLC) (August 18, 2004), (iii) PTE 2000-19 (BOSC, Inc.), 65 Fed. Reg. 25950 (May 4, 2000); (iv) PTE 2000-33 (Countrywide Securities Corporation), 65 Fed. Reg. 37171 (June 13, 2000); and (v) PTE 2000-41 (First Tennessee National Corporation), 65 Fed. Reg. 51039 (August 22, 2000), each as amended by PTE 2000-58, PTE 2002-41, and PTE 2007-05, as applicable.

The conditions set forth in EXPRO Submission Number: E-00549, which the Applicant has met, are essentially identical to those set forth in PTEs 2000-19, 2000-55, and 2000-41, and FAN 03-07E. Such conditions are more fully described in Attachments I and II appended to this Notice to Interested Persons and are summarized below:

1. The trustee of the issuer must not be an affiliate of any other member of the restricted group, other than the underwriter;
2. The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of securities must represent not more than reasonable compensation for underwriting or placing the securities;
3. The consideration received by the sponsor as a consequence of the assignment of obligations (or interests therein) to the issuer must represent no more than the fair market value of such obligations (or interests), and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;
4. The acquisition of securities by a plan is on terms (including the security price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;
5. The rights and interests evidenced by the securities are not subordinated to the rights and interests evidenced by other securities of the same issuer, unless the securities are issued in certain designated transactions;

6. The securities acquired by a plan have received a rating from a rating agency at the time of the acquisition that it is in one of the three (or in the case of certain designated transactions, four) highest generic rating categories;
7. Any plan investing in such securities must be an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933, as amended;
8. If the obligations used to fund an issuer have not all been transferred to the issuer on the closing date, certain additional obligations may be transferred to the issuer during the pre-funding period in exchange for amounts credited to the pre-funding account, provided that: (i) the pre-funding limit is not exceeded; (ii) any additional obligations that are transferred meet the same terms and conditions for determining the eligibility of the original obligations used to create the issuer and which have been approved by a rating agency; (iii) the transfer of the additional obligations to the issuer during the pre-funding period does not result in the securities receiving a lower credit rating from a rating agency upon termination of the pre-funding period that the rating that was obtained at the time of the initial issuance of the securities by the issuer; (iv) the weighted average annual percentage interest rate for all of the obligations held by the issuer at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the issuer on the closing date; (v) the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider independent of the sponsor, or an independent accountant retained by the sponsor; (vi) the pre-funding period is described in the prospectus or private placement memorandum provided to investing plans; and (vii) the trustee of the issuer is a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under ERISA.
9. The legal documents establishing an issuer which is not a REMIC, FASIT or grantor trust will contain certain restrictions in order to ensure that the assets of the issuer may not be reached by creditors of the sponsor, including that in the event of the bankruptcy or other insolvency of the sponsor, including that, prior to the issuance by the issuer of any securities, a legal opinion is received which states that either: (i) a "true sale" of the assets being transferred to the issuer by the sponsor has occurred and that the transfer is not being made pursuant to a financing of the assets by the sponsor; or, (ii) in the event of insolvency or receivership of the sponsor, the assets transferred to the issuer will not be part of the estate of the sponsor;
10. Any swap transaction relating to securities that are covered by the exemption must satisfy the several investor-protective conditions applicable to "Eligible Swaps" and must be entered into by the issuer with an "Eligible Swap Counterparty." Also, any class of securities to which one or more swap agreements entered into by the issuer applies may be acquired or held by plans in reliance upon the exemption only if such plans are represented by "Qualified Plan Investors"; and,

11. Prior to the issuance of any debt securities, a legal opinion is received which states that the debt holders have a perfected security interest in the issuer's assets.

Any interested person who wishes to submit comments to the Department by July 16, 2007 may do so in writing:

Attention: Wendy McColough  
U.S. Department of Labor  
Office of Exemption Determinations  
Employee Benefits Security Administration  
200 Constitution Avenue, NW.  
Room N-5700  
Washington, D.C. 20210

Comments can also be submitted by fax to (202) 219-0204 or e-mail to [mccolough.wendy@dol.gov](mailto:mccolough.wendy@dol.gov). Any comment should note that it relates to EXPRO submission Number: E-00549.

## ATTACHMENT I

**BNP Paribas Securities Corp.**  
**New York, New York**

### PROPOSED EXEMPTION

#### **I. Transactions**

A. As of the Effective Date, the restrictions of sections 406(a) and 407(a) of the Employee Retirement Income Security Act of 1974, as amended (the "Act") and the taxes imposed by sections 4975(a) and (b) of the Internal Revenue Code of 1986, as amended (the "Code") by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving Issuers and Securities evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of Securities in the initial issuance of Securities between the Sponsor or Underwriter and an employee benefit plan when the Sponsor, Servicer, Trustee or Insurer of an Issuer, the Underwriter of the Securities representing an interest in the Issuer, or an Obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of Securities by a plan in the secondary market for such Securities; and

(3) The continued holding of Securities acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, this section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for the acquisition or holding of a Security on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.<sup>1</sup>

B. As of the Effective Date, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of Securities in the initial issuance of Securities between the Sponsor or Underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the Securities is (a) an Obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the Issuer, or (b) an Affiliate of a person described in (a); if:

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<sup>1</sup> Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(a)(ii) of the Act and regulation 29 CFR 2510.3-21(c).

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of Securities in connection with the initial issuance of the Securities, at least 50 percent of each class of Securities in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the Issuer is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of Securities does not exceed 25 percent of all of the Securities of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the Securities, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in Securities representing an interest in an Issuer containing assets sold or serviced by the same entity.<sup>2</sup> For purposes of this paragraph (iv) only, an entity will not be considered to service assets contained in an Issuer if it is merely a Subservicer of that Issuer;

(2) The direct or indirect acquisition or disposition of Securities by a plan in the secondary market for such Securities, provided that the conditions set forth in paragraphs (i), (iii) and (iv) of subsection I.B.(1) are met; and

(3) The continued holding of Securities acquired by a plan pursuant to subsection I.B.(1) or (2).

C. As of the Effective Date, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of an Issuer, including the use of any Eligible Swap transaction; or the defeasance of a mortgage obligation held as an asset of the Issuer through the substitution of a new mortgage obligation in a commercial mortgage-backed Designated Transaction, provided:

(1) Such transactions are carried out in accordance with the terms of a binding Pooling and Servicing Agreement;

(2) The Pooling and Servicing Agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase Securities issued by the Issuer;<sup>3</sup> and

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<sup>2</sup> For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

<sup>3</sup> In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the Securities were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private

(3) The defeasance of a mortgage obligation and the substitution of a new mortgage obligation in a commercial mortgage-backed Designated Transaction meet the terms and conditions for such defeasance and substitution as are described in the prospectus or private placement memorandum for such Securities, which terms and conditions have been approved by a Rating Agency and does not result in the Securities receiving a lower credit rating from the Rating Agency than the current rating of the Securities.

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a Servicer of the Issuer from a person other than the Trustee or Sponsor, unless such fee constitutes a Qualified Administrative Fee.

D. As of the Effective Date, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of Securities.

## II. General Conditions

A. The relief provided under section I. is available only if the following conditions are met:

(1) The acquisition of Securities by a plan is on terms (including the Security price) that are at least as favorable to the plan as they would be in an arm's length transaction with an unrelated party;

(2) The rights and interests evidenced by the Securities are not subordinated to the rights and interests evidenced by other Securities of the same Issuer, unless the Securities are issued in a Designated Transaction;

(3) The Securities acquired by the plan have received a rating from a Rating Agency at the time of such acquisition that is in one of the three (or in the case of Designated Transactions, four) highest generic rating categories;

(4) The Trustee is not an Affiliate of any member of the Restricted Group, other than an Underwriter.

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placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions. The term "prospectus" includes any related prospectus supplement thereto, pursuant to which Securities are offered to investors.

For purposes of this requirement:

(a) The Trustee shall not be considered to be an Affiliate of a Servicer solely because the Trustee has succeeded to the rights and responsibilities of the Servicer pursuant to the terms of a Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by the Servicer; and

(b) Subsection II.A.(4) will be deemed satisfied notwithstanding a Servicer becoming an Affiliate of the Trustee as the result of a merger or acquisition involving the Trustee, such Servicer and/or their Affiliates which occurs after the initial issuance of the Securities, provided that:

(i) such Servicer ceases to be an Affiliate of the Trustee no later than six months after the date such Servicer became an Affiliate of the Trustee; and

(ii) such Servicer did not breach any of its obligations under the Pooling and Servicing Agreement, unless such breach was immaterial and timely cured in accordance with the terms of such agreement, during the period from the Closing Date of such merger or acquisition transaction through the date the Servicer ceased to be an Affiliate of the Trustee.

(5) The sum of all payments made to and retained by the Underwriters in connection with the distribution or placement of Securities represents not more than Reasonable Compensation for underwriting or placing the Securities; the sum of all payments made to and retained by the Sponsor pursuant to the assignment of obligations (or interests therein) to the Issuer represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the Servicer represents not more than Reasonable Compensation for the Servicer's services under the Pooling and Servicing Agreement and reimbursement of the Servicer's reasonable expenses in connection therewith;

(6) The plan investing in such Securities is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933; and

(7) In the event that the obligations used to fund an Issuer have not all been transferred to the Issuer on the Closing Date, additional obligations of the types specified in subsection III.B.(1) may be transferred to the Issuer during the Pre-Funding Period in exchange for amounts credited to the Pre-Funding Account, provided that:

(a) The Pre-Funding Limit is not exceeded;

(b) All such additional obligations meet the same terms and conditions for determining the eligibility of the original obligations used to create the Issuer (as described in the prospectus or private placement memorandum and/or Pooling and Servicing Agreement for such Securities), which terms and conditions have been approved by a Rating Agency.

Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority vote of the outstanding securityholders or by a Rating Agency;

(c) The transfer of such additional obligations to the Issuer during the Pre-Funding Period does not result in the Securities receiving a lower credit rating from a Rating Agency upon termination of the Pre-Funding Period than the rating that was obtained at the time of the initial issuance of the Securities by the Issuer;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations held by the Issuer at the end of the Pre-Funding Period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the Issuer on the Closing Date;

(e) In order to ensure that the characteristics of the receivables actually acquired during the Pre-Funding Period are substantially similar to those which were acquired as of the Closing Date, the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider which is independent of the Sponsor or an independent accountant retained by the Sponsor will provide the Sponsor with a letter (with copies provided to the Rating Agency, the Underwriter and the Trustee) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or Pooling and Servicing Agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the Closing Date;

(f) The Pre-Funding Period shall be described in the prospectus or private placement memorandum provided to investing plans; and

(g) The Trustee of the Trust (or any agent with which the Trustee contracts to provide Trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The Trustee, as the legal owner of the obligations in the Trust or the holder of a security interest in the obligations held by the Issuer, will enforce all the rights created in favor of securityholders of the Issuer, including employee benefit plans subject to the Act;

(8) In order to insure that the assets of the Issuer may not be reached by creditors of the Sponsor in the event of bankruptcy or other insolvency of the Sponsor:



contain:

- (a) The legal documents establishing the Issuer will
  - (i) restrictions on the Issuer's ability to borrow money or issue debt other than in connection with the securitization;
  - (ii) restrictions on the Issuer merging with another entity, reorganizing, liquidating or selling assets (other than in connection with the securitization);
  - (iii) restrictions limiting the authorized activities of the Issuer to activities relating to the securitization;
  - (iv) if the Issuer is not a Trust, provisions for the election of at least one independent director/partner/member whose affirmative consent is required before a voluntary bankruptcy petition can be filed by the Issuer; and
  - (v) if the Issuer is not a Trust, requirements that each independent director/partner/member must be an individual that does not have a significant interest in, or other relationships with, the Sponsor or any of its Affiliates; and
- (b) The Pooling and Servicing Agreement and/or other agreements establishing the contractual relationships between the parties to the securitization transaction will contain covenants prohibiting all parties thereto from filing an involuntary bankruptcy petition against the Issuer or initiating any other form of insolvency proceeding until after the Securities have been paid; and
- (c) Prior to the issuance by the Issuer of any Securities, a legal opinion is received which states that either:
  - (i) a "true sale" of the assets being transferred to the Issuer by the Sponsor has occurred and that such transfer is not being made pursuant to a financing of the assets by the Sponsor; or
  - (ii) in the event of insolvency or receivership of the Sponsor, the assets transferred to the Issuer will not be part of the estate of the Sponsor;
- (9) If a particular class of Securities held by any plan involves a Ratings Dependent or Non-Ratings Dependent Swap entered into by the Issuer, then each particular swap transaction relating to such Securities:

(a) Shall be an Eligible Swap;

(b) Shall be with an Eligible Swap Counterparty;

(c) In the case of a Ratings Dependent Swap, shall provide that if the credit rating of the counterparty is withdrawn or reduced by any Rating Agency below a level specified by the Rating Agency, the Servicer (as agent for the Trustee) shall, within the period specified under the Pooling and Servicing Agreement:

- (i) obtain a replacement swap agreement with an Eligible Swap counterparty which is acceptable to the Rating Agency and the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or
- (ii) cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular class of Securities will not be withdrawn or reduced.

In the event that the Servicer fails to meet its obligations under this subsection II.A.(9)(c), plan securityholders will be notified in the immediately following Trustee's periodic report which is provided to securityholders, and sixty days after the receipt of such report, the exemptive relief provided under section I.C. will prospectively cease to be applicable to any class of Securities held by a plan which involves such Ratings Dependent Swap; provided that in no event will such plan securityholders be notified any later than the end of the second month that begins after the date on which such failure occurs.

(d) In the case of a Non-Ratings Dependent Swap, shall provide that, if the credit rating of the counterparty is withdrawn or reduced below the lowest level specified in section III.GG., the Servicer (as agent for the Trustee) shall within a specified period after such rating withdrawal or reduction:

- (i) obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or
- (ii) cause the swap counterparty to post collateral with the Trustee in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) terminate the swap agreement in accordance with its terms; and

(e) Shall not require the Issuer to make any termination payments to the counterparty (other than a currently scheduled payment under the swap agreement) except from Excess Spread or other amounts that would otherwise be payable to the Servicer or the Sponsor;

(10) Any class of Securities, to which one or more swap agreements entered into by the Issuer applies, may be acquired or held in reliance upon this Underwriter Exemption only by Qualified Plan Investors; and

(11) Prior to the issuance of any debt securities, a legal opinion is received which states that the debt holders have a perfected security interest in the Issuer's assets.

B. Neither any Underwriter, Sponsor, Trustee, Servicer, Insurer, or any Obligor, unless it or any of its Affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire Securities, shall be denied the relief provided under section I., if the provision of subsection II.A.(6) is not satisfied with respect to acquisition or holding by a plan of such Securities, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of Securities, the Trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's Securities) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6).

### **III. Definitions**

For purposes of this exemption:

A. "Security" means:

(1) A pass-through certificate or trust certificate that represents a beneficial ownership interest in the assets of an Issuer which is a Trust and which entitles the holder to payments of principal, interest and/or other payments made with respect to the assets of such Trust; or

(2) A security which is denominated as a debt instrument that is issued by, and is an obligation of, an Issuer; with respect to which the Underwriter is either (i) the sole Underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

B. "Issuer" means an investment pool, the corpus or assets of which are held in trust (including a grantor or owner Trust) or whose assets are held by a

partnership, special purpose corporation or limited liability company (which Issuer may be a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) of section 860L, respectively, of the Code); and the corpus or assets of which consist solely of:

(1) (a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, Qualified Equipment Notes Secured by Leases); and/or

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and/or commercial real property (including obligations secured by leasehold interests on residential or commercial real property); and/or

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or Qualified Motor Vehicle Leases; and/or

(e) Guaranteed governmental mortgage pool certificates, as defined in 29 CFR § 2510.3-101(i)(2)<sup>4</sup>; and/or

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this subsection III.B.(I),<sup>5</sup>

Notwithstanding the foregoing, residential and home equity loan receivables issued in Designated Transactions may be less than fully-secured, provided that: (i) the rights and interests evidenced by the Securities issued in such Designated Transactions (as defined in Section III.DD. below) are not subordinated to the rights and interests evidenced by Securities of the same Issuer; (ii) such Securities acquired by the plan have received a rating from a Rating Agency at the time of such acquisition that is in one of the two highest generic rating categories; and (iii) any obligation included in the corpus or assets of the Issuer must be secured by collateral whose fair market value on

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<sup>4</sup> In ERISA Advisory Opinion 99-05A (Feb. 22, 1999), the Department expressed its view that mortgage pool certificates guaranteed and issued by the Federal Agricultural Mortgage Corporation ("Farmer Mac") meet the definition of a guaranteed governmental mortgage pool certificate as defined in 29 CFR 2510.3-101(i)(2).

<sup>5</sup> It is the Department's view that the definition of "Issuer" contained in this section III.B. includes a two-tier structure under which Securities issued by the first Issuer, which contains a pool of receivables described above, are transferred to a second Issuer which issues Securities that are sold to plans. However, the Department is of the further view that, since the exemption generally provides relief only for the direct or indirect acquisition or disposition of Securities that are not subordinated, no relief would be available if the Securities held by the second Issuer were subordinated to the rights and interests evidenced by other Securities issued by the first Issuer, unless such Securities were issued in a Designated Transaction.

the Closing Date of the Designated Transaction is at least equal to 80% of the sum of: (I) the outstanding principal balance due under the obligation which is held by the Issuer; and (II) the outstanding principal balance(s) of any other obligation(s) of higher priority (whether or not held by the Issuer) which are secured by the same collateral.

(2) Property which had secured any of the obligations described in subsection III.B.(1);

(3) (a) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to securityholders; and/or

(b) Cash or investments made therewith which are credited to an account to provide payments to securityholders pursuant to any Eligible Swap Agreement meeting the conditions of subsection II.A.(9) or pursuant to any Eligible Yield Supplement Agreement; and/or

(c) Cash transferred to the Issuer on the Closing Date and permitted investments made therewith which:

(i) are credited to a Pre-Funding Account established to purchase additional obligations with respect to which the conditions set forth in paragraphs (a) - (g) of subsection II.A.(7) are met; and/or

(ii) are credited to a Capitalized Interest Account; and

(iii) are held by the Issuer for a period ending no later than the first distribution date to securityholders occurring after the end of the Pre-Funding Period.

For purposes of this paragraph (c), of subsection III.B.(3), the term "permitted investments" means investments which (i) are either: (x) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (y) have been rated (or the Obligor has been rated) in one of the three highest generic rating categories by a Rating Agency; (ii) are described in the Pooling and Servicing Agreement; and (iii) are permitted by the Rating Agency.

(4) Rights of the Trustee under the Pooling and Servicing Agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, Eligible Yield Supplement Agreements, Eligible Swap Agreements meeting the conditions of subsection II.A.(9) or other credit support arrangements with respect to any obligations described in subsection III.B.(1).

Notwithstanding the foregoing, the term "Issuer" does not include any investment pool unless: (i) the assets of the type described in paragraphs (a) - (f) of subsection III.B.(1) which are contained in the investment pool have been included in

other investment pools, (ii) Securities evidencing interests in such other investment pools have been rated in one of the three (or in the case of Designated Transactions, four) highest generic rating categories by a Rating Agency for at least one year prior to the plan's acquisition of Securities pursuant to this Underwriter Exemption, and (iii) Securities evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of Securities pursuant to this Underwriters Exemption.

C. "Underwriter" means:

- (1) BNP Paribas Securities Corp. ("BNPPSC");
- (2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with BNPPSC; or
- (3) Any member of an underwriting syndicate or selling group of which BNPPSC or a person described in subsections III.C.(1) or (2) is a manager or co-manager with respect to the Securities.

D. "Sponsor" means the entity that organizes an Issuer by depositing obligations therein in exchange for Securities.

E. "Master Servicer" means the entity that is a party to the Pooling and Servicing Agreement relating to assets of the Issuer and is fully responsible for servicing, directly or through Subservicers, the assets of the Issuer.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the Master Servicer, services loans contained in the Issuer, but is not a party to the Pooling and Servicing Agreement.

G. "Servicer" means any entity which services loans contained in the Issuer, including the Master Servicer and any Subservicer.

H. "Trust" means an Issuer which is a trust (including an owner trust, grantor trust or a REMIC or FASIT which is organized as a Trust).

I. "Trustee" means the Trustee of any Trust which issues Securities, and also includes an Indenture Trustee. "Indenture Trustee" means the Trustee appointed under the indenture pursuant to which the subject Securities are issued, the rights of holders of Securities are set forth and a security interest in the Trust assets in favor of the holders of the Securities is created. The Trustee or the Indenture Trustee is also a party to or beneficiary of all the documents and instruments transferred to the Issuer, and as such, has both the authority to, and the responsibility for, enforcing all the rights created thereby in favor of holders of the Securities, including those rights arising in the event of default by the servicer.

J. "Insurer" means the insurer or guarantor of, or provider of other credit support for, an Issuer. Notwithstanding the foregoing, a person is not an insurer

solely because it holds Securities representing an interest in an Issuer which are of a class subordinated to Securities representing an interest in the same Issuer.

K. "Obligor" means any person, other than the Insurer, that is obligated to make payments with respect to any obligation or receivable included in the Issuer. Where an Issuer contains Qualified Motor Vehicle Leases or Qualified Equipment Notes Secured by Leases, "Obligor" shall also include any owner of property subject to any lease included in the Issuer, or subject to any lease securing an obligation included in the Issuer.

L. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

M. "Restricted Group" with respect to a class of Securities means:

- (1) Each Underwriter;
- (2) Each Insurer;
- (3) The Sponsor;
- (4) The Trustee;
- (5) Each Servicer;
- (6) Any Obligor with respect to obligations or receivables included in Issuer constituting more than 5 percent of the aggregate unamortized principal balance of the assets in Issuer, determined on the date of the initial issuance of Securities by the Issuer;
- (7) Each counterparty in an Eligible Swap Agreement; or
- (8) Any Affiliate of a person described in subsections III.M.(1)-(7).

N. "Affiliate" of another person includes:

- (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;
- (2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and
- (3) Any corporation or partnership of which such other person is an officer, director or partner.

O. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

P. A person will be "independent" of another person only if:

- (1) Such person is not an Affiliate of that other person; and
- (2) The other person, or an Affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

Q. "Sale" includes the entrance into a Forward Delivery Commitment, provided:

- (1) The terms of the Forward Delivery Commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;
- (2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the Forward Delivery Commitment; and
- (3) At the time of the delivery, all conditions of this Underwriter Exemption applicable to sales are met.

R. "Forward Delivery Commitment" means a contract for the purchase or sale of one or more Securities to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the Securities) and optional contracts (which give one party the right but not the obligation to deliver Securities to, or demand delivery of Securities from, the other party).

S. "Reasonable Compensation" has the same meaning as that term is defined in 29 CFR § 2550.408c-2.

T. "Qualified Administrative Fee" means a fee which meets the following criteria:

- (1) The fee is triggered by an act or failure to act by the Obligor other than the normal timely payment of amounts owing in respect of the obligations;
- (2) The Servicer may not charge the fee absent the act or failure to act referred to in subsection III.T.(1);
- (3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the Pooling and Servicing Agreement; and



(4) The amount paid to investors in the Issuer will not be reduced by the amount of any such fee waived by the Servicer.

U. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the Issuer's security interest in the equipment is at least as protective of the rights of the Issuer as the Issuer would have if the equipment note were secured only by the equipment and not the lease.

V. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The Issuer owns or holds a security interest in the lease;

(2) The Issuer owns or holds a security interest in the leased motor vehicle; and

(3) The Issuer's security interest in the leased motor vehicle is at least as protective of the Issuer's rights as the Issuer would receive under a motor vehicle installment loan contract.

W. "Pooling and Servicing Agreement" means the agreement or agreements among a Sponsor, a Servicer, and the Trustee establishing a Trust. "Pooling and Servicing Agreement" also includes the indenture entered into by the Issuer and the Indenture Trustee.

X. "Rating Agency" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.; Moody's Investors Service, Inc.; Fitch Ratings, Inc.; DBRS Limited, or DBRS, Inc.; or any successors thereto.

Y. "Capitalized Interest Account" means an Issuer account: (i) which is established to compensate securityholders for shortfalls, if any, between investment earnings on the Pre-Funding Account and the interest rate payable under the Securities; and (ii) which meets the requirements of paragraph (c) of subsection III.B.(3).

Z. "Closing Date" means the date the Issuer is formed, the Securities are first issued and the Issuer's assets (other than those additional obligations which are to be funded from the Pre-Funding Account pursuant to subsection II.A.(7) are transferred to the Issuer.

AA. "Pre-Funding Account" means an Issuer account: (i) which is established to purchase additional obligations, which obligations meet the conditions set

forth in paragraphs (a)-(g) of subsection II.A.(7); and (ii) which meets the requirements of paragraph (c) of subsection III.B.(3).

BB. "Pre-Funding Limit" means a percentage or ratio of the amount allocated to the Pre-Funding Account, as compared to the total principal amount of the Securities being offered, which is less than or equal to 25 percent.

CC. "Pre-Funding Period" means the period commencing on the Closing Date and ending no later than the earliest to occur of: (i) the date the amount on deposit in the Pre-Funding Account is less than the minimum dollar amount specified in the Pooling and Servicing Agreement; (ii) the date on which an event of default occurs under the Pooling and Servicing Agreement or (iii) the date which is the later of three months or ninety days after the Closing Date.

DD. "Designated Transaction" means a securitization transaction in which the assets of the Issuer consist of secured consumer receivables, secured credit instruments or secured obligations that bear interest or are purchased at a discount and are: (i) motor vehicle, home equity and/or manufactured housing consumer receivables; and/or (ii) motor vehicle credit instruments in transactions by or between business entities; and/or (iii) single-family residential, multi-family residential, home equity, manufactured housing and/or commercial mortgage obligations that are secured by single-family residential, multi-family residential, commercial real property or leasehold interests therein. For purposes of this section III.DD., the collateral securing motor vehicle consumer receivables or motor vehicle credit instruments may include motor vehicles and/or Qualified Motor Vehicle Leases.

EE. "Ratings Dependent Swap" means an interest rate swap, or (if purchased by or on behalf of the Issuer) an interest rate cap contract, that is part of the structure of a class of Securities where the rating assigned by the Rating Agency to any class of Securities held by any plan is dependent on the terms and conditions of the "swap and the rating of the counterparty, and if such Security rating is not dependent on the existence of the swap and rating of the counterparty, such swap or cap shall be referred to as a "Non-Rating Dependent Swap." With respect to a Non-Ratings Dependent Swap, each Rating Agency rating the Securities must confirm, as of the date of issuance of the Securities by the Issuer, that entering into an Eligible Swap with such counterparty will not affect the rating of the Securities.

FF. "Eligible Swap" means a Ratings Dependent or Non-Ratings Dependent Swap:

(1) Which is denominated in U.S. dollars;

(2) Pursuant to which the Issuer pays or receives, on or immediately prior to the respective payment or distribution date for the class of Securities to which the swap relates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (e.g., LIBOR or the U.S. Federal Reserve's Cost of Funds Index (COPT)), with the Issuer receiving such payments on at least a quarterly basis and

obligated to make separate payments no more frequently than the counterparty, with all simultaneous payments being netted;

(3) Which has a notional amount that does not exceed either: (i) the principal balance of the class of Securities to which the swap relates, or (ii) the portion of the principal balance of such class represented solely by those types of corpus or assets of the Issuer referred to in subsections III.B.(1), (2) and (3);

(4) Which is not leveraged (i.e., payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in subsection III.FF.(2), and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(5) Which has a final termination date that is either the earlier of the date on which the Issuer terminates or the related class of securities is fully repaid; and

(6) Which does not incorporate any provision which could cause a unilateral alteration in any provision described in subsections III.FF.(1) through (4) without the consent of the Trustee.

GG. "Eligible Swap Counterparty" means a bank or other financial institution which has a rating, at the date of issuance of the Securities by the Issuer, which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the Securities; provided that, if a swap counterparty is relying on its short-term rating to establish eligibility under the Underwriter Exemption, such swap counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency, and provided further that if the class of Securities with which the swap is associated has a final maturity date of more than one year from the date of issuance of the Securities, and such swap is a Ratings Dependent Swap, the swap counterparty is required by the terms of the swap agreement to establish any collateralization or other arrangement satisfactory to the Rating Agencies in the event of a ratings downgrade of the swap counterparty.

HH. "Qualified Plan Investor" means a plan investor or group of plan investors on whose behalf the decision to purchase Securities is made by an appropriate independent fiduciary who is qualified to analyze and understand the terms and conditions of any swap transaction used by the Issuer and the effect such swap would have upon the credit ratings of the Securities. For purposes of the Underwriter Exemption, such a fiduciary is either:

(1) A “qualified professional asset manager” (QPAM),<sup>6</sup> as defined under Part V(a) of PTE 84-14, 49 FR 9494, 9506 (March 13, 1984), as amended by 70 FR 49305 (August 23, 2005);

(2) An “in-house asset manager” (INHAM)<sup>7</sup> as defined under Part IV(a) of PIE 96-23, 61 FR 15975, 15982 (April 10, 1996); or

(3) A plan fiduciary with total assets under management of at least \$100 million at the time of the acquisition of such Securities.

II. “Excess Spread” means, as of any day, funds are distributed from the Issuer, the amount by which the interest allocated to Securities exceeds the amount necessary to pay interest to securityholders, servicing fees and expenses.

JJ. “Eligible Yield Supplement Agreement” means any yield supplement agreement, similar yield maintenance arrangement or, if purchased by or on behalf of the Issuer, an interest rate cap contract to supplement the interest rates otherwise payable on obligations described in subsection III.B.(1). Such an agreement or arrangement may involve a notional principal contract provided that:

(1) It is denominated in U.S. dollars;

(2) The Issuer receives on, or immediately prior to the respective payment date for the Securities covered by such agreement or arrangement, a fixed rate of interest or a floating rate of interest based on a publicly available index (e.g., LIBOR or COFI), with the Issuer receiving such payments on at least a quarterly basis;

(3) It is not “leveraged” as described in subsection FF.(4) of this section III;

(4) It does not incorporate any provision which would cause a unilateral alteration in any provision described in subsections III.JJ.(1)-(3) without the consent of the Trustee;

(5) It is entered into by the Issuer with an Eligible Swap Counterparty; and

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<sup>6</sup> PTE 84-14 provides a class exemption for transactions between a party in interest with respect to an employee benefit plan and an investment fund (including either a single customer or pooled separate account) in which the plan has an interest, and which is managed by a QPAM, provided certain conditions are met. QPAMs (e.g., banks, insurance companies, registered investment advisers with total client assets under management in excess of \$85 million) are considered to be experienced investment managers for plan investors who are aware of their fiduciary duties under ERISA.

<sup>7</sup> PTE 96-23 permits various transactions involving employee benefit plans whose assets are managed by an INHAM, an entity which is generally a subsidiary of an employer sponsoring the plan which is a registered investment adviser with management and control of total assets attributable to plans maintained by the employer and its affiliates which are in excess of \$50 million.

(6) It has a notional amount that does not exceed either: (i) the principal balance of the class of Securities to which such agreement or arrangement relates, or (ii) the portion of the principal balance of such class represented solely by those types of corpus or assets of the Issuer referred to in subsections III.B.(1), (2) and (3).

KK. "Effective Date" means the date BNPPSC is authorized by the Department of Labor to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96-62, 61 FR 39988 (July 31, 1996), as amended.

## ATTACHMENT II

**BNP Paribas Securities Corp. ("BNPPSC")**  
**New York, New York**

### Description of the Exemption Transactions.

#### Generally

BNP Paribas Securities Corp. ("BNPPSC") is a Delaware corporation organized on September 7, 1984 and is a wholly-owned subsidiary of BNP Paribas. BNP Paribas is an international banking group with approximately 138,000 employees engaged in retail banking, corporate and investment banking, and asset management and services in 85 countries.

BNPPSC is a registered broker-dealer with the Securities and Exchange Commission and a member of the New York Stock Exchange, the National Association of Securities Dealers and the Securities Investor Protection Corporation. BNPPSC underwrites, trades and markets a vast array of global and domestic fixed income and equity products. BNPPSC maintains its principal offices in New York, New York.

BNPPSC is active in the underwriting and placement of structured asset securitization transactions. Such transactions include residential mortgage-backed securitizations where BNPPSC serves as co-underwriter and as co-placement agent with other underwriters such as UBS Securities LLC Countrywide Securities Corporation, Bear, Stearns & Co. Inc. and Société Générale. In 2006, BNPPSC acted as sole underwriter or co-underwriter for securities totaling over approximately \$1.6 billion. BNPPSC expects to securitize \$8.0 billion of mortgage loans in 2007. BNPPSC's clients include institutional investors and accredited investors such as Mellon Bank, La Salle Bank, Ellington Capital, Bank of China – Hong Kong, Raymond James & Associates, and Flagstar. BNPPSC sells securities to institutional investors, such as investment managers, pension fund companies, insurance companies, depositories and other broker-dealers. BNPPSC had total assets of \$4,310,673 and net capitalization of \$2,907,838 as of December 31, 2006.

#### Issuer Assets

BNPPSC seeks exemptive relief to permit employee benefit plans to invest in pass-through securities representing undivided interests in the following categories of investments, which are held by an issuer:<sup>1</sup> (1) single and multi-family residential or commercial mortgages; (2) motor vehicle receivables; (3) consumer or commercial receivables; and (4) guaranteed governmental mortgage pool certificates.<sup>2</sup>

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<sup>1</sup> An issuer is an investment pool, the corpus or assets of which are held in trust or whose assets are held by a partnership, special purpose corporation or limited liability company as more specifically described in Section III.B of INFORMATION REQUIRED BY REGULATION SECTION 2570.34(c) of this application.

<sup>2</sup> Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 C.F.R. §2510.3-101(i) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the

Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the terms of such mortgages.<sup>3</sup>

Residential and home equity loan receivables which are issued in certain designated transactions, may be less than fully secured, provided that: (i) the rights and interests evidenced by the securities issued in such designated transactions are not subordinated to the rights and interests evidenced by the securities of the same issuer; (ii) such securities acquired by the plan have received a rating from a rating agency at the time of such acquisition that is in one of the two highest generic rating categories; and (iii) any obligation included in the corpus or assets of the issuer must be secured by collateral whose fair market value on the closing date of the designated transaction is at least equal to 80% of the sum of: (I) the outstanding principal balance due under the obligation which is held by the Issuer; and (II) the outstanding principal balance(s) of any other obligation(s) of higher priority (whether or not held by the Issuer) which are secured by the same collateral.

#### Issuer Structure

Each issuer is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of an issuer selects assets to be included in a trust, a partnership, special purpose corporation or limited liability company. These assets are receivables which may have been originated, in the ordinary course of business, by a sponsor or servicer of an issuer, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the issuer sponsor or servicer.

Except as may be permitted pursuant to the use of a pre-funding account as described below, on or prior to the closing date, the sponsor acquires legal title to all assets selected for an issuer, establishes the issuer and, if the corpus or assets of the issuer are to be held in trust, designates an independent entity as trustee. On the closing date, the sponsor conveys to the issuer legal title to the assets, and the trustee issues securities representing fractional undivided interests in the Trust assets. BNPPSC, or one or more broker-dealers (which may include BNPPSC), acts as underwriter or a selling or placement agent with respect to the sale of the securities.

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certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. BNPPSC is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in such trusts may be plan assets.

3 Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90-32 involving Prudential-Bache Securities, Inc. (55 Fed. Reg. 23147, June 6, 1990 at 23150).

Securityholders will be entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate – the pass-through rate – which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of securityholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the securities. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to the deposit. Usually, the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account does not exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to securityholders and delivered to or made available to each rating agency that has rated the securities.

Some of the securities will be multi-class securities. BNPPSC requests exemptive relief for two types of multi-class securities: "strip" securities and "fast-pay/slow-pay" securities. Strip securities are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of securities are established, each representing rights to disproportionate payments of principal and interest.

"Fast-pay/slow-pay" securities involve the issuance of classes of securities having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of securities having the earliest stated maturity of principal and/or earlier payment schedule, and only when that class of securities has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of securities. Distributions on securities having later stated maturities will proceed in like manner until all the securityholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single class pass-through arrangement is the order in which distributions are made to securityholders. In each case, securityholders will have a beneficial ownership interest in the underlying assets. The rights of a plan purchasing securities will not be subordinated to the rights and interests evidenced by other securities of the same issuer, unless the securities are issued in a designated transaction.

The issuer will be maintained as an essentially passive entity. Therefore both the sponsor's discretion and the servicer's discretion with respect to assets included in an issuer are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of securities (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is



required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to securityholders.

In some cases the issuer will be maintained as a Financial Asset Securitization Investment Trust ("FASIT"), a statutory entity created by the Small Business Job Protection Act of 1996, which added sections 860H, 860J, 860K and 860L to the Code. In general, a FASIT is designed to facilitate the securitization of debt obligations, such as credit card receivables, home equity loans, and auto loans, and thus, allows certain features such as revolving pools of assets, trusts containing unsecured receivables and certain hedging types of investments. A FASIT is not a taxable entity and debt instruments issued by such trusts, which might otherwise be recharacterized as equity, will be treated as debt in the hands of the holder for tax purposes. However, a trust which is the subject of the proposed exemption will be maintained as a FASIT only where the assets held by the FASIT will be comprised of secured debt; revolving pools of assets or hedging investments will not be allowed unless specifically authorized by the exemption, if granted, so that a trust maintained as a FASIT will be maintained as an essentially passive entity.

#### Issuer Structure With Pre-Funding Account

##### *Pre-Funding Accounts*

Although many transactions occur as described above, it is also common for other transactions to be structured using a pre-funding account and/or capitalized interest account.

The pre-funding period for any issuer will be defined as the period commencing on the closing date and ending no later than the earliest to occur of: (i) the date the amount on deposit in the pre-funding account is less than the minimum dollar amount specified in the pooling and servicing agreement; (ii) the date on which an event of default occurs under the pooling and servicing agreement; or (iii) the date which is the later of three months or 90 days after the closing date. If pre-funding is used, the sponsor or originator will transfer to the issuer on the closing date cash sufficient to purchase the receivables to be transferred after the closing date. During the pre-funding period, such cash and temporary investments, if any, made therewith will be held in a pre-funding account and used to purchase the additional receivables, the characteristics of which will be substantially similar to the characteristics of the receivables transferred to the issuer on the closing date. Certain specificity and monitoring requirements described below must be met and will be disclosed in the pooling and servicing agreement and/or the prospectus or private placement memorandum.

For transactions involving a trust using pre-funding, on the closing date, a portion of the offering proceeds will be allocated to the pre-funding account generally in an amount equal to the excess of: (i) the principal amount of securities being issued over (ii) the principal balance of the receivables being transferred to the issuer on such closing date. In certain transactions, the aggregate principal balance of the receivables intended to be transferred to the issuer may be larger than the total principal balance of the securities being issued. In these cases, the cash

deposited in the pre-funding account will equal the excess of the principal balance of the total receivables intended to be transferred to the issuer over the principal balance of the receivables being transferred on the closing date.

On the closing date, the sponsor transfers the assets to the issuer in exchange for the securities. The securities are then sold to BNPPSC for cash or to the securityholders directly if the securities are sold through BNPPSC as a placement or selling agent. The cash received by the sponsor from the securityholders (or BNPPSC) from the sale of the securities issued by the issuer in excess of the purchase price for the receivables and certain other issuer expenses such as underwriting or placement agent fees and legal and accounting fees, constitutes the cash to be deposited in the pre-funding account. Such funds are either held in the trust and accounted for separately, or held in a sub-trust. In either event, these funds are not part of the assets of the sponsor.

Generally, the receivables are transferred at par value, unless the interest rate payable on the receivables is not sufficient to service both the interest rates to be paid on the securities and the transaction fees (i.e., servicing fees, trustee fees and fees to credit support providers). In such cases the receivables are sold to the issuer at a discount, based on an objective, written, mechanical formula which is set forth in the pooling and servicing agreement and agreed upon in advance between the sponsor, the rating agency and any credit support provider or other insurer. The proceeds payable to the sponsor from the sale of the receivables transferred to the issuer may also be reduced to the extent they are used to pay transaction costs (which typically include underwriting or placement agent fees and legal and accounting fees). In addition, in certain cases, the sponsor may be required by the rating agency or credit support provider to set up trust reserve accounts to protect the securityholders against credit losses.

The percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the securities being offered (the pre-funding limit) will not exceed 25%. The pre-funding limit (which may be expressed as a ratio or as a stated percentage or a combination thereof) will be specified in the prospectus or private placement memorandum.

Any amounts paid out of the pre-funding account are used solely to purchase receivables and to support the security pass-through rate (as explained below). Amounts used to support the pass-through rate are payable only from investment earnings and are not payable from principal. However, in the event that, after all of the requisite receivables have been transferred to the issuer, any funds remain in the pre-funding account, such funds will be paid to the securityholders as principal prepayments. Upon termination of the issuer, if no receivables remain in the issuer, and all amounts payable to securityholders have been distributed, any amounts remaining in the issuer would be returned to the sponsor.

A dramatic change in interest rates on the receivables to be transferred to an issuer using a pre-funding account is handled as follows. If the receivables (other than those with adjustable or variable rates) had already been originated prior to the closing date, no action would be required, as the fluctuations in market interest rates would not affect the receivables transferred to the issuer after the closing date. In contrast, if interest rates fall after the closing date, loans originated after the closing date will tend to be originated at lower rates, with the possible result that the receivables will not support the security pass-through rate. In such situations, the sponsor

could sell the receivables into the issuer at a discount and more receivables will be used to fund the issuer in order to support the pass-through rate. In a situation where interest rates drop dramatically and the sponsor is unable to provide sufficient receivables at the requisite interest rates, the pool of receivables would be closed. In this latter event, under the terms of the pooling and servicing agreement, the securityholders would receive a repayment of principal from the unused cash held in the pre-funding account. In transactions where the security pass-through rates are variable or adjustable, the effects of market interest rate fluctuations are mitigated. In no event will fluctuations in interest rates payable on the receivables affect the pass-through rate for fixed rate securities.

The cash deposited into the issuer and allocated to the pre-funding account is invested in certain permitted investments (see below), which may be commingled with other accounts of the issuer. The allocation of investment earnings to each issuer account is made periodically as earned in proportion to each account's allocable share of the investment returns. As pre-funding account investment earnings are required to be used to support (to the extent authorized in the particular transaction) the pass-through amounts payable to the securityholders with respect to a periodic distribution date, the trustee is necessarily required to make periodic, separate allocations of the trust's earnings to each trust account, thus ensuring that all allocable commingled investment earnings are properly credited to the pre-funding account on a timely basis.

#### *Capitalized Interest Accounts*

In certain transactions where a pre-funding account is used, the sponsor and/or originator may also transfer to the issuer additional cash on the closing date, which is deposited in a capitalized interest account and used during the pre-funding period to compensate the securityholders for any shortfall between the investment earnings on the pre-funding account and the pass-through interest rate payable under the securities.

Because the securities are supported by the receivables in the issuer and the earnings on the pre-funding account, the capitalized interest account is needed when the investment earnings on the pre-funding account and the interest paid on the receivables are less than the interest payable on the securities. The capitalized interest account funds are paid out periodically to the securityholders as needed on distribution dates to support the pass-through rate. In addition, a portion of such funds may be returned to the sponsor from time to time as the receivables are transferred into the issuer and the need for the capitalized interest account diminishes. Any amounts held in the capitalized interest account generally will be returned to the sponsor and/or originator either at the end of the pre-funding period or periodically as receivables are transferred and the proportionate amount of funds in the capitalized interest account can be reduced. Generally, the capitalized interest account terminates no later than the end of the pre-funding period. However, there may be some cases where the capitalized interest account remains open until the first date distributions are made to securityholders following the end of the pre-funding period.

In other transactions, a capitalized interest account is not necessary because the interest paid on the receivables exceeds the interest payable on the securities at the applicable pass-through rate and the fees of the trust. Such excess is sufficient to make up any shortfall resulting

from the pre-funding account earnings being less than the security pass-through rate. In certain of these transactions, this occurs because the aggregate principal amount of receivables exceeds the aggregate principal amount of securities.

*Pre-Funding Account and Capitalized Interest Account Payments and Investments*

Pending the acquisition of additional obligations during the pre-funding period, it is expected that amounts in the pre-funding account and the capitalized interest account will be invested in certain permitted investments or will be held uninvested. Pursuant to the pooling and servicing agreement, all permitted investments must mature prior to the date the actual funds are needed. The permitted types of investments in the pre-funding account and capitalized interest account are investments which (i) are either: (x) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (y) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by Standard and Poor's Structural Rating Group, Moody's Investors Service, Inc. or Fitch, Inc.; (ii) are described in the pooling and servicing agreement; and (iii) are permitted by Standard and Poor's Structural Rating Group, Moody's Investors Service, Inc. or Fitch, Inc. The credit grade quality of the permitted investments is generally no lower than that of the securities. The types of permitted investments will be described in the pooling and servicing agreement.

The ordering of interest payments to be made from the pre-funding and capitalized interest accounts is pre-established and set forth in the pooling and servicing agreement. The only principal payments which will be made from the pre-funding account are those made to acquire the obligations during the pre-funding period and those distributed to the securityholders in the event that the entire amount in the pre-funding account is not used to acquire obligations. The only principal payments which will be made from the capitalized interest account are those made to securityholders if necessary to support the security pass-through rate or those made to the sponsor either periodically as they are no longer needed or at the end of the pre-funding period when the capitalized interest account is no longer necessary.

*The Characteristics of the Receivables Transferred During the Pre-Funding Period*

In order to ensure that there is sufficient specificity as to the representations and warranties of the sponsor regarding the characteristics of the receivables to be transferred after the closing date:

(f) The pre-funding limit will not be exceeded;

(g) All such receivables will meet the same terms and conditions for determining the eligibility of the original receivables used to create the issuer (as described in the prospectus or private placement memorandum and/or pooling and servicing agreement for such securities), which terms and conditions have been approved by a rating agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of a receivable may be

changed if such changes receive prior approval either by a majority vote of the outstanding securityholders or by a rating agency;<sup>4</sup>

(h) The transfer of such receivables to the issuer during the pre-funding period will not result in the securities receiving a lower credit rating from a rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the securities by the issuer;

(i) The weighted average annual percentage interest rate (the average interest rate) for all of the receivables held by the issuer at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the receivables which were transferred to the issuer on the closing date;

(j) In order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to those which were acquired as of the closing date, the characteristics of the additional receivables will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, BNPPSC and the trustee) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling -and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date;

(k) The pre-funding period will be described in the prospectus or private placement memorandum provided to investing plans; and

(l) The trustee of the issuer (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under ERISA. The trustee, as the legal owner of the obligations in the issuer or the holder of a security interest in the obligations held by the issuer, will enforce all the rights created in favor of securityholders of the issuer, including employee benefit plans subject to ERISA.

#### Parties to Transactions

The originator of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to a lessee. The

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<sup>4</sup> In some transactions, the insurer and/or credit support provider may have the right to veto the inclusion of obligations, even if such obligations otherwise satisfy the underwriting criteria. This right usually takes the form of a requirement that the sponsor obtain the consent of these parties before the obligations can be included in the issuer. The insurer and/or credit support provider may, therefore, reject certain obligations or require that the sponsor establish certain issuer reserve accounts as a condition of including these obligations. Virtually all issuers which have insurers or other credit support providers are structured to give such veto rights to these parties. The percentage of issuers that have insurers and/or credit support providers, and accordingly feature such veto rights, varies.

originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the issuers will be entities that originate obligations in the ordinary course of their businesses, including finance companies, for whom such origination constitutes the bulk of their operations, financial institutions from whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each issuer may contain assets of one or more originators. The originator of the obligations may also function as the issuer sponsor or servicer.

The sponsor of an issuer means the entity that organizes an issuer by depositing obligations therein in exchange for securities. The sponsor will be one of three entities: (i) a special-purpose or other corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the obligations and receivables to be included in the issuer, establishing the issuer, designating the trustee, and assigning the obligations and receivables to the issuer.

The trustee will be an independent entity, and therefore will be unrelated to the trust sponsor or the servicer or any member of the Restricted Group (as defined below), other than the underwriter). The trustee will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities and liabilities as a fiduciary under ERISA. The trustee receives a fee for its services, which will be paid by the sponsor or servicer or out of issuer assets. The method of compensating the trustee will be specified in the pooling and servicing agreement and disclosed in the prospectus or private placement memorandum relating to the offering of the securities. The trustee, as the legal owner of the receivables in the issuer or the holder of a security interest in the receivables held by the issuer, will enforce all the rights created in favor of securityholders of the issuer, including employee benefit plans.

The servicer of an issuer administers the obligations on behalf of the securityholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on obligations, maintaining records of payments received on obligations and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in an issuer, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of securities. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to securityholders.

Receivables of the type suitable for inclusion in an issuer invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold obligations on the computer system in order to continue monitoring the accounts. Although the records relating to sold obligations are kept in the same master file as obligations retained by the originator, the sold obligations are flagged as having been sold. To protect the investor's interest, the servicer

ordinarily covenants that this "sold flag" will be included in all records relating to the sold obligations, including the master file, archives, tape extracts and printouts.

The sold flags are invisible to the obligor and do not affect the manner in which the servicer performs the billing, posting and collection procedures relating to the sold obligations. However, the servicer uses the sold flag to identify the obligations for the purpose of reporting all activity on those obligations after their sale to the investors.

Depending on the type of obligation and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsibilities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investor are reconciled to the servicer's books and reviewed by public accountants.

The underwriter will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the securities. Public offerings and private placements of securities may be made on an agency basis. It is possible that secondary trading may be made on an agency basis, a risk-less principle basis, or a firm consultant basis.

#### Security Price, Pass-Through Rate and Fees

In some cases, the sponsor will obtain the obligations from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the obligations at fair market value from the originator or a finance company pursuant to a purchase and sale agreement related to the specific offering of securities. In other cases, the sponsor will originate the obligations itself

As compensation for the obligations transferred to the issuer, the sponsor receives cash, or securities representing the entire beneficial interest in the issuer. The sponsor sells some or all of these securities for cash to investors or securities underwriters.

The price of the securities, both in the initial offering and in the secondary market, is affected by market forces including investor demand, the pass-through interest rate on the securities in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying obligations, and expectations as to the likelihood of timely payment.

The pass-through rate for securities is equal to the interest rate on obligations included in the issuer minus a specified servicing fee. This rate is generally determined by the same market forces that determine the price of a security. The price of a security and its pass-through, or coupon rate, together determine the yield to investors. If an investor purchases a security at less than par, that discount augments the stated pass-through rate; conversely, a security purchased at a premium yields less than the stated coupon rate.

As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting as sponsor) will retain all or a portion

of the difference between payments received on the obligations in the issuer and payments payable (at the pass-through rate) to securityholders, except that in some cases a portion of the payments on obligations may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the obligations between the time they are received by the servicer and the time they are due to the issuer (which time is set forth in the pooling and servicing agreement). The servicer, typically, will be required to pay the administrative expenses of servicing the issuer, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the issuer or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid in a lump sum at the time the issuer is established, or out of the interest income received on the obligations in excess of the pass-through rate.

The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the securities.

Payments on obligations may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the issuer are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on obligations are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to securityholders.

The underwriter will receive a fee in connection with the securities underwriting or private placement of securities. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the securities that it distributes and what it pays the sponsor for those securities. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter sells securities in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the securities are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy securities as principal, in which case its compensation would be the



difference between what it receives for the securities that it sells and what it pays the sponsor for these securities.

#### Purchase of Receivables by the Servicer

As the principal amount of the receivables in an issuer is reduced by payment, the cost of administering the issuer generally increases, making the servicing of the issuer prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables included in the issuer when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually between 5 and 10 percent) of the initial balance.

The repurchase price for such an option is specified in the pooling and servicing agreement and will be at least equal to either: (1) the unpaid principal balance on the receivables plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the receivables in the case of an issuer that is not a REMIC.

#### Security Ratings

The securities will have received one of the three (or in the case of designated transactions, four) highest generic rating categories from a rating agency, which includes ratings available from either Standard & Poor's Ratings Services ("S&P"), Moody's Investors Service, Inc. ("Moody's"), FitchRatings, Inc., DBRS Limited or DBRS, Inc., or any successors thereto. Insurance or other credit support (such as overcollateralization, surety bonds, letters of credit or guarantees) will be obtained by the issuer sponsor to the extent necessary for the securities to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuer.

#### Provision of Credit Support

In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the issuer (i.e., act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself), or (c) in the case of an issuer that issues subordinated securities, from amounts otherwise distributable to holders of subordinated securities, and the master servicer will advance such funds in a timely manner. In some transactions, the master servicer may not be obligated to advance funds, but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from the future payment stream. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover defaulted payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the securityholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the issuer to the extent not covered by credit support. However, where the master servicer provides credit support to the issuer, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the issuer as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the obligations included in the issuer (monthly, quarterly, or semi-annually as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all payments which are past due more than a specified number of days and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the issuer, whether due to servicer advances or any other cause. Once the floor amount has been reached, the master servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount, subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the issuer, there are no proportionate reductions in the credit support amount caused by reductions in

the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect. The protection provided by a floor dollar amount to the credit support applies particularly where the master servicer and the insurer are affiliated or are the same entity. (An entity should not be considered an insurer solely because it holds subordinated securities.)

### Disclosure

In connection with the original issuance of securities, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the securities, including:

(a) Information concerning the payment terms of the securities, the rating of the securities, and any material risk factors with respect to the securities and the fact that principal amounts left in the pre-funding account at the end of the pre-funding period will be paid to securityholders as a repayment of principal;

(b) A description of the issuer as a legal entity and a description of how the issuer was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the issuer;

(d) A description of the receivables contained in the issuer, including the types of receivables, the diversification of the receivables, their principal terms and their material legal aspects, and a description of any pre-funding account used or capitalized interest account used in connection with a pre-funding account;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the issuer assets, including the terms and conditions for eligibility of any receivables transferred during the pre-funding period, and the trustee's remedy for any breach thereof, a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; a description of permitted investments for any pre-funding account or capitalized interest account; identification of the servicing compensation and a description of any fees for credit enhancement that are deducted from payments on obligations before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

- (i) A description of the underwriters' plan for distributing the pass-through securities to investors;
- (j) Information about the scope and nature of the secondary market, if any, for the securities; and
- (k) A statement as to the duration of any pre-funding period and pre-funding limit for the issuer.

Reports indicating the amount of payments of principal and interest are provided to securityholders at least as frequently as distributions are made to securityholders. Securityholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

In the case of an issuer that offers and sells securities in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). After the adoption of Regulation AB last year, the Securities and Exchange Commission adopted a new report, Form 10-D, which is a monthly reporting form that is specific to issuers of asset-backed securities. The Form 10-Q described in prior applications is no longer used in connection with issuances of asset-backed securities. In addition, issuers of asset-backed securities may be required to make filings on Form 8-K to report certain material developments concerning the issuer and the securities and copies of the statements sent to securityholders. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements remain subject to change, periodic reports concerning an issuer will be filed to the extent required under the Exchange Act.

At or about the time distributions are made to securityholders, a report will be delivered to the trustee as to the status of the issuer and its assets, including underlying obligations. Such report will typically contain information regarding the issuer's assets, (including those purchased by the issuer from any pre-funding account), payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the service. Such report also will be delivered to or made available to the rating agency or agencies that have rated the issuer's securities.

In addition, promptly after each distribution date, securityholders will receive a statement prepared by the servicer, paying agent, or trustee summarizing information regarding the issuer and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support, and a breakdown of payments between principal and interest.

#### Forward Delivery Commitments

To date, BNPPSC has not entered into any forward delivery commitments in connection with the offering of asset-backed or mortgage-backed pass-through securities. However, BNPPSC may contemplate entering into such commitments. The utility of forward delivery

commitments has been recognized with respect to the offering of similar securities backed by pools of residential mortgages. As such, BNPPSC may find it desirable in the future to enter into such commitments for the purchase of asset-backed or mortgage-backed pass-through securities.

### Secondary Market Transactions

It is BNPPSC's general policy to facilitate sales by investors who have purchased securities if BNPPSC has acted as placement agent in the original placement of the securities and if such investors request BNPPSC's assistance. BNPPSC does not currently make a market in securities (and will have no obligation to do so) where it has acted as an underwriter but may make a market in such securities in the future.

### Retroactive Relief

BNPPSC requests the relief to be granted pursuant to this application be prospective.

### Coverage by Prohibited Transaction Class Exemption 95-60

The Department of Labor granted Prohibited Transaction Class Exemption 95-60 ("PTCE 95-60") for certain transactions involving insurance company general accounts. PTCE 95-60 includes relief for insurance company general accounts investing in asset-backed securities in accordance with the terms of one of the specified individual exemptions granted to various underwriters and "any other exemption providing similar relief to the extent that the Department expressly determines, as part of the proceeding to grant such exemption, to include the exemption within this definition." Since the exemption requested by BNPPSC is substantially similar to those specified in section V(h) of PTCE 95-60, BNPPSC requests the Department to take the actions contemplated by PTCE 95-60 to extend the relief afforded by PTCE 95-60 to transactions entered into pursuant to the requested exemption.

### Summary

In summary, BNPPSC represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of ERISA due to the following:

(a) The issuers contain "fixed pools" of assets. There is little discretion on the part of the issuer sponsor to substitute receivables contained in the issuer once the issuer has been formed.

(b) In the case where a pre-funding account is used, the characteristics of the receivables to be transferred to the issuer during the pre-funding period must be substantially similar to the characteristics of those transferred to the issuer on the closing date thereby giving the sponsor and/or originator little discretion over the selection process, and compliance with this requirement will be assured by the specificity of the characteristics and the monitoring mechanisms contemplated under the proposed exemption. In addition, certain cash accounts will be established to support the security pass-through rate and such cash accounts will be invested in short-term, conservative investments; the pre-funding period will be of a reasonably short duration; a pre-funding limit will be imposed; and any Internal Revenue Service requirements with respect to pre-funding intended to preserve the passive income character of the issuer will

be met. The fiduciary of the plans making the decision to invest in securities is thus fully apprised of the nature of the receivables which will be held in the issuer and has sufficient information to make a prudent investment decision.

(c) Securities in which plans invest will have been rated in one of the three (or in the case of certain designated transactions, four) highest generic rating categories by a rating agency. Credit support will be obtained to the extent necessary to attain the desired rating.

(d) All transactions for which BNPPSC seeks exemptive relief will be governed by the pooling and servicing agreement, the principal provisions of which will be described in the prospectus or private placement memorandum and which will be made available to plan fiduciaries for their review prior to the plan's investment in securities.

(e) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited.