

Schedule B
Proposed CD Rule and Proposed Certification Amendments

Proposed National Instrument 51-106
Continuous Disclosure Requirements
for Securitized Products

PART 1
INTERPRETATION AND APPLICATION

1. Interpretation

Terms defined in the following Instruments and used in this Instrument have the respective meanings ascribed to those terms in those Instruments:

- (a) National Instrument 41-101 *General Prospectus Requirements*;
- (b) National Instrument 41-103 *Supplementary Prospectus Requirements for Securitized Products*;
- (c) National Instrument 44-101 *Short Form Prospectus Distributions*;
- (d) National Instrument 44-102 *Shelf Distributions*;
- (e) National Instrument 51-102 *Continuous Disclosure Obligations*;
- (f) National Instrument 52-108 *Auditor Oversight*.

2. Application

This Instrument applies to a reporting issuer that has issued a securitized product that is outstanding.

PART 2
CONTINUOUS DISCLOSURE FOR REPORTING ISSUERS OF SECURITIZED PRODUCTS

3. Application

- (1) This Part does not apply to a reporting issuer in respect of a covered bond that it has issued.
- (2) This Part does not apply to a mortgage investment entity in respect of a security that it has issued that is not a debt security.

4. Payment and performance report for securitized products – Form 51-106F1

- (1) A reporting issuer must file a report that contains the information required by Form 51-106F1 for securitized products of a series or class that are outstanding no later than 15 days after each payment date specified by a transaction agreement.

- (2) Despite subsection (1), a reporting issuer is not required to complete a part of Form 51-106F1 that is inapplicable due to one or more attributes of the securitized product or the structure of the securitized product transaction under which the securitized product is issued.
- (3) Subsection (1) does not apply in respect of a securitized product if all the following conditions are met:
 - (a) none of the disclosure required by Form 51-106F1 is applicable due to one or more attributes of the securitized product or the structure of the securitized product transaction under which the securitized product was issued;
 - (b) the reporting issuer complies with both of the following:
 - (i) the reporting issuer files a report that contains all information regarding the payment and performance of the securitized product that would be material to an investor;
 - (ii) the reporting issuer files the report described in subparagraph (b)(i) no later than 15 days after each payment date specified by a transaction agreement.
- (4) A report filed under subsection (1) must be signed by one of the following on behalf of the reporting issuer:
 - (a) an authorized officer of the servicer, or if multiple servicers are used, the master servicer;
 - (b) an individual who performs functions similar to a chief executive officer or a chief financial officer of the reporting issuer.

5. Report of significant events relating to securitized products – Form 51-106F2

- (1) If an event described in subsection (2) occurs in respect of a reporting issuer, the reporting issuer must do both of the following:
 - (a) immediately issue and file a news release authorized by an executive officer disclosing the event;
 - (b) as soon as practicable, and in any event no later than two business days after the date on which the event occurs, file a Form 51-106F2 with respect to the event.
- (2) For purposes of subsection (1), the events are:

- (a) a failure to make payment to holders of outstanding securitized products on a payment date specified by a transaction agreement;
- (b) a change of servicer, trustee of the reporting issuer or trustee for outstanding securitized products;
- (c) a termination of, or change to, any existing credit enhancement or other support relating to outstanding securitized products, that would be material to an investor, other than by expiration of the agreement on its stated termination date or as a result of all parties completing their obligations under such agreement;
- (d) the addition of any material credit enhancement or support relating to outstanding securitized products;
- (e) the bankruptcy or receivership of a sponsor, a depositor, a servicer, a trustee of the reporting issuer, a trustee for outstanding securitized products, a significant obligor, a provider of any material credit enhancement or other support relating to outstanding securitized products, or any other material party to a securitized product transaction under which outstanding securitized products were issued;
- (f) an early amortization, performance trigger or other event, including an event of default, as specified in a transaction agreement, that would materially alter the payment priority or distribution of cash flows relating to outstanding securitized products or the amortization schedule for the securitized products;
- (g) a difference of 5% or more occurring in a material pool characteristic of an asset pool for outstanding securitized products from the time of issuance of the securitized products, other than as a result of the pool assets converting into cash in accordance with their terms;
- (h) a change in the sponsor's interest in outstanding securitized products that would be material to an investor;
- (i) a change in the credit rating of outstanding securitized products;
- (j) a change in the credit rating of a significant obligor;
- (k) the entry into, or amendment or termination of, an agreement that is material to a securitized product transaction under which outstanding securitized products were issued;

- (l) any event that results in a material modification to the rights of holders of outstanding securitized products;
 - (m) any other event that affects payment or pool performance that would be material to an investor.
- (3) A report filed under paragraph (1)(b) must be signed by one of the following on behalf of the reporting issuer:
- (a) an authorized officer of the servicer, or if multiple servicers are used, the master servicer;
 - (b) an individual who performs functions similar to a chief executive officer or a chief financial officer of the reporting issuer.
- (4) Despite subsection (1), a reporting issuer satisfies its obligations under subsection (1) if the reporting issuer issues a news release and files a material change report in respect of the event pursuant to subsection 7.1(1) of National Instrument 51-102 *Continuous Disclosure Obligations*, and the material change report complies with all of the following:
- (a) the material change report contains the disclosure required by Form 51-106F2;
 - (b) the material change report is filed no later than two business days after the date of the event;
 - (c) the material change report is signed by one of the following on behalf of the reporting issuer:
 - (i) an authorized officer of the servicer, or if multiple servicers are used, the master servicer;
 - (ii) an individual who performs functions similar to a chief executive officer or chief financial officer of the reporting issuer.

6. Annual servicer report

- (1) This section applies to each servicer that engaged in servicing activities relating to more than 5% of the pool assets collateralizing securitized products of a series or class that are outstanding during the financial year covered by the annual financial statements and annual MD&A filed by the reporting issuer.

- (2) Each servicer must do all of the following:
 - (a) identify each servicing standard in Appendix A of this Instrument that, in the servicer's reasonable opinion, is applicable, or was previously applicable, to any servicing activities it undertook during the reporting issuer's most recently completed financial year;
 - (b) assess its compliance during the reporting issuer's most recently completed financial year with the applicable servicing standards it identified in paragraph (a);
 - (c) prepare a report containing the information required by subsection (3);
 - (d) provide the report in paragraph (c) to the reporting issuer for the reporting issuer to file in accordance with subsection (4).
- (3) Each report prepared by a servicer under paragraph (2)(c) must do all of the following:
 - (a) state that the servicer is required under this Instrument to assess its compliance with the servicing standards in Appendix A of this Instrument;
 - (b) state each applicable servicing standard in Appendix A of this Instrument that the servicer identified pursuant to paragraph (2)(a);
 - (c) for each applicable servicing standard, state whether the servicer complied with the standard during the reporting issuer's most recently-completed financial year, and describe any significant instance of non-compliance identified by the servicer, including any significant instance of non-compliance that occurred during the financial year that has been rectified at the time the report is prepared;
 - (d) identify the period covered by the report.
- (4) A reporting issuer must file each report provided to it pursuant to paragraph (2)(d) by the later of the dates on which it is required to file the following:
 - (a) its AIF if it is required to file an AIF under National Instrument 51-102 *Continuous Disclosure Obligations*;
 - (b) its annual financial statements and annual MD&A.

- (5) Each report filed under subsection (4) must be accompanied by a report by a participating audit firm that does all of the following:
- (a) expresses an opinion by the participating audit firm on the servicer's assessment of compliance with the applicable servicing standards in Appendix A of this Instrument, or states that an opinion cannot be expressed and if so, why it is unable to express such an opinion;
 - (b) indicates that the servicer's assessment of compliance with the applicable servicing standards in Appendix A of this Instrument has been audited in accordance with standards for assurance engagements set out in Canadian GAAS, or standards for attestation engagements issued or adopted by the Public Company Accounting Oversight Board;
 - (c) identifies the period covered by the report.

7. Annual servicer certificate

- (1) This section applies to any servicer described in Items 1.7(1)(a), (b) or (c) of Form 41-103F1 *Supplementary Information Required in a Securitized Products Prospectus* that engaged in servicing activities during the financial year covered by the annual financial statements and annual MD&A filed by the reporting issuer.
- (2) Each servicer must provide a reporting issuer with a certificate signed by an authorized officer of the servicer that states all of the following:
- (a) the officer has supervised a review of the servicer's activities and performance under the applicable servicing agreement for the reporting issuer's most recently completed financial year;
 - (b) to the best of the officer's knowledge, based on such review, the servicer has fulfilled all of its obligations under the applicable servicing agreement in all material respects during the financial year, or if the servicer has failed to fulfil any of its obligations in any material respect, states the nature and status of each such failure.
- (3) A reporting issuer must file each certificate provided to it pursuant to subsection (2) by the later of the dates on which it is required to file the following:
- (a) its AIF if it is required to file an AIF under National Instrument

51-102 *Continuous Disclosure Obligations*;

- (b) its annual financial statements and annual MD&A.

8. Disclosure of breaches by servicer

The annual MD&A must include a discussion of all of the following:

- (a) any significant instance of non-compliance with an applicable servicing standard in Appendix A of this Instrument that a servicer has disclosed in a report filed under section 6;
- (b) any failure by a servicer to fulfil any of its obligations in any material respect that a servicer has disclosed in a certificate filed under section 7;
- (c) the specific pool assets or securitized product to which the disclosure in paragraphs (a) or (b) relates;
- (d) any steps taken or intended to be taken to address the non-compliance or non-fulfillment, and the timing of those steps.

PART 3 LANGUAGE OF DOCUMENTS

9. French or English

- (1) A person or company must file a document required to be filed under this Instrument in French or in English.
- (2) Despite subsection (1), if a person or company files a document only in French or only in English but delivers to securityholders a version of the document in the other language, the person or company must file that other version not later than when it is first delivered to securityholders.
- (3) In Québec, a reporting issuer must comply with linguistic obligations and rights prescribed by Québec law.

PART 4 EXEMPTIONS

10. Exemptions

- (1) The regulator or, in Québec, the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.
- (3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

PART 5
EFFECTIVE DATE

11. Effective date

This Instrument comes in to force on [*].

Appendix A Servicing Standards

The following standards are the standards that a servicer must refer to for purposes of section 6 of this Instrument. These standards are not legal obligations under securities legislation, and are intended only to serve as uniform measures against which the servicing of a particular asset pool can be assessed.

A. General servicing considerations

- (i) Policies and procedures are instituted to monitor any performance or other triggers and events of default in accordance with the transaction agreements.
- (ii) If any material servicing activities are outsourced, policies and procedures are instituted to monitor the third party's performance and execution of such servicing activities in compliance with the transaction agreements.
- (iii) Any requirements in the transaction agreements to maintain a back-up servicer for the pool assets are complied with.
- (iv) A fidelity bond and errors and omissions policy is in effect for the servicer throughout the reporting period in the amount of coverage required by and otherwise in accordance with the terms of the transaction agreements.

B. Cash collection and administration

- (i) Payments on pool assets are deposited into the appropriate custodial bank accounts and related bank clearing accounts no more than two business days after receipt, or such other number of days specified in the transaction agreements.
- (ii) Payments made via wire transfer on behalf of an obligor or to an investor are made only by authorized personnel.
- (iii) Advances of funds or guarantees regarding collections, cash flows or payments, are made, reviewed and approved as specified in the transaction agreements. Any interest and fees charged for such advances are paid as specified in the transaction agreements.
- (iv) The related accounts for the transaction, such as cash reserve accounts or accounts established as a form of overcollateralization, are separately maintained as set forth in the transaction agreements.
- (v) Each custodial account is maintained at one of the following:
 - 1. a Canadian financial institution as defined in National Instrument 45-106 *Prospectus and Registration Exemptions*, as amended;

2. a Schedule III bank;
 3. a financial institution that is regulated by the laws of a foreign jurisdiction as a bank and that is required by the laws of the foreign jurisdiction to insure its deposits or be subject to a deposit guarantee or protection scheme.
- (vi) Unissued checks are safeguarded so as to prevent unauthorized access.
- (vii) Reconciliations are prepared on a monthly basis for all securitized products related bank accounts, including custodial accounts and related bank clearing accounts. These reconciliations comply with all of the following:
1. they are mathematically accurate;
 2. they are prepared within 30 days after the bank statement cut-off date, or such other number of days specified in the transaction agreements;
 3. they are reviewed and approved by someone other than the person or persons who prepared the reconciliations;
 4. they contain explanations for reconciling items, and these reconciling items are resolved within 90 days of their original identification, or such other number of days specified in the transaction agreements.

C. Investor remittances and reporting

- (i) Reports to investors, including those to be filed with securities regulatory authorities, are prepared and disseminated in accordance with the transaction agreements and applicable securities legislation requirements. Specifically, such reports:
1. are prepared in accordance with timeframes and other terms set forth in the transaction agreements;
 2. provide quantitative information calculated in accordance with the terms specified in the transaction agreements;
 3. are filed with the securities regulatory authorities as required by applicable securities legislation;
 4. agree with investors' or the trustee's records as to the total unpaid principal balance and number of pool assets serviced by the servicer.
- (ii) Amounts due to investors are allocated and remitted in accordance with timeframes, payment priority and other terms set forth in the transaction agreements.
- (iii) Amounts remitted to an investor are posted within two business days to the servicer's investor records, or such other number of days specified in the transaction agreements.

- (iv) Amounts remitted to investors per the investor reports agree with cancelled checks, or other form of payment, or custodial bank statements.

D. Pool asset administration

- (i) Collateral or security on pool assets is maintained as required by the transaction agreements or related pool asset documents.
- (ii) Pool assets and related documents are safeguarded as required by the transaction agreements.
- (iii) Any additions, removals or substitutions to the asset pool are made, reviewed and approved in accordance with any conditions or requirements in the transaction agreements.
- (iv) Payments on pool assets, including any payoffs, made in accordance with the related pool asset documents are posted to the applicable servicer's obligor records no more than two business days after receipt, or such other number of days specified in the transaction agreements, and allocated to principal, interest or other items (e.g., escrow) in accordance with the related pool asset documents.
- (v) The servicer's records regarding the pool assets agree with the servicer's records with respect to an obligor's unpaid principal balance.
- (vi) Changes with respect to the terms or status of an obligor's pool asset (e.g., loan modifications or re-agings) are made, reviewed and approved by authorized personnel in accordance with the transaction agreements and related pool asset documents.
- (vii) Loss mitigation or recovery actions (e.g., forbearance plans, modifications and deeds in lieu of foreclosure, foreclosures and repossessions, as applicable) are initiated, conducted and concluded in accordance with the timeframes or other requirements established by the transaction agreements.
- (viii) Records documenting collection efforts are maintained during the period a pool asset is delinquent in accordance with the transaction agreements and are updated on at least a monthly basis, or such other period specified in the transaction agreements, and describe the servicer's activities in monitoring delinquent pool assets including phone calls, letters and payment rescheduling plans in cases where delinquency is deemed temporary (e.g., illness or unemployment).
- (ix) Adjustments to interest rates or rates of return for pool assets with variable rates are computed based on the related pool asset documents.
- (x) Any funds held in trust for an obligor (such as funds in escrow accounts) are subject to the following procedures:

1. such funds are analyzed, in accordance with the obligor's pool asset documents, on at least an annual basis, or such other period specified in the transaction agreements;
 2. interest on such funds is paid, or credited, to the obligor in accordance with applicable pool asset documents and provincial and territorial laws;
 3. such funds are returned to the obligor within 30 days of full repayment of the related pool asset, or such other number of days specified in the transaction agreements.
- (xi) Payments on behalf of an obligor (such as tax or insurance payments) are made on or before the related penalty or expiration dates, as indicated on the appropriate bills or notices for such payments, provided that any required funds have been received by the servicer at least 30 days prior to these dates, or such other number of days specified in the transaction agreements.
- (xii) Any late payment penalties in connection with any payment to be made on behalf of an obligor are paid from the servicer's funds and not charged to the obligor, unless the late payment was due to the obligor's error or omission.
- (xiii) Payments made on behalf of an obligor are posted within two business days to the obligor's records maintained by the servicer, or such other number of days specified in the transaction agreements.
- (xiv) Delinquencies, charge-offs and uncollectable accounts are recognized and recorded in accordance with the transaction agreements.
- (xv) Any external credit enhancement or other support is maintained as set forth in the transaction agreements.
- (xvi) Quantitative information that has been aggregated is mathematically accurate and information conveyed by the servicer accurately reflects the information that was obtained by the servicer.