

Annex 1: Statement of Facts

1. Between 2004 and 2007, Standard & Poor's Ratings Services ("S&P"), at the time a division of The McGraw-Hill Companies, Inc. (now known as McGraw Hill Financial, Inc.), was a Nationally Recognized Statistical Rating Organization ("NRSRO") that, for a fee, provided letter grade ratings of, among other things, Residential Mortgage Backed Securities ("RMBS") and Collateralized Debt Obligations ("CDOs"). S&P made statements regarding its processes and controls for the development of criteria for, and the issuance and surveillance of, RMBS and CDO ratings in publicly available documents that included a formal Code of Practices and Procedures (the "Code") first published in September 2004 and subsequently revised and reissued in October 2005 and June 2007.

The Code

2. In September 2004, S&P first published the Code. The Introduction to the Code stated that S&P's mission had "always remained the same – to provide high-quality, objective, independent, and rigorous analytical information to the marketplace." The Introduction stated that S&P "endeavors to conduct the rating and surveillance processes in a manner that is transparent and credible and that also ensures that the integrity and independence of the rating and surveillance processes are not compromised by conflicts of interest, abuse of confidential information or other undue influences." The Introduction stated that S&P had "established and implemented internal controls and policies and procedures to further the transparent, credible, independent and objective nature of its rating and surveillance processes." The Introduction identified the Code as a "restatement of established policies and procedures" relevant to "these rating and surveillance processes." With respect to "independence and avoidance of conflicts of interest," Section 3.1.1 of the Code stated that S&P "endeavors to avoid conflicts of interest and, where this is not possible, has established policies and procedures to address the conflicts of interest through a combination of internal controls and disclosure." Section 3.1.2 of the Code stated: "In all analytic processes, Ratings Services must preserve the objectivity, integrity and independence of its ratings. In particular, the fact that Ratings Services receives a fee from the issuer must not be a factor in the decision to rate an issuer or in the analysis and the rating opinion." Section 3.1.5 of the Code stated: "Ratings assigned by Ratings Services shall not be affected by an existing or a potential business relationship between Ratings Services (or any Non-Ratings Business) and the issuer or any other party, or the non-existence of such a relationship." In October 2005 and June 2007, S&P published updated versions of the Code that made similar statements regarding the objectivity, integrity, and independence of S&P's ratings process.

3. S&P published on its website a November 2005 "Analytic Firewalls Policy" that stated, among other things: "No employee of Standard & Poor's/McGraw-Hill shall attempt to exert improper influence on the opinions of an Equity Analyst or a Ratings Analyst. In no circumstances shall an employee of Standard & Poor's/McGraw-Hill try to influence the opinion of an Equity Analyst or a Ratings Analyst by referring to the commercial relationship between Standard & Poor's/McGraw-Hill and any third party." In a February 2006 "Report On Implementation of Standard & Poor's Rating Services Code of Conduct," also published on S&P's website, S&P stated, among other things: (a) "[S&P] recognizes its role in the global

capital markets and is committed to providing ratings that are objective, independent and credible”; and (b) “It is a central tenet of [S&P] that its ratings decisions not be influenced by the fact that [S&P] receives fees from issuers. To reinforce this central tenet, commencing in 2004, [S&P] separated in a more formal manner its commercial functions from its rating analytical functions.”

Decisions Regarding CDO Evaluator Updates

4. In 2004 and 2005, S&P was in the process of updating CDO Evaluator, one of the models used by S&P to rate Collateralized Debt Obligations (“CDOs”) to arrive at what would become CDO Evaluator Version 3.0 (“E3”). The initial update efforts, throughout 2004, were directed in part by the then head of S&P’s Global CDO group, whose experience was that the risk of losing transaction revenue was a factor that affected updates of CDO Evaluator. He set as goals for the update efforts: (a) small impacts to non-investment grade (“NIG”) cash CDO deals to minimize any negative impact of the updates on this segment of S&P’s ratings business; and (b) 2-3 notch improvements for investment grade deals to improve S&P’s market share with respect to investment grade synthetic CDOs. In accordance with these goals, during the initial update efforts, he and, according to him the then Managing Director in charge of the Cash CDO group, pushed back against updates to CDO Evaluator proposed by one of S&P’s senior analysts because they believed these changes would have had a significant negative effect on S&P’s market share and ratings business. In accordance with these goals, on May 27, 2004, the then head of S&P’s Global CDO Group sent the head of S&P’s Research and Criteria Group, the Managing Director in charge of the Synthetic CDO Group, and others an email directing the CDO Group to begin testing with customers a default matrix he had developed. According to the then head of S&P’s Global CDO Group, the decision to test this default matrix was “in part based upon business decisions, considerations.” Ultimately, this default matrix was not adopted, and work on updating CDO Evaluator to arrive at what would become E3 continued.

5. S&P originally scheduled E3 for release “sometime after July 11, 2005.” In preparation for the release, S&P circulated information regarding E3 to a number of investment banks involved in the issuance of CDOs. On July 18 and 19, 2005, a Client Value Manager in S&P’s Global CDO Group sent emails summarizing the feedback on E3 that had been received from one of these investment banks as follows: S&P’s ratings generated using CDO Evaluator Version 2.4.3 had been the “best” (by comparison to Moody’s and Fitch) with respect to CDOs comprised of certain “more lowly rated” asset pools; S&P would be giving up its market advantage with respect to these CDOs by moving to E3; and S&P would not make up for this with any increase in business in “the high quality sector” because with respect to this sector “Moody’s and Fitch can do better than E3 already.” After receiving this negative feedback, in a July 20, 2005 “Global CDO Activity Report” that she sent to the Executive Managing Director in charge of S&P’s Structured Finance department, the Managing Director in charge of S&P’s Global CDO group stated that the roll out of E3 to the market had been “toned down and slowed down” “pending further measures to deal with such negative results,” and described the basis for this decision, noting in particular one investment bank’s comments that E3 would result in S&P missing “potential business opportunities.”

Decisions Regarding Negative RMBS Ratings Actions

6. On or about November 14, 2006, the head of S&P's RMBS Surveillance Group sent to two S&P executives and an S&P senior analyst an email attaching a spreadsheet, titled "Subprime_Trouble.XLS," which showed that more than 50% of the subprime RMBS transactions that S&P rated in 2006 had severely delinquent loans that represented 25% or more of credit enhancement for the lowest rated class, with many having realized losses already.

7. On or about January 11, 2007, the head of S&P's RMBS Surveillance Group conducted a meeting of that group. Minutes indicate that at the meeting the RMBS Surveillance Group discussed topics including that a "Housing Bubble" existed, that there was a "slowdown," that the "Bubble is deflating," a projection for "20% default this year," that there were "issues with Subprime, some AltA," and that RMBS rated "A and below are in trouble for 80% of the deals." Minutes indicate that the RMBS Surveillance Group considered a recommendation that 2006 RMBS subprime be handled as follows: "Identify all the worst pools for 2006 (Decide a cutoff for delinquencies 20-30%) and put all on creditwatch."

8. After this meeting, on February 7, 2007, an RMBS Surveillance Review meeting was conducted. At this meeting, RMBS Surveillance staff recommended that subordinate tranches from approximately 30 RMBS transactions be placed on CreditWatch Negative, a public announcement, and that subordinate tranches from approximately 20 additional RMBS transactions be placed on Internal Watch, which was S&P's internal, non-public list of securities to be closely reviewed for possible rating action. The agenda for this meeting indicated that the recommendations for Credit Watch were made because tranches were experiencing "higher than expected delinquency and loss performance," "[s]everely delinquent percentages are increasing [at] a rapid pace," "[l]osses are occurring very early in some of the deals," "[s]everely delinquent ratio to loss coverage exceeds 50%," and "[m]odified stress shows potential default with in[sic] 7 months." The agenda for the meeting indicated that RMBS Surveillance proposed "continuous monitoring of the entire list of 2006 transactions through our monthly exception reports and SFSS portfolio" with rating actions to be taken based on the criteria described in the agenda after the "impact of rating actions to the SF business" was "discussed and understood."

9. The February 7, 2007 recommendations of the RMBS Surveillance Group were not followed. Instead, a committee that included members of S&P's RMBS New Issue group was convened on February 12 2007, and that committee decided to place only 18 RMBS tranches from 11 RMBS transactions on CreditWatch negative. Immediately after this decision, the head of S&P's RMBS Surveillance Group wrote to the Managing Director in charge of the Global Surveillance/ Servicer Evaluations Group that she was "fine with where we are." According to several of her colleagues, however, the head of S&P's RMBS Surveillance Group regularly complained that she was prevented by S&P executives from downgrading subprime RMBS as she and the surveillance group wanted because of concern that S&P's rating business would be negatively affected if S&P were to announce severe downgrades. According to the Managing Director in charge of the Global Surveillance/ Servicer Evaluations Group, he was told at the time by the head of S&P's Research and Criteria Group that a decision to make only "incremental downgrades" was made outside S&P's analytical rating function by the Executive Managing Director in charge of S&P's Structured Finance department.

10. On or about June 11, 2007, the heads of S&P's RMBS and CDO Surveillance Groups sent to senior S&P executives an "RMBS & CDO Surveillance Weekly Subprime Update." With respect to RMBS Surveillance, the Executive Summary portion of this update noted that "delinquencies and losses continued to increase in the pools," "the dollar balance of loans in foreclosure and REO continues to increase," "[r]esearch to determine the current time required to liquidate the loans has been initiated," and "[w]e expect to obtain data necessary to adjust our severity assumptions and the anticipated timing of losses, both of which may negatively impact rating performance." The update also detailed the determination that certain tranches of subprime RMBS were particularly vulnerable to rating actions, noting that analysts had re-run all of S&P's 18,000 subprime RMBS ratings issued since 1996 and found that, on average, the BBB-rated and lower rated tranches of subprime RMBS had greater than 100% severe delinquencies versus available credit support.

11. On or about June 27, 2007, senior S&P managers circulated an email from an S&P senior analyst indicating that if, as expected, the 2006 vintage RMBS continued to perform worse than the 2000 vintage RMBS, "we could see losses over 25% of original balance." The head of the RMBS Surveillance Group forwarded this email to others within RMBS surveillance with the comment that if the senior analyst was correct, we "could see defaults at 'AA' and 'AAA.'"

12. On or about June 29, 2007, S&P decided to accelerate the process to revise surveillance criteria with the expectation that this would result in large-scale negative rating actions on subprime RMBS ratings. Reflecting this decision: (a) on June 29, 2007, the Managing Director in charge of the Global ABS/RMBS/New Assets Group sent an email to an executive in her group explaining: "We have shortened the dates to act . . . [A]bsent any adverse event that may require us acting sooner than that, such timings tentatively include a CW [CreditWatch] press release on Monday July 9th"; and (b) on July 1, 2007, the head of the Research and Criteria Group forwarded to the head of the CDO Group and a group of other S&P executives a spreadsheet identifying 428 subprime RMBS transactions to be reviewed, with an accompanying email stating: "We have estimated the potential losses we expect from the 2006 vintage as a basis for taking near term rating action that will truly reflect the appropriate rating levels" and noting that in the future the review would need to extend to "closed end seconds" and "Alt-A" transactions.

13. On July 10, 2007, S&P publicly announced the placement of "credit ratings on 612 classes of [RMBS] backed by U.S. Subprime collateral on CreditWatch with negative implications." In addition, S&P publicly announced changes to its new issue and surveillance criteria with respect to subprime RMBS, including toughening of loss severity and loss timing assumptions for purposes of surveillance, and increased credit enhancement requirements for new subprime transactions. Thereafter, on July 12, 2007, S&P announced large-scale downgrades of 2005 and 2006 vintage subprime RMBS ratings.

14. As referenced above, from February 7, 2007 through June 29, 2007, reports from S&P analysts indicated that negative rating actions on large numbers of subprime RMBS were anticipated. After S&P's June 29, 2007 decision to accelerate the revision of surveillance criteria for subprime RMBS, senior managers at S&P expected that this would result in large-scale

negative rating actions on subprime RMBS. Throughout the period from February 7, 2007 through the public announcement of the negative rating actions on July 10, 2007, S&P continued to issue and confirm ratings for CDOs backed substantially by subprime RMBS, without making any adjustments to its existing CDO rating criteria to account for anticipated negative rating actions.

This Settlement

15. On August 27, 2014, the United States Securities and Exchange Commission adopted new requirements for credit rating agencies registered with the Commission as NRSROs. These new requirements address conflicts of interest and procedures to protect the integrity and transparency of rating methodologies, and provide for attestations to accompany credit ratings that the ratings were not influenced by other business activities. As a material part of this settlement, S&P agrees to certain Compliance Measures requiring compliance with Particular State Laws as set forth in the Settlement Agreement.

16. S&P has reviewed the voluminous discovery provided to S&P by the United States to date, and acknowledges that this discovery does not support its allegation that the United States' FIRREA complaint against S&P was filed in retaliation for S&P's 2011 decisions to place on credit watch negative and subsequently downgrade the credit rating of the United States. Accordingly, in conjunction with this settlement, S&P is withdrawing that allegation.