

Securitized: Legal and Regulatory Issues

Chapter 25A: The Law of Securitization in China

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CHAPTER 25A

The Law of Securitization in China

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§ 25A.01 Introduction

China's securitization market expanded rapidly in 2014. Sales of asset-backed securities jumped to RMB 311.8 billion (approximately U.S. \$50 billion) in 2014, twelve times more than the amount issued in 2013 and twice as much as the total amount of all securitizations in previous years combined. This explosive growth is expected to continue over the next few years. Such growth, however, was not built upon a rock as securitization in China is still at the stage of exploration and experimentation and the related laws are in a constant state of flux. "Crossing the river by feeling for stones," a pet phrase which was frequently used to describe the Chinese economic reform, also captures the general approach that China has adopted toward securitization – it needed to stay grounded, incremental, feel its way forward even amidst uncertainty.

Securitization was first utilized in China in 2004 when the Industrial and Commercial Bank of China used a trust-based structure in a quasi-securitization transaction to dispose of non-performing bank loans. The Administrative Rules for the Credit Asset Securitization Pilot Program (the "CBRC Administrative Rules") – the first Chinese law on securitization – was enacted in 2005 by the People's Bank of China ("PBOC") and the China Banking Regulatory Commission ("CBRC"). In the same year, the State Council approved two pilot securitization projects sponsored by the China Construction Bank

and the China Development Bank, respectively. Before the two pilot projects' launch, agreements on cooperative schemes were negotiated between foreign financial institutions and Chinese banks. Subsequently, Macquarie Bank of Australia received approval to be the first foreign bank to provide securitization services in China.

The pilot securitization program was suspended in 2008 after the credit crisis in the U.S. started developing. Securitization activity gained ground in 2012 after the PBOC, the CBRC and the Ministry of Finance jointly issued a notice to expand the credit asset securitization pilot program.

In July 2013, the State Council promulgated the Guidance of the General Office of the State Council on Financial Support of Economic Structure Adjustment, Transformation and Upgrading (the "State Council Guidance"). According to the State Council Guidance, China will steadily promote credit asset securitization as a routine practice to stimulate funding by financial institutions and support microenterprises' growth. The State Council Guidance sent a clear signal to the market that securitization has captured attention from the standpoint of national macroeconomic management. In November 2013, the Third Plenary Session of the 18th Central Committee of the Chinese Communist Party also called for the establishment of a sounder securitization market. Since the promulgation of the State Council Guidance and the Central Committee meeting, the Chinese securitization market has quickly expanded in terms of total market size and number of deals. Securitization is also viewed by the Chinese government as an alternative funding source and balance-sheet-management tool that can help alleviate China's shadow banking problems.

§ 25A.02 Dual Securitization Systems: CABS and ABS

Broadly speaking, there are two separate securitization systems in China: the credit asset securitization (“CABS”) set out by the PBOC and the CBRC and the asset securitization (“ABS”) by the China Securities Regulatory Commission (“CSRC”). Securities backed by credit assets of financial institutions are traded in the National Interbank Bond Market (“NIBBM”), which is supervised by the PBOC. Securities backed by corporate assets, on the other hand, are mainly traded in domestic stock exchanges and OTC markets, which are supervised by the CSRC. Since most institutional investors are NIBBM participants and NIBBM dominates China’s bond market, accounting for more than 90% of the total custody and trading volume, CABS also has the lion’s share of the Chinese securitization market.

Both securitization systems are heavily regulated in China. The CABS scheme is still at the stage of experimentation with a unique quota system, which can be roughly divided into three phases: Phase I started in 2005 and ended in 2008, during which period 17 CABS were issued with a total balance of RMB 66.8 billion; Phase II started in 2012 and ended in 2013, during which 7 CABS were issued, subject to a quota limit of RMB 50 billion; Phase III started in August 2013 with an increased quota limit of RMB 300 billion.¹ In November 2014, the CBRC released the Notice on Streamlining the Registration and Filing Process for Credit Asset Securitization (the “CBRC 2014 Notice”) which replaced the historical pre-approval system with a new registration and filing system. After the publication of the CBRC 2014 Notice, the market believes that the pilot stage has ended and CABS will be considered as a “normal business” of financial institutions going forward, and the quota system will be abolished as well.²

¹ The quota was further divided between (i) China Development Bank, (ii) five state-owned commercial banks (i.e., Bank of China, Industrial and Commercial Bank of China, Bank of Communications, China Construction Bank, and Agriculture Bank of China) and (iii) other financial institutions, each group receiving a quota of RMB 100 billion. Together with unused quota (about RMB 100 billion) from Phase I and Phase II, the total quota for Phase III stands at approximately RMB 400 billion.

² The ABS scheme was “normalized” in 2013 after the promulgation of the Provisions on Administration of the Asset Securitization Business of Securities companies by the CSRC on March 15, 2013.

Table 1: Comparison between CBRC and CSRC Securitization Systems

	Credit Asset Securitization (“CABS”)	Asset Securitizations (“ABS”)
Regulatory Bodies	PBOC and CBRC	CSRC
Main Applicable Rules	CBRC Administrative Rules and related PBOC/CBRC regulations	The Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies and supporting Guidelines (the “CSRC 2014 Provisions”)
Issuance Process	Examining and filing system	Examining and filing system
Underlying Assets	Credit assets originated by financial institutions	Assets capable of generating independent, predictable cash flow
Sponsor	Financial institutions	Securities companies and subsidiaries of fund management companies
Originator	Financial institutions	Enterprises or state-run institutions
Issuer	Special purpose trust	Special asset management plan
Credit ratings	Ratings from two rating agencies required	Not mandatory
Venue	NIBBM	Stock exchanges and OTC markets, etc.
Clearing and Settlement	China Central Depository & Clearing Co., Ltd.	China Securities Depository & Clearing Corporation Limited
Principal Investors	Financial institutions, including banks and insurance companies, etc.	“Qualified investors”

[1]—Typical CABS and ABS Transaction Structures

The CABS and ABS transactions have many features in common which are essential to any securitization transaction, including establishment of “bankruptcy-remote” special purpose vehicle as the issuing entity and segregation of asset pool. Nonetheless, there are substantial differences between

those two systems. The common steps of a typical CABS transaction are as follows:

- (i) An eligible financial institution, acting as sponsor, establishes a special purpose trust (“SPT”) as the issuing entity;
- (ii) Credit assets originated by the sponsor are transferred to the SPT and the sponsor publishes an announcement of such transfer on national media;
- (iii) The sponsor enters into a trust agreement with an eligible trust and investment company which will serve as the trustee for the SPT;
- (iv) The trustee appoints the custodian and servicer. The sponsor may act as servicer; but neither the sponsor nor the servicer can serve as custodian;
- (v) The trustee submits the prospectus and other transaction documents to the related CBRC department;
- (vi) Securities backed by the trust assets are issued by the SPT and, within two months after its issuance, listed and traded in the interbank bond market; and
- (vii) The trustee has ongoing reporting obligations to the investors.

The common steps of a typical ABS transaction are as follows:

- (i) An eligible securities company or a subsidiary of a fund management company establishes a special asset management plan (the “SAMP”) as the issuing entity;
- (ii) The SAMP acquires assets from the originator which can be either an enterprise or a state-run institution;
- (iii) The securities company or subsidiary of the fund management company serves as the manager of the SAMP;
- (iv) The manager runs diligence on the underlying assets and transaction participants, handles matters related to the issuance of the securities and manages SAMP assets;
- (v) A qualified custodial institution will hold the SAMP assets in custody which shall not be commingled with the assets of the originator, the manager or any other transaction participant;
- (vi) Within five business days after the establishment of the SAMP, the manager files related documents with the Asset Management Association of China and local offices of CSRC that have jurisdiction over the manager; and
- (vii) The securities backed by the SAMP assets are listed and traded in the stock exchanges, the National Equities

Exchange Quotations System, the Inter-Agency Privately Offered Products Quotation and Servicing System, the OTC markets or any other venue approved by the CSRC.

[2]—Key Transaction Parties

[a]—Sponsor

Under the CBRC Administrative Rules, the sponsor of a CABS transaction must be a “financial institution in the banking industry in China.”³ The financial institution must have obtained qualifications from the CBRC before such financial institution engages in any CABS business as sponsor. The CABS sponsor needs to satisfy the following conditions:

- (i) it is a reputable financial institution with solid business performance and has no material violation of any laws and regulations in the past three years;
- (ii) it has solid corporate governance, risk control and compliance systems in place;
- (iii) it has set up reasonable goals and clear strategy with respect to its CABS business and such goals and strategy are consistent with such financial institution’s overall business strategy;
- (iv) it has the appropriate selection criteria and procedure in place to serve as sponsor;
- (v) it has the required personnel, accounting system, transaction system, information system and risk control system;
- (vi) it does not have any bad records in the past three years in CABS transactions to which it has been a party; and
- (vii) it meets other qualifications and conditions set forth by the CBRC.⁴

The conditions are rather vague and it is within the CBRC’s sole discretion if a financial institution has satisfied the above conditions and is qualified as a CABS sponsor.

Traditionally, most CABS sponsors have been state-owned Chinese banks. In 2012, the CBRC and the PBOC jointly issued a notice to expand the credit asset securitization pilot program and encourage other eligible financial institutions to participate in CABS transactions.

³ See Articles 2 and 11 of the CBRC Administrative Rules.

⁴ See Article 7 of the Regulatory and Supervisory Rules for Credit Asset Securitization Pilot Program by Financial Institutions.

In November 2013, the CBRC confirmed that all of the 42 foreign banks with locally incorporated branches in China as of such date may apply as sponsor to engage in CABS business. In February 2014, six non-bank financial institutions, including the local units of BMW, Ford and Volkswagen, received approval from the CBRC as sponsor for auto loan securitization transactions. It is expected that the CBRC will continue granting access to the CABS market to more banks and non-bank financial institutions.

The sponsor under the CSRC ABS regime, on the other hand, can be either (i) a duly organized securities company or (ii) a subsidiary of a duly organized fund manage company that, in each case, has obtained qualifications from the CSRC to engage in customer asset management business.⁵ The CSRC 2014 Provisions removed other conditions in prior CSRC regulations, such as minimum net asset size and rating requirement.

[b]—Issuing Entity

The issuing entity under the CABS structure is a special purpose trust (“SPT”) established by the CABS sponsor. The SPT holds the legal title to the underlying assets. The SPT is not recognized as a legal person under the Chinese law. The SPT is managed by the trustee, and the trustee plays a far more important, aggressive role in the Chinese CABS transactions than the trustee in a typical U.S. securitization transaction.

The issuing entity under the ABS transaction is a special asset management plan (“SAMP”) established by the ABS sponsor. Similarly, the SAMP is not recognized as a legal person under the Chinese law and there is no corporate governance requirement with respect to the SAMP. The sponsor acts as the manager of the SAMP and acquires and manages the assets on behalf of the SAMP.

In comparison with the SPT, the SAMP is less advanced in terms of legal integrity, tax neutrality and accounting clarity, which may raise concerns over true sale and bankruptcy remoteness as described below.

Other than the SPT and the SAMP, so far the CBRC and the CSRC have not approved any other SPV structure for securitization transactions.

[c]—Originator

Typically, the CABS sponsor is also the originator of the underlying assets of the SPT. The CBRC regulations do not provide separate requirements in respect of the originator.

⁵ See Article 2 of the CSRC 2014 Provisions.

For ABS transactions, the manager and the originator are not the same entity. The manager must disclose to investors any material conflict of interest that it may have with the originator, such as owning more than 5% of the shares or registered capital of the originator (or the originator owning more than 5% of the shares or registered capital of the manager) and prior business relationship with the originator.⁶ If any originator is reasonably believed to have material impact over the SAMP and investors therein, such originator is required to meet additional criteria set forth in Article 11 of the CSRC 2014 Provisions, including no material default, no untrue information disclosure and no material violation of laws and regulations in the past three years.

[d]—Trustee and Manager

For any CABS transaction, the trustee must be a licensed trust and investment company that meets the following conditions:

- (i) It has been duly registered as a trust and investment company for over three years;
- (ii) Its registered capital shall not be less than RMB 500 million and, as of the end of each of the immediately preceding three years, its net capital shall not be less than RMB 500 million;
- (iii) Its proprietary business has sufficient liquidity and complies with related regulations;
- (iv) All of its original deposit liabilities have been cleared up, and it is not incurring any new deposit liability or any other disguised liability in the name of its trusts;
- (v) It has solid reputation and good performance; all trusts under its management have been successfully launched pursuant to related trust agreements; it has no bad record of misappropriating trust assets; and it has no material violation of any laws and regulations in the past three years;
- (vi) It has solid corporate governance, operational procedures for trust business, effective risk management and internal control system;
- (vii) It has the required professional personnel, business processing system, accounting system, information system, risk management and internal control system necessary for performing the duties of trustee for SPTs;
- (viii) It has disclosed its annual reports under related rules;
- (ix) It has met other conditions as set forth by the CBRC.⁷

⁶ See Article 17 of the CSRC 2014 Provisions.

⁷ See Article 9 of the Regulatory and Supervisory Rules for Financial Institution's Credit Asset Securitization Pilot Program, enacted by the CBRC on November 7, 2005.

The trustee will enter into a trust agreement with the sponsor. The trust agreement specifies, among other things, the purpose and terms of the SPT, nature and conditions of the underlying assets, management of the underlying assets, redemption and substitution of the underlying assets, rights of SPT beneficiaries (i.e. investors), rights and obligations of the sponsor, duties and obligations of the trustee, and conditions for trust termination or dissolution.⁸ Pursuant to the trust agreement, the trustee will issue the securities, manage the SPT assets, report information on the underlying assets and performance of the securities to the investors and make payment distributions.⁹ The trustee will appoint the servicer and the custodian and enter into a servicing agreement and a custodial agreement with the servicer and the custodian, respectively.¹⁰ The trustee has the right to replace the servicer or the custodian for cause, subject to consent of investors.¹¹

The CABS sponsor does not have the right to remove or replace the trustee without cause. If the trustee fails to satisfy the eligibility criteria or is subject to insolvency or bankruptcy proceedings, an interim trustee will be designated by the CBRC before a successor trustee is appointed pursuant to the trust agreement.¹²

For ABS transactions, the sponsor serves as the manager of the SAMP. The manager is required to have a sound risk management and internal control system necessary for performing duties as manager for the SAMP and shall not have received any administrative penalty for material violations of laws or regulations in the preceding year.¹³ The manager plays a similarly important role in the ABS transaction and is responsible for diligence on the underlying assets and transaction parties, issuance of the securities, distribution of funds, management of the SAMP assets, information disclosure, and liquidation and termination of the SAMP.

If a SAMP needs to change its manager, it must explain such change in writing to the Asset Management Association of China and related local CSRC offices. If the manager fails to meet the eligibility criteria or is subject to insolvency or bankruptcy proceedings, an interim manager will be designated by the Asset Management Association of China before a successor manager is appointed.¹⁴

⁸ See Article 13 of the CBRC Administrative Rules.

⁹ See Article 17 of the CBRC Administrative Rules.

¹⁰ See Article 18 of the CBRC Administrative Rules.

¹¹ See Articles 26 and 31 of the CBRC Administrative Rules.

¹² See Article 20 of the CBRC Administrative Rules.

¹³ See Article 12 of the CSRC Administrative Rules.

¹⁴ See Article 20 of the CSRC 2014 Provisions.

[3]—Underlying Assets

The underlying assets that may be securitized by CABS transactions are limited to “credit assets”, which is not defined in the CBRC Administrative Rules but historically interpreted as assets that can be identified and recorded on an originator’s balance sheet as credit assets requiring risk capital allocation (such as loans and receivables). Over the past decade, the term has been expanded to include various types of credit assets of banks and non-bank financial institutions, such as construction loans to national infrastructure projects, agriculture-related loans, loans to medium and small enterprises, municipal loans, loans related to environmental protection and clean energy, loans for strategic new industries, loans for media and cultural projects, loans for public housing projects, auto loans and other loans that meet relevant requirements. Re-securitization and synthetic securitization products are not permitted.¹⁵

The underlying assets under the ABS regime are much broader and refer to any assets that

- (i) are acquired on an arm’s-length basis,
- (ii) have a clear chain of legal ownership,
- (iii) are capable of generating independent, predictable, constant and stable cash flow,
- (iv) are free from any encumbrance or liens immediately prior to the transfer of such assets from the originator to the SAMP, and
- (v) can be segregated and pooled for securitization purposes. The underlying assets can be a singular property right or a portfolio composed of multiple property rights or properties, including account receivables, credit assets, trust beneficiary rights, infrastructure beneficiary rights, or real estate properties such as commercial real estate, or any other property or property rights recognized by the CSRC.¹⁶

In 2014, the Asset Management Association of China – a self-regulatory organization that was bestowed the power to implement the new CSRC securitization rules – published a negative list of assets that cannot be securitized under the ABS:

¹⁵ See Notice on Relevant Matters concerning Further Expansion of the Credit Asset Securitization Pilot Program, promulgated by the CBRC, PBOC and Ministry of Finance on May 17, 2012.

¹⁶ See Article 3 of the CSRC 2014 Provisions.

- (i) Loans with local government(s) as direct or indirect debtor (with limited exceptions);
- (ii) Loans with fund-raising entity established by local government as debtor;
- (iii) Assets such as mining rights or land rights involving high uncertainty of future cash flow;
- (iv) Unstable rental income due to “dark space” or vacancy;
- (v) Any infrastructure, commercial real estate project or residential real estate project (except public housing projects) that has not yet been developed or less than 90% of which projects have been completed;
- (vi) Any asset that cannot directly generate cash flow on its own; or
- (vii) Pool of assets that belong to different and unrelated categories (e.g., combination of corporation account receivables and rights to highway toll payments).¹⁷

The negative list reflects the regulators’ and industry’s concern of China’s housing bubble and potential default by local governments on their ever-increasing debt. The negative list will be re-evaluated and updated by the Asset Management Association of China every six months.

Cash proceeds generated by the SAMP assets may be used to purchase new assets of the same type. The sponsor shall fully disclose the replenishment conditions and criteria, if applicable, and risks associated with replenishment.¹⁸

[4]—Credit Enhancement and Rating Requirements

Internal or external credit enhancement measures are permitted for both CABS and ABS transactions to increase ratings on the offered securities.

CABS securities issued and traded in the interbank bond market need to be rated by two rating agencies. The CBRC encourages the CABS sponsor to adopt the investor-paid rating model (as opposed to the U.S. practice where typically the sponsor will engage the rating agencies and pay their fees).¹⁹ Ratings are not required for CABS securities issued to a specific group of investors; provided that such CABS securities can only be transferred and traded among those investors.²⁰

¹⁷ See *Guidelines on Negative List of Underlying Assets for Asset Securitization Business*, Appendix (Asset Management Association of China, December 24, 2014).

¹⁸ See Article 25 of the CSRC 2014 Provisions.

¹⁹ See the Notice on Relevant Matters concerning Further Expansion of the Credit Asset Securitization Pilot Program, promulgated by the CBRC, PBOC and Ministry of Finance on May 17, 2012.

²⁰ See Article 41 of the CBRC Administrative Rules.

Ratings are not required for ABS securities. If the ABS securities are rated, they can only be rated by qualified rating agencies approved by the CSRC.²¹

[5]—Listing and Trading

Within two months after the consummation of issuance, CABS securities may be listed in the interbank bond market following certain application procedures.²² Typically, CABS securities are settled and cleared through China Central Depository & Clearing Co., Ltd.

The ABS securities, on the other hand, may be listed and traded in the stock exchanges, the National Equities Exchange Quotations System, the Inter-Agency Privately Offered Products Quotation and Servicing System, the OTC markets or any other venue approved by the CSRC. The ABS securities may only be sold to “qualified investors” and the number of “qualified investors” in any single series of ABS securities may not exceed 200. Subject to more stringent eligibility requirements issued by the ABS trading facilities noted below, “qualified investors” are (i) entities with at least RMB 10 million in proprietary net assets or (ii) natural persons with (a) at least RMB 3 million in financial assets or (b) an average annual personal income of at least RMB 500,000 in each of the immediately three preceding years.²³

On November 25, 2014, the Shanghai Stock Exchange and the Shenzhen Stock Exchange published their respective guidelines for asset securitization (collectively, the “Stock Exchange Guidelines”). Under the Stock Exchange Guidelines, “qualified investors” means any of the following:

- (i) domestic financial institutions, such as banks, securities companies, asset management companies, trust companies, insurance companies, and their respective wealth management plans, customer asset-management plans, trust plans and insurance investment plans, etc.;
- (ii) foreign financial institutions (for their own proprietary accounts or on behalf of managed third-party accounts) approved by Chinese regulators, including Qualified Foreign Institutional Investors and RMB Qualified Foreign Institutional Investors;

²¹ See Article 32 of the CSRC 2014 Provisions.

²² See Article 42 of the CBRC Administrative Rules.

²³ See Article 29 of the CSRC 2014 Provisions and Article 12 of Tentative Measures for the Regulation of Private Investment Funds, promulgated by CSRC on August 21, 2014.

- (iii) social security funds, pension funds and other regulated social funds;
- (iv) privately raised funds and their manager duly filed or registered with competent self-regulatory organizations, with the latter subject to the minimum net asset requirement set forth in clause (v) below;
- (v) other entities (including companies and partnerships) with proprietary net assets no lower than RMB 10 million; or
- (vi) other qualified investors in compliance with the CSRC 2014 Provisions and acknowledged by the exchanges.²⁴

The ABS securities are required to have a minimum denomination of RMB 1 million.²⁵ The Stock Exchange Guidelines also set forth listing and trading rules for ABS securities listed in the exchanges.

[6]—Integration of the CABS and ABS Systems

Partly due to the segregation of the two securitization systems, Chinese securitization products are largely illiquid. Unlike securitization in the U.S., where the banking system provides the bulk of the underlying assets and the stock exchanges provide the funding and trading platform, the banking system and stock exchanges in China operate as two separate, independent securitization systems. Investors in CABS products are NIBBM participants, primarily banks and other financial institutions, whereas ABS products are offered to “qualified investors” in the stock exchanges. The segregation between the banking system and the capital markets defeats the purpose of securitization as credit assets and risks associated therewith still cluster in the banking system instead of being decentralized. Given how fast the Chinese securitization market is developing, it becomes even more urgent to integrate the two securitization systems.

In August 2013, the PBOC made an announcement at a press conference that the PBOC will give CABS sponsors more flexibility to choose trading venues and permit CABS products to be issued and traded in stock exchanges. In June 2014, Ping An Bank CABS Series No. 1 was issued and traded in the Shanghai Stock Exchange, which marked the debut of the first CABS product listed in a Chinese stock exchange. The institutional aspect of the transaction, risk and capital management, deal structuring and SPT documents were done pursuant

²⁴ Despite the difference in wording and layout, the definitions of “qualified investors” are substantially consistent between the Business Guidelines for Asset Securitization issued by the Shanghai Stock Exchange (Article 14) and the Business Guidelines for Asset Securitization issued by the Shenzhen Stock Exchange (Article 24).

²⁵ See Article 38 of the CSRC 2014 Provisions.

to the CBRC's securitization rules and regulated by the CBRC. Listing and trading, information disclosure, and other issues related to the CABS issuance, on the other hand, followed the relevant rules of the Shanghai Stock Exchange and were regulated by the CSRC. In addition, the custody and clearing of the Ping An Bank CABS were completed through China Central Depository & Clearing Co., which also departs from the normal practice that securities listed in the exchanges are settled and cleared through China Securities Depository & Clearing Corporation Limited.²⁶ The question remains if the Ping An Bank CABS model can be reproduced by other CABS issuers.

Another development worth noting is that in August 2012, the National Association of Financial Market Institutional Investors published a guideline under which non-financial institutions are permitted to issue asset-backed notes in the interbank bond market. At present, the size of ABN remains relatively small.

²⁶ China Central Depository & Clearing Co. is supervised by the PBOC while China Securities Depository & Clearing Corporation Limited is supervised by the CSRC.

§ 25A.03 Legal Framework

[1]—Overview of the Legislation System

China is a civil law country and the Chinese legislation system is unique in its decentralized and hierarchical legislative power under uniform leadership. The legislative power is decentralized in that both the so-called “state power organs” (i.e. national and local people’s congresses) and “state administrative organs”, including the State Council and its departments, commissions and local governments, are empowered to make legislative enactments. According to the PRC’s Legislation Law, Chinese laws and regulations are subdivided into the following categories:

- (i) The Constitution;
- (ii) “National laws” enacted by the National People’s Congress and its standing committee;
- (iii) “Administrative regulations” enacted by the State Council;
- (iv) “Local regulations, autonomous decrees, and separate decrees” enacted by the local people’s congress of provincial level administrative regions; and
- (v) “Rules”, including departmental rules enacted by various ministries, commissions, the PBOC and departments of the State Council, and rules enacted by local governments of provincial level administrative regions.

In the hierarchy, generally speaking, national laws are higher than administrative regulations, local regulations and rules; and administrative regulations enacted by the State Council are higher than rules enacted by ministries, commissions and the PBOC.

The Chinese securitization laws at present are essentially a patchwork system comprised of departmental rules mentioned in clause (v) above and the so-called “normative documents” (including guidelines, notices, circulars, and regulations) promulgated by the PBOC, the CBRC, the CSRC and other regulatory authorities.¹ To the extent the securitization rules conflict with national laws, such as PRC’s Contract Law, Company Law, Trust Law, Securities Law and Securities Fund Management Law, national laws will trump the securitization rules. In addition, as the rules enacted by the PBOC, the CBRC and the CSRC are of the same hierarchy, inconsistencies between those rules create a strong sense of uncertainty among the market participants and investors as to which rules to follow and how the rules will apply.

¹ See 25A.05 [1]. Appendix A *infra* for a list of main Chinese securitizations rules through December 31, 2014.

China follows a sectoral supervision model for its financial industry, with banking and securities sectors being under separate supervision by the CBRC and the CSRC. The CSRC is the regulatory body for China's securities markets. The PBOC formulates and implements China's monetary policy and supervises the interbank bond market. The CBRC was established in 2003 to regulate the banking sector so that the PBOC can focus on the macro economy and currency policy.

To better collaborate the reform efforts by different commissions and agencies, in August 2013, the State Council approved the establishment of the Inter-Ministerial Joint Meeting System for Financial Regulation and Coordination (the "**Joint Meeting**"). Members of the Joint Meeting include the President of the PBOC, the Chairman of the CBRC, the Chairman of the CSRC, the Chairman of the China Insurance Regulatory Commission and the Head of the State Administration of Foreign Exchange. The PBOC is designated by the State Council as the lead of the Joint Meeting, and the President of the PBOC is named as the convener of the Joint Meeting. During a recent session, members of the Joint Meeting reached consensus on a fundamental change to the Chinese securitization rules – replacing the existing pre-approval system with a new filing and registration system. Shortly after the meeting, related rules were published by the CBRC and the CSRC in November 2014 as described below. The Joint Meeting is expected to play a crucial role in facilitating further changes to the Chinese securitization rules.

[2]—PBOC and CBRC Rules

The Administrative Rules for the Credit Asset Securitization Pilot Program (the "CBRC Administrative Rules"), enacted by the PBOC and the CBRC in 2005, is the first Chinese law endorsing securitization. Prior to the CBRC Administrative Rules, the Chinese legal system could not accommodate securitization projects as it was unlawful for SPVs to hold assets and issue securities according to the PRC's Company Law. The CBRC Administrative Rules set out a relatively complete framework for credit asset securitization and laid down basic rules on transaction parties (including the sponsor, trustee, servicer, custodian, underwriter etc.), underlying assets, issuance and trading, investor rights, and information disclosure.

In May 2012, the PBOC, the CBRC and the Ministry of Finance jointly promulgated the Notice on Relevant Matters concerning Further Expansion of the Credit Asset Securitization Pilot Program (the "CBRC 2012 Notice") with the goal to re-launch and expand the CABS market. Compared with prior CBRC rules, there are several notable developments contained in the CBRC 2012 Notice:

- The notice expanded the scope of credit assets that may be

securitized under the CABS. The expanded scope of eligible underlying assets reflects current policy initiative, e.g., encouraging the development of small and medium sized enterprises, and international market acceptability of certain established sectors, such as auto loans.

- The notice introduced two major measures which aim to better protect the investors. First, the sponsor is required to retain 5% of the total deal size.² Secondly, securities are required to be rated by two credit rating agencies. Previously, one credit rating institution would suffice. The notice also encourages use of the investor-pay rating model.
- The notice expanded the investor base. The notice permits securities investment funds, enterprise pension funds, social security funds and other approved non-banking institutions to invest in the CABS market; provided that no single investor may hold more than 40% of the total deal size of any single CABS series.

On November 20, 2014, the CBRC issued the Notice on Streamlining the Registration and Filing Process for Credit Asset Securitization (the “CBRC 2014 Notice”). Under the CBRC 2014 Notice, the sponsor will only be required to register transactions with the CBRC before issuance, as opposed to the previous system where every CABS deal was assessed by the regulators on an individual basis, both the structure and the asset pool. Under the new rule, the scope of CBRC’s review is much narrower – the main issue being whether the transactions are in compliance with applicable rules. The CBRC 2014 Notice also established a “one window” approach – all filing and registration matters will be handled by and channeled through the Innovation Supervision Department of the CBRC. New CABS issuance needs to be completed within three months of its registration; otherwise it will need to be re-registered with the CBRC. As in the past, the sponsor is required to meet the eligibility criteria and receive prior regulatory approval before engaging in the CABS business.

² The risk retention requirement was further clarified in the Notice on Further Regulation of Sponsor Risk Retention in Credit Asset Securitization, promulgated by PBOC and CBRC on December 31, 2013 (the “CBRC Risk Retention Notice”). Under the CBRC Risk Retention Notice, the sponsor may elect to retain (i) not less than 5% of total deal size or (ii) the most subordinated tranche which represents not less than 5% of total deal size; provided that if the sponsor takes vertical risk retention, the percentages of all tranches retained shall be the same.

[3]—CSRC Rules

In January 2004, the State Council issued an opinion letter in which the State Council encourages the ministries and commissions to actively research and develop securitization products.³ In response to the State Council's request, in April 2004 the CSRC launched a research project on corporate asset securitization. The first ABS issuance was completed in August 2005. In 2009, the CSRC promulgated its first securitization law – the Provisional Guidance on Pilot Asset Securitization Business of Securities companies. The Provisional Guidance was replaced by the Provisions for the Administration of Asset Securitization Business of Securities companies enacted by the CSRC in March 2013 (the “CSRC 2013 Provisions”).⁴

On November 19, 2014, CSRC promulgated the Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies and two supporting Guidelines regarding information disclosure and due diligence (collectively, the “CSRC 2014 Provisions”).⁵ The CSRC 2014 Provisions repeals its 2013 predecessor.⁶ The CSRC 2014 Provisions expanded the list of eligible sponsors/managers and qualified investors. More importantly, the CSRC 2014 Provisions abolished the administrative review procedures and adopted market-oriented arrangements including *ex post* filing with self-regulatory associations and a negative list of underlying assets. The requirement of prior CSRC approval is no longer needed for ABS issuance. A filing with the Asset Management Association of China within five working days after establishing the SAMP will suffice.

As part of the CSRC's deregulation initiative, much of the CSRC's administration and supervision responsibility over the ABS business was delegated to self-regulatory associations and administrative agencies supervised by the CSRC. Filing and registration matters are handled by the Asset Management Association of China.⁷ The Asset Management Association of China will also decide which asset classes

³ Opinions of the State Council on Promoting Reform, Opening-up and Steady Development of China's Capital Markets, issued by the State Council on January 31, 2004.

⁴ The pilot stage was ended and ABS is considered as a “normal” business of securities companies after promulgation of the 2012 CSRC 2014 Provisions.

⁵ Fund management companies, like securities companies, are generally permitted to act as managers of ABS transactions; however, when the assets being securitized are not bank deposits or securities (such as stocks, bonds, securities investment funds, central bank notes, debt instruments, asset-backed securities, commodity futures or other derivatives), a fund securities company can only do so through its wholly-owned subsidiary established for such purpose.

⁶ Provisions on Administration of the Asset Securitization Business of Securities companies, issued by CSRC and effective as of March 15, 2013.

⁷ See Article 36 of the CSRC 2014 Provisions.

cannot be securitized by ABS.⁸ Listing and trading of ABS securities will follow the respective rules published by the Shanghai Stock Exchange, the Shenzhen Stock Exchange, the Securities Association of China, the National Equities Exchange and Quotations, as applicable. The stock exchanges and other applicable associations will conduct frontline supervisions over ABS securities trading and post-trading matters.

On November 26, 2014, the Shanghai Stock Exchange and the Shenzhen Stock Exchange published their respective guidelines on listing and trading rules, qualified investors and information disclosure for asset securitization.

On December 24, 2014, the Asset Management Association of China published seven manuals that cover a broad range of matters related to asset securitization: (i) rules for SAMP registration, (ii) negative list of underlying assets, (iii) guidance on risk control, (iv) notes on self-discipline principle, (v) guidance on content and format of SAMP disclosure document, (vi) form of subscription agreement for individual investors and (vii) form of subscription agreement for institutional investors.

Under the CSRC 2014 Provisions and supporting rules, the manager is required to ensure that the information in the SAMP disclosure document is true, accurate and complete and that the disclosure document does not contain any untrue or misleading information or omits to state any material fact.⁹ The Provisional Guidance on Format and Content of the SAMP Disclosure Document, enacted by the Asset Management Association of China, provides specific instructions on the format and layout of the disclosure document, including specific items that need to be disclosed under each chapter. The disclosure document must include, among other things, information on the manager, originator, related parties and “significant debtors”,¹⁰ modeling assumptions and cash flow analysis, waterfall, collateral information and management of assets (including selection criteria and replenishment, if applicable), risk retention and other risk management mechanics, etc.¹¹

The new CSRC rules also set forth specific diligence requirements for the manager. The manager must produce a diligence report and in the report the manager is required to attest if the SAMP plan is

⁸ See Article 37 of the CSRC 2014 Provisions.

⁹ See Article 42 of the CSRC 2014 Provisions and Article 3 of the Guidance on Format and Content of the SAMP Disclosure Document, enacted by the Asset Management Association of China on December 24, 2014.

¹⁰ “Single debtors” means (i) any debtor whose outstanding loan balance constitutes more than 15% of the pool and (i) any debtor with its affiliates, together, whose outstanding loan balance constitutes more than 20% of the pool.

¹¹ See Article 7 of the Supporting Guidelines on Information Disclosure enacted by the CSRC and the Guidance on Format and Content of the SAMP Disclosure Document enacted by the Asset Management Association of China.

in compliance with relevant rules and regulations.¹² The diligence report needs to be signed by the manager. The manager's diligence responsibility includes, among others, (i) diligence on the standing and operations of the originator and transaction parties (including the servicer and custodian), (ii) full investigation of the operations and financial conditions of "significant debtors", (iii) diligence on ownership of underlying assets and any liens and claims thereon, (iv) diligence on validity of the asset transfer process and any restrictions in connection therewith, (v) analysis of conditions of underlying assets, historical performance and prediction of future cash flow, etc.¹³

¹² See Article 3 of the Supporting Guidelines on Diligence enacted by the CSRC.

¹³ See the Supporting Guideline on Diligence enacted by the CSRC.

§ 25A.04 Key Legal Issues

[1]—“Bankruptcy Remoteness” of the SPT and the SAMP

The issuing entity under the CABS scheme is a special purpose trust (the “SPT”) established by the sponsor pursuant to a trust agreement with the trustee. The trust agreement specifies the purpose of the trust, the rights and obligations of the sponsor and the trustee, the means by which the beneficiaries of the trust (i.e., the investors) obtain their trust benefits, and the scope, type, criteria and status of the trust assets. Article 2 of the CBRC Administrative Rules provides that the sponsor “entrusts” credit assets to the trustee and such trustee issues beneficiary securities in the form of asset-backed securities to investors and use the cash generated from the trust assets to support the returns on the asset-backed securities.

The SPT is not recognized as a legal person under the Chinese law but, as a trust, it is entitled to the benefits of the PRC’s Trust Law.¹ Under the PRC’s Trust Law, assets of the trust will not be part of the trustor’s estate and the trust will continue to exist after the trustor is dissolved if, at time of the trustor’s bankruptcy, the trustor is not the sole beneficiary of the trust.²

The issuing entity under the ABS scheme, on the other hand, is a special asset management plan (a “SAMP”), a legal construct to which the originator would transfer the underlying assets and that would be regarded (as a matter of market practice) as bankruptcy remote. The legal status of the SAMP is still subject to further clarification.

The CSRC recognized the potential bankruptcy risk associated with the SAMP structure and, in one of the prior consultation drafts of the CSRC 2013 Provisions, the CSRC once used the term “trust relationship” to describe the relationship between the parties involved in the ABS transaction and term “trust assets” to describe the underlying assets of the SAMP. The consultation draft also referenced the PRC’s Trust Law as its “higher law”.³ Such approach was abandoned in the final CSRC 2013 Provisions and CSRC 2014 Provisions as such approach, arguably, conflicts with the PRC’s Trust Law. Some practitioners have taken the view that the legal relationships between the parties involved in the ABS transaction are “entrusting relationship plus joint ownership”.

¹ Article 1 of the CBRC Administrative Rules states that the CBRC Administrative Rules are formulated in accordance with the PRC’s Law on the People’s Bank of China, Law on Banking Regulation and Supervision, and Trust Law. The Trust Law is considered as the “higher law” for the CBRC Administrative Rules.

² See Article 15 of the Trust Law.

³ See the consultation draft of the CSRC 2013 Provisions, published by the CSRC on February 26, 2013.

To address the “bankruptcy remoteness” concern, the CSRC made an affirmative statement in Article 5 of the CSRC 2014 Provisions that “in the event the originator, the manager, the custodian or any other transaction party is liquidated due to dissolution, closure or declaration of bankruptcy according to the law, the SAMP assets shall not be included in the assets to be liquidated.”⁴ The above Article 5 clearly declare remoteness of the pooled assets in case of bankruptcy, nonetheless, the supremacy of the PRC’s Enterprise Bankruptcy Law over the CSRC rules is still a question of concern for the ABS market. To the extent there are any conflicts between the CSRC 2014 Provisions and the Enterprise Bankruptcy Law, the Enterprise Bankruptcy Law will trump the CSRC rules. As ABS is a relatively new product in China, the validity of Article 5 of the CSRC 2014 Provisions concerning bankruptcy matters has not been contested in the court.

[2]—Asset Transfer and True Sale

Both the CBRC Administrative Rules and the CSRC 2014 Provisions emphasize the “true sale” nature of the underlying assets held for the purpose of securitization.

The CBRC Administrative Rules state that:

“[t]he entrusted property shall be the credit assets transferred to the trustee through trust commitment, which is independent of the assets owned by the sponsor, the trustee, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers.”⁵

The CBRC Administrative Rules further provide that all proceeds generated by the trust assets shall belong to the trust and that the trust assets shall not be used to set off obligations that the sponsor, the trustee, the loan servicer, the custodian and any other transaction party may otherwise have.⁶

Similarly, the CSRC 2014 Provisions provide that the SAMP assets are independent from the assets owned by the originator, manager, custodian and any other transaction parties.⁷ Proceeds generated by the SAMP assets shall belong to the SAMP, and the SAMP assets shall not be used to set off obligations that the originator, manager, custodian or any other transaction party may otherwise have.⁸

⁴ A similar statement was made by the CBRC in Article 6 of the CBRC Administrative Rules.

⁵ See Article 6 of the CBRC Administrative Rules.

⁶ See Articles 6 and 7 of the CBRC Administrative Rules.

⁷ See Article 5 of the CSRC 2014 Provisions.

⁸ See Articles 6 and 7 of the CSRC 2014 Provisions.

There are three key components to the true sale analysis: (i) the assets being securitized are isolated from the bankruptcy risks associated with the sponsor, originator, manager or other transaction parties as noted above, (ii) the transferor owns and has good title to the assets being transferred, and (iii) the transfer of the assets from the transferor to the issuing entity is legal, valid and binding. The Chinese laws are not entirely consistent on asset transfer rules.

According to the General Principles of the Civil Law of the PRC, an obligee may not transfer his contractual rights without consent of the obligor.⁹ The obligor's consent, however, is not required under the PRC's Contract Law. Under the Contract Law, transfer can be perfected by assignment with notice.¹⁰ The Supreme People's Court of China has taken the position that if a contract was executed prior to the promulgation of the Contract Law and if such contract is not valid under the prior laws but valid under the Contract Law, then the Contract Law shall apply.¹¹ It is safe to assume, following the Supreme People's Court's interpretation, that contractual rights can be assigned by an obligee to a third party with notice to the obligor. The Contract Law, however, does not specify the delivery method and timing of the notice. The question remains whether, in the securitization context, notice shall be delivered to each individual obligor or can be done by publication on national media.

The CBRC Administrative Rules take the approach that notice is deemed to be delivered to the obligors by publishing an announcement on national media regarding the transfer.¹² The effectiveness of such approach was later confirmed by the Supreme People's Court.¹³ The Supreme People's Court's rule, however, was delivered only in the context of acquisition of credit assets by asset management companies.¹⁴

The transfer process under the ABS system is even more complicated due to the complexity of the underlying assets. According to the CSRC 2014 Provisions, if the underlying assets need to be re-registered according to the law, such registration process shall be

⁹ See Article 91 of the General Provisions of the Civil Law, "[i]f a party to a contract transfers all or part of his contractual rights or obligations to a third party, he shall obtain the other party's consent..."

¹⁰ See Article 80 of the PRC's Contract Law, "[w]here the obligee assigns its rights, it shall notify the obligor. Such assignment will have no effect on the obligor without notice thereof."

¹¹ See Interpretations of the Supreme People's Court on Certain Issues concerning the Application of Contract Law of the PRC (Part I), published on December 19, 1999.

¹² See Article 12 of the CBRC Administrative Rules.

¹³ See Article 6 of the Provisions concerning Certain Legal Issues related to Asset Management Company's Acquisition, Management and Disposition of Non-Performing Loans from State-Owned Banks, published by the Supreme People's Court on April 3, 2001.

¹⁴ *Id.*

completed; if there is no registration requirement under relevant laws or registration cannot be completed due to lack of necessary facilities, the manager shall take effective measures to safeguard the underlying assets. If the underlying assets are obligations, the obligor shall be notified pursuant to relevant laws.¹⁵ The CABS rules are not clear if notice shall be delivered to individual obligors, which could be very burdensome to the transferor, and how assets of different classes may be transferred. More clarity is needed on the asset transfer process under the CSRC rules.

¹⁵ See Article 23 of the CSRC 2014 Provisions.

§ 25A.05 Appendix

[Editor's Note: There is no official English translation of the Chinese securitization laws. The English translations included below are intended to help the reader understand these documents and is not an official English translation.]

**[1]—List of Main Chinese Securitization Rules as of
December 31, 2014**

- Administrative Rules for the Credit Asset Securitization Pilot Program, enacted by the PBOC and the CBRC on April 20, 2005
- Accounting Rules for the Credit Asset Securitization Pilot Program, enacted by the Ministry of Finance on May 16, 2005
- Provisional Notice concerning Matters related to Mortgage Registration in connection with RMBS, enacted by the Ministry of Housing and Urban-Rural Development on May 16, 2005
- Rules for Information Disclosure of Asset-Backed Securities, enacted by the PBOC on June 13, 2005
- Manual on Registration, Custody, Trading and Clearance of Asset-Backed Securities in the Interbank Bond Market, enacted by the PBOC on June 15, 2005
- Regulatory and Supervisory Rules for Financial Institutions' Credit Asset Securitization Pilot Program, enacted by the CBRC on November 7, 2005
- Notice regarding Tax Policies concerning Credit Asset Securitization, enacted by the Ministry of Finance, State Administration of Taxation on February 20, 2006
- Notice on Information Disclosure of Underlying Assets for Credit Asset Securitization, enacted by the PBOC on August 21, 2007
- Notice on Pledged Repo with Asset-Backed Securities as Collateral, enacted by the PBOC on September 30, 2007
- Notice on Enhanced Supervision over Credit Asset Securitization Business, enacted by the CBRC on February 4, 2008
- Guidelines for Measurement of Commercial Banks' Credit Exposure to Asset Securitization, enacted by the CBRC on December

23, 2009

- Notice on Relevant Matters concerning Further Expansion of the Credit Asset Securitization Pilot Program, enacted by the PBOC, the CBRC and the Ministry of Finance on May 17, 2012
- Guidelines for Asset-backed Notes of Non-Financial Enterprises in the National Interbank Bond Market, enacted by the National Association of Financial Market Institutional Investors on August 3, 2013
- Guidance of the General Office of the State Council on Financial Support of Economic Structure Adjustment, Transformation and Upgrading, issued by the State Council on July 1, 2013
- Notice on Further Regulation of Sponsor Risk Retention in Credit Asset Securitization, enacted by the PBOC and the CSRC on December 31, 2013
- Notice on Regulation of Intra-Industry Business of Financial Institutions, enacted by the PBOC, the CBRC, the CSRC, the Insurance Regulatory Commission, and the State Administration of Foreign Exchange on May 16, 2014
- Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies and two supporting Guidelines, enacted by the CSRC on November 19, 2014
- Notice on Streamlining the Registration and Filing Process for Credit Asset Securitization, enacted by the CBRC on November 20, 2014
- Business Guidelines for Asset Securitization, issued by the Shanghai Stock Exchange on November 26, 2014
- Business Guidelines for Asset Securitization, issued by the Shenzhen Stock Exchange on November 26, 2014
- Measures for the Administration of the Filing of the SAMPs, published by the Asset Management Association of China on December 24, 2014
- Guidance on Negative List of Underlying Assets for Asset Securitization Business, published by the Asset Management

Association of China on December 24, 2014

- Provisional Guidance on Format and Content of SAMP Disclosure Document, published by the Asset Management Association of China on December 24, 2014

[2]—Administrative Rules for the Credit Asset Securitization Pilot Program

(Promulgated by the People’s Bank of China and the China Banking Regulatory Commission on April 20, 2005 and effective as of the date of promulgation)

PART ONE: GENERAL PROVISIONS

Article 1 These Administrative Rules have been formulated in accordance with the People’s Bank of China Law of the People’s Republic of China, the Banking Regulation Law of the People’s Republic of China, the Trust Law of the People’s Republic of China and relevant regulations in order to standardize the pilot projects for securitization of credit assets, protect the lawful rights and interests of investors and related parties, enhance the liquidity of credit assets and enrich the variety of security products.

Article 2 These Administrative Rules shall apply to structured finance activities whereby a financial institution in the banking industry in China, acting as a sponsor, entrusts credit assets to a trustee and such trustee issues beneficiary securities in the form of asset-backed securities to investment institutions and uses the cash generated from such assets to pay the asset-backed securities.

The trustee shall, in accordance with these Administrative Rules and the provisions of the trust agreements, appoint the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers to perform the corresponding duties respectively.

The trustee shall assume the duties to make payments to investors in the asset-backed securities, subject to the limit of the trust assets.

Article 3 Asset-backed securities shall be issued by the trustee of a special-purpose trust and represent shares in the trust beneficiary right to such special-purpose trust.

Asset-backed securities shall be issued and traded on the national inter-bank bond market.

Article 4 The rights and obligations of the sponsor, the trustee, the loan servicing institution, the fund custodian and the securities registration and custodian institution, other securitization transaction service providers and investors in the asset-backed securities shall comply with relevant laws and regulations, these Administrative Rules

and the provisions of relevant contracts such as the trust agreement (hereinafter, the “Relevant Legal Documents”).

The trustee shall perform its entrusted duties in accordance with the relevant laws and regulations, these Administrative Rules and the provisions of the Relevant Legal Documents. The sponsor, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers shall perform their corresponding duties in accordance with the relevant laws and regulations, these Administrative Rules and the provisions of the Relevant Legal Documents.

Asset-backed securities investment institutions (also referred to herein as “holders of asset-backed securities”) shall be entitled to the benefits and bear the risks of the trust assets and, through general meetings of holders of asset-backed securities, decide on major matters that affect their interests in accordance with the Relevant Legal Documents.

Article 5 Credit asset securitization shall follow the principle of voluntariness, fairness and good faith and may not harm the State and public interests.

Article 6 The entrusted property shall be the credit assets transferred to the trustee through trust commitment, which is independent of the assets owned by the sponsor, the trustee, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers.

The assets and proceeds received by the trustee, the loan servicing institution, the fund custodian and other securitization transaction service providers through the management, use or disposal of the assets of the special-purpose trust shall be part of the trust property.

In the event the sponsor, the trustee, the loan servicing institution, the fund custodian, the securities registration and custodian institution or other securitization transaction service provider is liquidated due to dissolution, closure or declaration of bankruptcy according to law, the trust property shall not be included in the assets to be liquidated.

Article 7 The claims accrued to the trustee in the management, use or disposal of trust property shall not be offset against the liabilities arising from the properties of the sponsor, the trustee, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers. The claims and liabilities arising from the management, use or disposal of trust properties of different trusts may not be offset against each other.

Article 8 The trustee, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers shall faithfully fulfill

their duties and perform their obligations in good faith and with due care and diligence.

Article 9 The China Banking Regulatory Commission (hereafter, “CBRC”) shall regulate the business activities of credit asset securitization of relevant institutions in accordance with the law. The relevant regulatory provisions shall be formulated by the CBRC separately.

Article 10 The People’s Bank of China shall regulate the issuance and trading of asset-backed securities on the national inter-bank bond market in accordance with the law.

PART TWO: SPONSOR FOR CREDIT ASSET SECURITIZATION AND SPECIAL-PURPOSE TRUST

Article 11 The sponsor for credit asset securitization shall mean the financial institution that transfers credit assets through establishment of the special-purpose trust.

Article 12 The sponsor shall publish an announcement on national media to notify the relevant right holders of the transfer of credit assets through the establishment of a special-purpose trust.

Article 13 The sponsor shall enter into a trust agreement with the trustee, which shall specify the following matters:

- (1) the purpose of the trust;
- (2) the names and domiciles of the sponsor and the trustee;
- (3) the scope of beneficiaries and the method of determining such scope;
- (4) the scope, types, criteria and conditions of the trust property;
- (5) the terms of repurchase or substitution set forth in Article 14 hereof;
- (6) the form and method for beneficiaries to receive the benefits from the trust;
- (7) the terms of the trust;
- (8) management of the trust property;
- (9) the rights and obligations of the sponsor and the trustee;
- (10) the duties of the institutions that accept appointment by the trustee to handle trust matters on its behalf;
- (11) the remuneration of the trustee;
- (12) the organizational form and authority of the general meeting of holders of the asset-backed securities;
- (13) the method of selecting and appointing successor trustee; and
- (14) the causes for trust termination.

Article 14 If, during the term of the trust agreement, the trustee discovers that the credit assets of the trust property, as of the acquisition date, do not comply with the scope, type, criteria and conditions stipulated in the trust agreement, it shall require the sponsor to repurchase or substitute such assets.

PART THREE: TRUSTEE FOR SPECIAL-PURPOSE TRUST

Article 15 The trustee for a special-purpose trust (hereinafter, “Trustee”) is an institution that, by undertaking a trust, is responsible for the management of the property of the special-purpose trust and issuance of the asset-backed securities.

Article 16 The Trustee shall be a trust and investment company established in accordance with the law or other institutions approved by the CBRC.

Article 17 The Trustee shall perform the following duties according to the stipulations in the trust agreement:

- (1) issuing asset-backed securities;
- (2) managing the trust property;
- (3) disclosing the information of the trust property and asset-backed securities on an ongoing basis;
- (4) distributing the benefits of the trust according to the stipulations in the trust agreement; and
- (5) other duties stipulated in the trust agreement.

Article 18 The Trustee must appoint a commercial bank or other professional institutions to be the fund custodian for the trust property, and shall appoint other qualified institutions according to the provisions of the trust agreement to perform other entrusted duties such as loan servicing and transaction management, respectively.

Article 19 The duties of the Trustee shall terminate upon any of the following circumstances:

- (1) its qualification as trustee are revoked in accordance with the law;
- (2) its appointment is terminated by the general meeting of the holders of asset-backed securities;
- (3) it is dissolved, closed down or declared bankruptcy according to the law□
- (4) it resigns as trustee; or
- (5) other circumstances stipulated in laws and administrative regulations or the trust agreement.

Article 20 If the Trustee has lost its qualifications, or the Trustee has been dissolved, closed down or declared bankruptcy in accordance with the law, the CBRC shall appoint an interim trustee before a successor Trustee is selected.

The predecessor Trustee shall properly keep the files and documents in safe custody and complete the transition procedures in a timely manner. The successor Trustee or interim trustee shall promptly take over such files and documents.

PART FOUR: LOAN SERVICING INSTITUTIONS

Article 21 The loan servicing institution is responsible for managing the loans upon appointment by the Trustee.

The loan servicing institution may also be the sponsor of the credit asset securitization.

Article 22 The Trustee shall enter into a servicing agreement with the loan servicing institution, which shall specify the following matters:

- (1) the names and domiciles of the Trustee and the loan servicing institution;
- (2) the duties of the loan servicing institution;
- (3) the method and standards for servicing the loans;
- (4) the rights and obligations of the Trustee and the loan servicing institution;
- (5) the remuneration of the loan servicing institution;
- (6) the liability for breach of contract; and
- (7) other matters.

Article 23 The loan servicing institution shall manage the credit assets of the trust and perform the following duties according to the servicing agreement:

- (1) collecting principal and interest payments on the loans;
- (2) servicing the loans;
- (3) keeping the legal documents for trust assets in safe custody and separate from the legal documents related to its own properties;
- (4) providing periodic service reports to the Trustee on the information of the credit assets that are part of the trust property; and
- (5) other duties stipulated in the servicing agreement.

Article 24 The loan servicing institution shall have a specialized business department that establishes a segregated account for the trust assets and manages the trust assets separately.

Article 25 The loan servicing institution shall, according to the requirements of the servicing agreement, transfer proceeds from the trust assets to the fund custodian, and notify the Trustee of such transfer.

Article 26 If the Trustee discovers that the loan servicing institution fails to perform its duties according to the methods and standards set forth in the servicing agreement, it may, subject to the decision of the general meeting of the holders of asset-backed securities, replace such loan servicing institution.

The Trustee shall notify the borrowers under the loans of the replacement of the loan servicing institution in a timely manner.

PART FIVE: FUND CUSTODIAN

Article 27 The fund custodians shall be an institution that is responsible for keeping custody of the trust accounts and funds therein upon appointment by the Trustee.

The sponsor and the loan servicing institution for the credit asset securitization may not act as the fund custodian for the same transaction.

Article 28 The Trustee shall enter into a custodial agreement with the fund custodian, which shall specify the following matters:

- (1) the names and domiciles of the Trustee and the fund custodian;
- (2) the duties of the fund custodian;
- (3) the method and standards for managing the funds;
- (4) the rights and obligations of the Trustee and the fund custodian;
- (5) the remuneration of the fund custodian;
- (6) the liability for breach of contract; and
- (7) other matters.

Article 29 The fund custodian shall manage funds and perform the following duties in accordance with the custodial agreement:

- (1) keeping the trust funds in safe custody;
- (2) establishing an account for the trust funds in the name of the special-purpose trust for the credit asset securitization;
- (3) making distributions to holders of asset-backed securities by the methods set forth in the custodial agreement;
- (4) managing funds in the trust account of the special-purpose trust in accordance with the custodial agreement and directions given by the Trustee;
- (5) providing periodic custodial reports to the Trustee on the status of the trust funds in custody and distributions on the asset-backed securities as provided in the custodial agreement; and
- (6) other duties set forth in the custodial agreement.

The Trustee may also appoint other service providers to perform the duties set forth in clauses (3), (4) and (5) above according to the custodial agreement.

Article 30 Between the intervals of making distributions to the investors, the trust custodian may invest proceeds in the trust account only in highly liquid and cashable treasury bonds, policy financial bonds and other financial products approved by the People's Bank of China in accordance with the custodial agreement and directions given by the Trustee.

Article 31 If the Trustee discovers that the fund custodian fails to comply with the fund custody methods and standards set forth in the custodial agreement, subject to the decision of the general meeting of holders of the asset-backed securities, it may replace the fund custodian.

PART SIX: ISSUANCE AND TRADING OF ASSET-BACKED SECURITIES

Article 32 To issue asset-backed securities on the national inter-bank bond market, the Trustee shall submit the following documents to the People's Bank of China:

- (1) an application report;
- (2) the written consents from the authorities specified in the articles of association or other governing documents of the sponsor;
- (3) the trust agreement, loan servicing agreement and fund custodial agreement, and drafts of other Relevant Legal Documents;
- (4) the draft prospectus (see appendix hereto for formatting requirements);
- (5) the underwriting agreement;
- (6) the relevant approval documents from the CBRC;
- (7) legal opinions issued by licensed attorneys;
- (8) accounting letters issued by certified public accountants;
- (9) draft credit rating reports issued by rating agencies and explanations of credit rating surveillance process; and
- (10) other documents required by the People's Bank of China.

Article 33 The People's Bank of China shall decide whether or not to accept an application within five working days of its receipt of the complete set of documents for issuance of the asset-backed securities. Where the People's Bank of China decides not to accept the application, it shall notify the applicant of the reasons therefor. Where the People's Bank of China decides to accept the application, it shall give approval or disapproval in writing within 20 working days of acceptance of the application.

Article 34 Asset-backed securities may use internal or external credit enhancement to get better ratings.

Article 35 When asset-backed securities are issued and traded on national inter-bank bond market, a qualified credit rating agency shall be engaged to provide credit rating surveillance.

The credit rating agency shall ensure the objectivity and impartiality of its rating.

Article 36 To issue asset-backed securities, the issuer shall form an underwriting syndicate. The underwriters may distribute the asset-backed securities it has underwritten to other investors during the issuance period.

Article 37 The name of the asset-backed securities shall be easily distinguishable from the names of the sponsor, the trustee, the loan servicing institution and the fund custodian.

Article 38 Asset-backed securities may be issued with full registered amount by a single issuance or by a series of issuances up to the registered amount. Where asset-backed securities are issued in series, the Trustee shall, within five working days before each issuance, file

the final prospectus, ratings report and all final legal documents with the People's Bank of China and disclose the relevant information according to the requirements of the People's Bank of China.

Article 39 Asset-backed securities may be underwritten through negotiated transactions or tender. The underwriter shall be a financial institution and meets the following conditions□

- (1) having a registered capital of not less than RMB 200 million;
- (2) having a strong bond underwriting capacity;
- (3) having qualified bond market business professionals and channels for bond underwriting;
- (4) no material violation of laws or regulations in the past two years; and
- (5) other conditions set forth by the People's Bank of China.

Article 40 Within 10 working days of the close of issuance of asset-backed securities on the national inter-bank bond market, the Trustee shall report to the People's Bank of China and the CBRC the results of the issuance of such asset-backed securities.

Article 41 Asset-backed securities may be issued to investors through private offering. Privately offered asset-backed securities may be exempt from the credit rating requirement. Privately offered asset-backed securities may only be transferred among subscribers.

Article 42 Within two months of the close of the issuance of asset-backed securities on the national inter-bank bond market, in accordance with the provisions of the Approval Procedures of Trading and Exchange of Bonds on the National Inter-Bank Bond Market, the Trustee may apply to trade such asset-backed securities on the national inter-bank bond market.

Article 43 The registration, custody, trading and settlement of asset-backed securities on the national inter-bank bond market shall be handled in accordance with the relevant regulations such as the Administrative Rules for Bond Trading on the National Inter-Bank Bond Market.

PART SEVEN: INFORMATION DISCLOSURE

Article 44 The Trustee shall disclose information of the trust property and asset-backed securities prior to the issuance of and during the term of the asset-backed securities in accordance with the law. Information disclosure shall be carried out through the media designated by the People's Bank of China.

The Trustee and related informed parties shall not divulge the information prior to the disclosure of such information.

Article 45 The Trustee shall ensure that the information disclosed is true, accurate, complete and timely and that it does not contain any false records and untrue statement and omits to state a material fact.

The institution appointed by the Trustee to provide services for securitization transactions shall provide related reports to the Trustee according to the Relevant Legal Documents and warrant that the information provided by such institution is true, accurate, complete and timely.

Article 46 The Trustee shall publish the final prospectus at least five working days before the issuance of asset-backed securities.

Article 47 The Trustee shall, at a prominent place in the prospectus, alert the investors that the asset-backed securities only represent the corresponding share of the trust beneficiary right to the special-purpose trust and are not liabilities of the Sponsor, the Trustee or any other parties and that the investor's recourse is limited to the trust property.

Article 48 During the term of the asset-backed securities, the Trustee shall verify the servicer reports and custodian reports as periodically provided by the loan servicing institution and fund custodian, disclose the trustee reports periodically, and report information on the trust property, principal and interest payments on the loans, returns on the securities and other information stipulated by the People's Bank of China and the CBRC.

Article 49 The Trustee shall promptly disclose all information that has a material impact on the value of the asset-backed securities.

Article 50 The annual reports of the Trustee shall be audited by a certified public accountant, and such audit reports shall be disclosed by the Trustee.

Article 51 The Trustee shall submit the relevant information disclosure documents to the National Inter-Bank Lending and Borrowing Center and the China Central Depository & Clearing Co., Ltd., respectively, prior to disclosing such information to the public.

The National Inter-Bank Lending and Borrowing Center and the China Central Depository & Clearing Co., Ltd. shall provide services for information disclosure of asset-backed securities, and shall report any violations of the information disclosure rules to the People's Bank of China and announce such violations to the public.

PART EIGHT: RIGHTS OF ASSET-BACKED SECURITIES HOLDERS AND THE EXERCISE THEREOF

Article 52 Holders of asset-backed securities shall have the following rights in accordance with the Relevant Legal Documents:

- (1) sharing trust benefits;
- (2) participating in the distribution of remaining trust assets after liquidation;
- (3) transferring the asset-backed securities held by such holders in accordance with the law;

(4) requesting meetings of holders of asset-backed securities in accordance with related provisions;

(5) exercising voting right on matters deliberated at the meeting of asset-backed securities holders;

(6) inspecting or reproducing publicly disclosed information on the trust property and the asset-backed securities; and

(7) other rights provided in the trust agreement and the prospectus.

Article 53 The following matters shall be decided through deliberation by a general meeting of holders of the asset-backed securities; provided that, if the trust agreement has specific provisions on such matters, the trust agreement shall govern:

replacement of the Trustee; and

other matters stipulated in the trust agreement.

Article 54 General meetings of holders of asset-backed securities shall be convened by the Trustee. If the Trustee institution fails to do so, holders of asset-backed securities may convene such meetings in accordance with the trust agreement and shall report such meetings to the People's Bank of China for record filing.

Article 55 To convene a general meeting of holders of asset-backed securities, the convener shall announce the time, place, form of the meeting, the matters to be deliberated, the procedures of the meeting, and the method of voting, etc., at least 30 days prior to such meeting.

Matters that have not been previously announced may not be voted at the general meetings of holders of asset-backed securities.

Article 56 General meetings of holders of asset-backed securities may be held in person or by means of telecommunications.

Holders of asset-backed securities shall be entitled to voting rights in accordance with the trust agreement and may appoint a proxy to attend the general meetings of holders of asset-backed securities and exercise the voting rights.

Article 57 Matters decided by a general meeting of holders of asset-backed securities shall be submitted to the People's Bank of China for record filing and announced to the public.

PART NINE: SUPPLEMENTARY PROVISIONS

Article 58 Rules with respect to accounting, tax treatment and change of real property mortgage registration related to the securitization of credit assets shall be stipulated separately by the related departments of the State Council.

Article 59 Investment administrative policies on the purchase and holding of asset-backed securities shall be stipulated separately by the relevant regulatory authorities.

Article 60 These Administrative Rules shall be implemented as of the date of promulgation.

Article 61 The People's Bank of China and the China Banking Regulatory Commission shall be responsible for interpreting these Administrative Rules.

[3]—Formatting Requirements for Prospectus for Asset Backed Securities

1. The names and domiciles of the issuing entity (the trustee), the sponsor, the loan servicing institution, the fund custodian, the securities registration and custodian institution and other securitization transaction service providers

2. Brief description of the sponsor and summary of its financial conditions

3. Statements on the experience and records of breach of contract of the sponsor, the trustee, the loan servicing institution and the fund custodian in previous securitization transactions

4. Transaction structure and main rights and obligations of the transaction parties

5. Form and power of the general meeting of holders of asset-backed securities

6. Statement of conflicts of interest between the transaction parties

7. Main provisions of relevant legal documents such as the trust agreement, the loan servicing agreement and the fund custodial agreement

8. Loan lending procedures, underwriting standard, form of guarantee, asset management rules, and procedures and methods for handling loans in breach of contract

9. Selection criteria for credit assets in the special-purpose trust and statistical data on such assets

10. List of taxes and fees to be paid from the cash flow of the trust property, sources of funds to pay various taxes and fees, and the order of priority in payment

11. Tranches of the offered asset-backed securities, principal amount, credit rating, interest coupon, expected final maturity of each tranche, and the order of priority in principal and interest payments

12. Internal and external credit enhancements for the asset-backed securities

13. Credit rating report on the asset-backed securities issued by the credit rating agency and statement with respect to ongoing monitoring and rating surveillance

14. Summary of the legal opinion issued by a practicing lawyer

15. Optional or mandatory redemption or termination provisions, such as clean-up call

16. Analysis of interest rate sensitivity of each bracket of asset-backed securities, and the return rate of each bracket of asset-backed securities and the changes in their average weighted maturity under the given prepayment rate
17. An investment risk warning
18. An opinion on the tax arrangement for the transaction issued by a certified public accountant
19. The information to be disclosed during the term of existence of the securities and the method of obtaining the same
20. Other matters that the People's Bank of China specifies be included

**[4]—Provisions for the Administration of Asset
Securitization Business of Securities Companies and
Subsidiaries of Fund Management Companies**

CHAPTER 1: GENERAL PROVISIONS

Article 1 These Provisions have been formulated in accordance with the Securities Law, the Securities Fund Management Law and the Provisional Rules on the Supervision and Administration of Securities Companies and other relevant laws and regulations in order to standardize the asset securitization business of securities companies, subsidiaries of fund management companies and other similar entities and to protect the lawful rights and interests of the investors.

Article 2 For the purpose of these Provisions, asset securitization business refers to certain business activities whereby the issuance of asset-backed securities is supported by cash flow generated by the underlying assets and achieves credit enhancement through structuring.

Securities companies engaged in asset securitization business shall be duly licensed to engage in the customer asset management business; subsidiaries of fund management companies shall be established by securities investment management companies and licensed to engage in asset management business for designated customers.

Article 3 For the purpose of the Provisions, underlying asset refers to the identifiable property right or property which complies with the laws and regulations, has a clear ownership, and is capable of generating independent and predictable cash flow. The underlying asset can be a singular property right or a single property or a portfolio composed of multiple property rights or properties.

The property right or property stipulated in the preceding paragraph shall be acquired on an arm's-length basis with fair price. Cash flow generated by such property right or property shall be constant and stable.

The underlying assets may be enterprise account receivables, leasing rights, credit assets, trust beneficiary rights, infrastructure properties, or real estate properties such as commercial real estate, or other property or property rights recognized by the China Securities Regulatory Commission.

Article 4 These Provisions apply to the asset securitization business of the securities companies and subsidiaries of fund management companies conducted through special purpose vehicles.

The so-called special purpose vehicle in the preceding paragraph refers to the special asset management plan (hereinafter referred to as the “SAMP”) set up by a securities company or a subsidiary of a fund management company for the sole purpose of operating an asset securitization business or other special purpose vehicle authorized by the China Securities Regulatory Commission.

Article 5 Properties acquired through the management, utilization, disposition or any other operations of the SAMP assets shall be deemed as the SAMP assets. Expenses incurred and indebtedness owed to a third party arising from management of the SAMP matters shall be borne by the SAMP assets.

The SAMP assets shall be independent from the assets owned by the originator, the manager, the custodian and any other transaction party.

In the event the originator, the manager, the custodian or any other transaction party is liquidated due to dissolution, closure or declaration of bankruptcy according to the law, the SAMP assets shall not be included in the assets to be liquidated.

Article 6 The originator is the entity that transfers its legally owned underlying assets to the SAMP to raise funds pursuant to these Provisions and the contracts.

The manager is the securities company or the subsidiary of a fund management company that manages the SAMP and performs the other legal and contractual obligations with respect to the SAMP for the benefit of the holders of the asset-backed securities.

The custodian is the commercial bank or other entity that holds the SAMP assets in custody and oversees the performance of the SAMP in accordance with related rules or contracts for the benefit of the holders of the asset-backed securities.

Article 7 Proceeds generated from the management, utilization or disposition of the SAMP assets by the manager shall not be used to set off the liabilities that the originator, the manager, the custodian, the asset-backed securities investors and other transaction parties may otherwise have. The proceeds and liabilities arising from the management, utilization or disposition of different SAMP assets by the manager shall not be used to set off each other.

Article 8 The SAMP assets shall be held in custody by duly licensed commercial banks, China Securities Depository and Clearing Corporation Limited, securities companies with custody business qualifications or other custodial institutions authorized by the China Securities Regulatory Commission.

CHAPTER 2: ORIGINATOR, MANAGER AND CUSTODIAN

Article 9 The originator may not encroach on or damage the SAMP assets and shall perform the following duties:

(1) to transfer the underlying assets in accordance with the laws, administrative regulations, its governing documents, and related contracts;

(2) to cooperate with and assist the manager and the custodian and other service providers for the asset securitization in their performance of duties; and

(3) to perform other duties agreed upon under the SAMP legal documents.

Article 10 The documents provided by the originator to the manager and other transaction parties shall be true, accurate and complete, do not contain any false records and misleading statements or omit to state a material fact. The originator shall ensure that the underlying assets are true, legal and valid, and are free from false or fraudulent transfer or any other circumstances that affect the establishment of the SAMP.

Article 11 Originator whose business operation may have a material impact on the SAMP and the interest of the investors of asset-backed securities (hereinafter referred to as the “Special Originator”) shall also comply with the following conditions:

(1) its business operation shall be in compliance with the laws, administrative regulations, its governing documents, bylaws and other internal regulations;

(2) it has a sound internal control system;

(3) it is capable of operating as a going concern and does not have any material operating risk, financial risk or legal risk;

(4) it does not have material breach of contract, false information disclosure or other material violations of laws and regulations in the past three years; and

(5) it shall be in compliance with the laws, administrative regulations and other conditions prescribed by the China Securities Regulatory Commission.

The foregoing Special Originator shall, during the term of the SAMP, maintain its ordinary course of business or provide reasonable support to assure that the underlying assets will generate the cash flow as expected. If a material event that may adversely affect the

interests of the investors of the asset-backed securities has occurred, the Special Originator shall promptly notify the manager in writing.

Article 12 The manager is responsible for the establishment of the SAMP and issuance of the asset-backed securities. In addition to meeting qualifications as set forth in the second paragraph of Article 2, the manager shall also satisfy the following conditions:

- (1) it has robust compliance, risk control and risk management mechanisms so as to manage business risks effectively; and
- (2) it has not received any administrative penalty in the preceding year for material violations of laws or regulations.

Article 13 The manager shall perform the following duties:

- (1) it shall conduct a comprehensive due diligence investigation of the related transaction parties and underlying assets in accordance with these Provisions and the “Guidelines to Due Diligence for Asset Securitization of Securities Companies and Subsidiaries of Fund Management Companies” annexed hereto (hereinafter, the “Due Diligence Guidelines”). The manager may hire accounting firms, appraisers and other related intermediaries and agents that are qualified to engage in the securities and commodities business to provide opinions;

- (2) during the term of the SAMP, it shall urge the originator and other SAMP service providers to duly perform their duties in accordance with the laws and transaction documents;

- (3) it shall handle matters relating to the issuance of the asset-backed securities;

- (4) it shall promptly transfer the raised funds to the originator as agreed upon;

- (5) it shall manage the SAMP assets for the benefit of the investors of the asset-backed securities;

- (6) it shall establish a segregated and independent collection procedure for cash flow generated by the SAMP assets and take practical measures to prevent the SAMP funds from being commingled, embezzled or misused;

- (7) it shall supervise and inspect the ongoing business operation of the originator and cash flow condition of the underlying assets and, in the event of material abnormalities, take necessary measures to safeguard the security of the SAMP assets;

- (8) it shall distribute proceeds to the investors of the asset-backed securities as agreed upon;

- (9) it shall fulfill information disclosure obligations;

- (10) it shall be in charge of the termination of the SAMP and liquidation; and

- (11) it shall perform other duties prescribed by the laws, administrative regulations, the rules of the China Securities Regulatory Commission, and provisions of the SAMP prospectus.

Article 14 The manager shall not commit any of the following conducts:

- (1) failing to credit raised funds into designated accounts or otherwise conducting any off-the-books operations;
- (2) raising funds in excess of the size set forth in the prospectus;
- (3) embezzling or misusing the SAMP assets;
- (4) using the SAMP assets to guarantee other liabilities or incur debt;
- (5) managing or using the SAMP assets in breach of the prospectus; or
- (6) any other acts prohibited by the laws, administrative regulations or the rules of the China Securities Regulatory Commission.

Article 15 The manager shall have separate, independent book-keeping and accounting for the SAMP. Different SAMPs shall be independent of each other in terms of account opening, fund disbursement, book-keeping and records, etc.

Article 16 In response to any material risks that may arise during the term of the SAMP, the manager shall establish practical risk control measures and risk management plans. Where risks occur, the manager shall diligently execute the risk management plans to protect the interest of the investors of the asset-backed securities to the greatest extent possible.

Article 17 For any of the following circumstances, the manager shall fully disclose relevant matters, explain potential risks and risk prevention measures adopted by the manager in the prospectus:

- (1) where the manager owns 5% or more of the shares or registered capital of the originator;
- (2) where the originator owns 5% or more of the shares or registered capital of the manager;
- (3) where the manager and the originator have underwriting, financial advisory and other business activities in the past three years; or
- (4) where there are other significant interests between the manager and the originator.

Article 18 If the manager and the originator fall under any of the circumstances listed in Article 17, or if the manager subscribes to the asset-backed securities with its proprietary funds, assets of other investment plans under its management, other customer assets or securities investment funds, the manager shall establish effective measures to prevent potential conflicts of interest.

The upper percentage limit of the asset-backed securities that may be purchased by the manager with its proprietary funds, assets of other SAMPs under its management, other customer assets or securities

investment funds shall be set up in accordance with related rules and contracts.

Article 19 When the SAMP is terminated, the manager shall, according to the prospectus, set up a liquidation team to take charge of the custody, accounting, valuation, sale and distribution of the SAMP assets.

Within ten working days from the date of completing the SAMP liquidation, the manager shall issue a liquidation report to the custodian and the investors of the asset-backed securities, and report the liquidation results to the Asset Management Association of China (hereinafter, "AMAC"), a copy of which report shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction.

An accounting firm with due securities and commodities business qualification shall be engaged by the manager to issue an audit letter on the liquidation report.

Article 20 If the SAMP changes its manager, it shall fully explain the reasons and report to the AMAC, a copy of which report shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction.

If the manager is disqualified for asset management business, dissolved, closed down or declared bankrupt, or otherwise unable to continue to fulfill its duties as a manager, an interim manager shall be appointed by the AMAC before a new manager who meets the requirements herein is selected and appointed according to the prospectus or other relevant legal documents. The prospectus shall provide clear instructions on this matter.

Article 21 Upon termination of the manager's duties, the manager shall promptly hand over relevant files and complete the transition. Prior to the completion of the transition process, the manager shall properly keep the SAMP documents and materials in safety and protect the legitimate rights and interests of the investors of the asset-backed securities.

Within five working days of the completion of the transition process, the manager shall report such transfer to the AMAC, a copy of which report shall be delivered to the local office of the China Securities Regulatory Commission in the predecessor manager's and the successor manager's jurisdiction(s).

Article 22 The custodian that provides custodial services to the SAMP shall perform the following duties:

- (1) safekeeping the SAMP assets;
- (2) supervising the manager's operation of the SAMP and requesting the manager to make corrections if the manager's instructions violate the terms of the prospectus or the custody agreement. In the event the manager fails to make such correction, it shall refuse to

follow instructions and promptly report such violation to the AMAC, a copy of which report shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction(s);

- (3) issuing custodial reports; and
- (4) other duties provided in the prospectus and other relevant legal documents.

CHAPTER 3: ESTABLISHMENT AND REPORTING OF SPECIAL ASSET MANAGEMENT PLAN

Article 23 If registration or approval procedures are required for the transfer of the underlying assets under the laws and regulations, such process shall be completed in accordance with the laws. If registration is not required under the laws or the conditions for such registration are temporarily unavailable, the manager shall adopt effective measures to ensure the safety of the underlying asset.

Where the underlying asset is an obligation, the obligor shall be notified of the transfer of such obligation in accordance with the provisions of relevant laws.

Article 24 The underlying assets shall not be subject to any lien such as mortgage or pledge or any other encumbrances, unless such lien or encumbrance can be removed when the underlying assets are transferred to SAMP through pertinent arrangements of the SAMP.

Article 25 When cash proceeds from the SAMP assets are re-invested in new assets of the same type which will become part of the SAMP property, the legal documents of the SAMP shall clearly state the reinvestment terms, reinvestment size, liquidity risk and risk control measures.

Article 26 The size and maturity of the underlying assets shall be proportional to the size and maturity of the asset-backed securities.

Article 27 The fund collection and payment activities of the SAMP shall be conducted through the accounts of the SAMP.

Article 28 Asset-backed securities are proofs that investors are entitled to the beneficial interests of the SAMP, and may be inherited, traded, transferred or hypothecated in accordance with the laws. Investors in asset-backed securities may not propose to divide the SAMP assets or request the SAMP to repurchase the asset-backed securities.

Investors of asset-backed securities shall be entitled:

- (1) to share the returns on the SAMP;
- (2) to participate in the distribution of the remaining assets after the liquidation of the SAMP pursuant to the subscription agreement and the prospectus;
- (3) to obtain asset management reports and other information disclosure documents of the SAMP pursuant to agreed-upon time and procedures and to inspect or reproduce information and materials related to the SAMP;

(4) to trade, transfer or hypothecate the asset-backed securities in accordance with the laws;

(5) to raise funds by repo transactions in accordance with relevant rules of the stock exchange; and

(6) to exercise other rights agreed upon in subscription agreement or prospectus.

Article 29 The asset-backed securities shall be issued to qualified investors. The number of such investors may not exceed 200 and any single purchase may not have a face amount of less than one million RMB or equivalent. Qualified investors shall comply with the conditions set forth in the Interim Measures for the Supervision and Administration on Private Investment Funds, shall be formed in accordance with the laws and subject to the supervision of the financial regulatory agencies of the State Council. Further, investment plans that are actively managed by financial institutions will no longer be required to look through and verify if the ultimate investors are qualified investors and to count their investors as part of the total number of investors.

Article 30 To issue asset-backed securities, the prospectus shall set forth the procedures of convening meetings of security holders and rules for such meetings and specify the scope of rights that holders of asset-backed securities may exercise through security holder meetings, the procedures and other important matters.

Article 31 The SAMP may adopt internal or external credit enhancement methods to upgrade the credit rating of the asset-backed securities.

Asset-backed securities issued by the same SAMP may be divided into different classes. Asset-backed securities of the same class shall be entitled to the same legal rights and subject to the same risk level.

Article 32 If the asset-backed securities are rated, the initial rating and surveillance rating shall be conducted by a credit rating agency with securities rating business qualifications approved by the China Securities Regulatory Commission.

Article 33 The manager and the underwriter of the asset-backed securities shall take the following measures to ensure that the investment decisions of the investors are prudent decisions made when they are fully aware of the risk-return characteristics of the asset-backed securities:

(1) to understand the investors' asset size and income level, risk tolerance and investment preference and recommend asset-backed securities suitable for such investors based on their risk tolerance;

(2) to fully disclose to the investors information on the underlying assets of the SAMP, cash flow projection and its impact on the SAMP, main provisions of the transaction documents and the risk-return characteristics of the asset-backed securities, and to inform the investors

of the rights and obligations when investing in the asset-backed securities; and

(3) to prepare a risk disclosure statement to fully disclose investment risks and, prior to accepting subscription funds from the investors, to ensure that the investors have been made aware of the contents of the risk disclosure statement and have affixed their signatures thereon.

Article 34 The SAMP shall designate a special account for proceeds raised by the asset-backed securities and use the account to receive and transfer the subscription funds for the asset-backed securities.

Article 35 When the issuance of the asset-backed securities is completed pursuant to the provisions set forth in the prospectus, the establishment of the SAMP is completed.

If upon the expiry of the issuance period the issuance size of the asset-backed securities fails to reach the minimum issuance size specified in the prospectus or if the SAMP fails to satisfy other establishment conditions set forth in the prospectus, the establishment of the SAMP shall be deemed to have failed. In such event, within ten working days following the expiration of the issuance period, the manager shall return to the investors the subscription funds and interest accrued thereon based on the then demand deposit interest rate.

Article 36 Within five working days of the SAMP establishment date, the manager shall report the SAMP establishment status to the AMAC for filing, a copy of which report shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction.

The AMAC shall establish the filing rules and carry out self-disciplinary management of the filings.

If the SAMP does not file in accordance with this Article, the stock exchanges listed in Article 38 shall not provide transfer services to such SAMP.

Article 37 Based on the risks associated with the underlying assets, the AMAC shall, using a negative list approach, manage the scope of underlying assets that may be securitized and may, in a timely fashion, adjust such negative list in response to market changes and practices.

CHAPTER 4: REGISTRATION AND TRANSFER OF ASSET-BACKED SECURITIES

Article 38 Asset-backed securities may be registered and transferred in accordance with the laws in the stock exchanges, the National Equities Exchange Quotations System, the Inter-Agency Privately Offered Products Quotation and Servicing System, the over-the-counter

markets or any other venue approved by the China Securities Regulatory Commission.

Asset-backed securities may only be transferred among qualified investors. After the transfer, the total number of qualified investors that hold such asset-backed securities shall not exceed 200.

The initial quoted and transferred units of asset-backed securities shall each have a face value of note less than one million RMB or equivalent percentage interest.

Article 39 For asset-backed securities that are quoted and transferred in the securities trading venues, they shall also comply with the rules of the stock exchanges or other securities trading venues.

The stock exchanges and the National Equities Exchange Quotations System shall promulgate quotation and transfer rules and carry out self-disciplinary management of the quotation and transfer of the asset-backed securities.

The Securities Association of China shall promulgate quotation and transfer rules and carry out self-disciplinary management of the quotation and transfer of the asset-backed securities in the Inter-Agency Privately Offered Products Quotation and Servicing System and the over-the-counter markets.

The stock exchanges, the National Equities Exchange Quotations System and the Securities Association of China may, according to market conditions, establish stricter criteria on investor qualification.

Article 40 Institutions such as securities companies may provide two-way quotes for transfer of asset-backed securities.

CHAPTER 5: INFORMATION DISCLOSURE ON ASSET-BACKED SECURITIES

Article 41 The manager and other persons responsible for information disclosure shall fulfill their disclosure obligations in accordance with these Provisions and the “Guidelines for Securities Companies and Subsidiaries of Fund Management Companies on Asset Securitization Information Disclosure” annexed hereto (hereinafter, the “Information Disclosure Guidelines”). The stock exchanges, the National Equities Exchange Quotations System, the Securities Association of China and the AMAC may promulgate information disclosure rules in accordance with these Provisions and the Information Disclosure Guidelines.

Article 42 The manager and other persons responsible for information disclosure shall fulfill their disclosure obligations in a timely and fair fashion. The information disclosed or reported by such person shall be true, accurate and complete, and free from false records or misleading statements and does not omit to state a material fact.

Article 43 The manager and the custodian shall, prior to April 30 of each year, disclose to the qualified investors of the asset-backed

securities the annual asset management report and annual custodial report for the prior calendar year. Prior to each distribution of the SAMP income, the manager shall disclose the SAMP income distribution statements to the qualified investors of the asset-backed securities.

The annual asset management report and annual custodial report shall be submitted by the manager to the AMAC, a copy of which reports shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction.

Article 44 Upon the occurrence of any material events that may have material impact over the investment value or price of the asset-backed securities, the manager shall promptly disclose such events to the qualified investors of the asset-backed securities, explaining the causes of such events, the current status and potential legal consequence, and report the same to the stock exchanges and the AMAC, a copy of which reports shall be delivered to the local office of the China Securities Regulatory Commission in the manager's jurisdiction.

Article 45 The manager and other persons responsible for information disclosure shall disclose information to qualified investors through the internet websites designated by the stock exchanges or the AMAC in accordance with the related rules.

CHAPTER 6: SUPERVISION AND ADMINISTRATION

Article 46 The China Securities Regulatory Commission and its local offices shall supervise and administer the asset securitization business and inspect asset securitization business based on regulatory needs. For those who violate these Provisions, the China Securities Regulatory Commission and its local offices may take administrative measures such as an order of correction, regulatory panel, warning letters, order to disclose, mandatory training, mandatory periodic reports and blacklisting certain entities, etc.; for the ones that are subject to administrative penalties, the penalties shall be imposed in accordance with the laws and regulations such as the Securities Law and the Securities Fund Management Law and the related rules of the China Securities Regulatory Commission; for circumstances where criminal offenses are suspected of, the cases shall be transferred to judicial organs in accordance with the laws to investigate such person's criminal liabilities.

Article 47 The AMAC, the Securities Association of China and other self-regulatory organizations shall, in accordance with these Provisions and the guidelines annexed hereto, carry out self-disciplinary management of the due diligence and risk management conducted by the securities companies and subsidiaries of fund management companies during the course of asset securitization.

CHAPTER 7: SUPPLEMENTARY PROVISIONS

Article 48 Clearing and settlement of the asset-backed securities shall be conducted by the China Securities Depository and Clearing Corporation Limited or other agencies approved by the China Securities Regulatory Commission.

Article 49 Securities companies or subsidiaries of fund management companies that use other special purpose vehicles to carry out asset securitization business shall follow these Provisions. If the China Securities Regulatory Commission has otherwise promulgated separate rules for those circumstances, such other rules shall govern.

Article 50 Upon approval of the China Securities Regulatory Commission, future brokerage companies, securities finance companies and other companies regulated by the China Securities Regulatory Commission, as well as commercial banks, insurance companies, trust companies and other financial institutions may follow these Provisions when developing their asset securitization business.

Article 51 These Provisions and the Due Diligence Guidelines and Information Disclosure Guidelines annexed hereto shall come into effect as of the date of publication. The Provisions on Administration of the Asset Securitization Business of Securities Companies (CSRC Announcement No. 16 (2013)) is hereby abolished.

**[5]—Guidelines for Securities Companies and Subsidiaries
of Fund Management Companies on Asset
Securitization Information Disclosure**

CHAPTER 1: GENERAL PROVISIONS

Article 1 In order to standardize the information disclosure activities for asset securitization business, to protect the lawful rights of the investors and to assist the development of the asset securitization, these Guidelines are promulgated in accordance with the Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies.

Article 2 The manager and other responsible person for information disclosure shall fulfill their disclosure obligations in a timely fashion. The information disclosed or reported by such person shall be true, accurate and complete, and free from false records or misleading statements and does not omit to state a material fact.

The “other responsible person for information disclosure” as used in these Guidelines shall include but are not limited to the custodian and the rating agencies.

Article 3 The originator and other service providers (other than the manager) shall, in accordance with the transaction documents,

promptly provide related information to the manager and ensure that the provided information be true, accurate and complete.

The “other service providers” as used in these Guidelines shall include but are not limited to asset servicing institutions, custodians, credit enhancement agencies, law firms, accounting firms, liquidity providers and sale agencies, etc.

Article 4 For asset-backed securities that are quoted and transferred in stock exchanges, the manager and the other responsible persons for information disclosure shall disclose information to qualified investors via internet websites designated by the stock exchange. For asset-backed securities that are not quoted or transferred through the stock exchanges, the manager and the other responsible persons for information disclosure shall disclose information to qualified investors via the internet website designated by the Asset Management Association of China (hereinafter, the “AMAC”).

Article 5 The manager, the other responsible persons for information disclosure, the stock exchanges, the clearing and settlement institution and other insiders shall not divulge the to-be-disclosed information prior to the information disclosure.

CHAPTER 2: INFORMATION DISCLOSURE FOR THE ISSUANCE OF ASSET-BACKED SECURITIES

Article 6 The manager shall disclose to the qualified investors the prospectus, legal opinions and credit rating report (if applicable) prior to the issuance of the asset-backed securities.

Article 7 The prospectus shall be prepared by the manager and shall include but is not limited to the following items:

- (1) the basis terms of the asset-backed securities, including issuance size, types, maturity, expected rate of return (if any), credit rating (if any), registration, custody and trading venues, etc.;
- (2) the transaction structure of the SAMP;
- (3) methods of credit enhancement;
- (4) information on the originator, the manager and other service providers;
- (5) information on the underlying assets and cash flow projection and analysis;
- (6) collection, investment and distribution of the cash flow of the SAMP;
- (7) composition of the SAMP assets and management, use and disposition of SAMP assets;
- (8) tax and expenses arrangements related to the SAMP;
- (9) risk retention by the originators;
- (10) risk disclosure and risk control measures;
- (11) establishment, termination and other matters of the SAMP;

(12) registration and transfer arrangement for the asset-backed securities;

(13) arrangements for information disclosure;

(14) arrangements for meetings of the asset-backed securities holders;

(15) summary of main transaction documents;

(16) items required to be disclosed under Article 17, Article 19 and Article 20 of the Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies; and

(17) file custody (including legal contracts related to transfer of the underlying assets) and inspection rules.

Article 8 The manager shall, in a prominent position of the prospectus, remind the investors with the following: “The asset-backed securities shall only represent the respective shares in the beneficial rights to the Special Asset Management Plan and do not represent debt obligations of the manager or any other service provider. Investors shall review carefully the information disclosure documents, make independent investment decisions and bear their own investment risks.”

Article 9 In the prospectus, the manager shall disclose information with respect to the underlying assets, including but not limited to the following items:

(1) whether the underlying assets are in compliance with laws and regulations, have clear ownership, and are able to produce stable and predictable cash flow;

(2) whether the underlying assets are subject to any mortgage, lien or any other form of encumbrances, and measures to remove the above liens or encumbrances;

(3) composition of the underlying assets;

(4) operation and management of the underlying assets;

(5) measures taken to isolate risks and their effects;

(6) replenishment criteria if replenishment is permitted, the contemplated replenishment size, replenishment procedures and administrative and supervisory arrangements after replenishment; and

(7) administration of fund collection mechanics.

If the underlying assets of a SAMP consist of multiple assets of the same type, the manager shall also disclose in the prospectus the following information with respect to the pool of the underlying assets:

(1) selection criteria and underwriting standard of the underlying assets;

(2) overall characteristics of the asset pool;

(3) distribution of the underlying assets in the pool; and

(4) for any single debtor whose outstanding loan balance constitutes more than 15% of the asset pool or any debtor with its affiliates, together, whose outstanding loan balance constitutes more than 20% of the asset pool, credit information of such debtor.

Article 10 The manager shall hire a law firm to opine on the related legal matters of the SAMP and disclose such legal opinions to the qualified investors, which shall include but are not limited to the following items:

(1) the qualifications and authority of the manager, the underwriter, the custodian and other service providers;

(2) compliance of the prospectus, the asset transfer agreement, the custody agreement, the subscription agreement and other legal documents;

(3) truthfulness, legality and ownership of the underlying assets and liens thereon;

(4) legality of the transfer of the underlying assets;

(5) effect of the measures taken to isolate risks;

(6) legality of replenishment (if applicable);

(7) legality of the SAMP credit enhancement measures; and

(8) opinions on other material matters that may affect the interest of the investors of the asset-backed securities.

Article 11 The credit rating report (if any) shall be issued by a credit rating agency with securities rating business qualifications approved by the China Securities Regulatory Commission, which report shall include but is not limited to the following items:

(1) ratings, opinions and factors considered for such ratings;

(2) summary of the underlying assets included in the pool and credit risk analysis of the assets or the asset pool;

(3) analysis of the credit risks and legal risks for the special originators;

(4) analysis of the SAMP transactional structure;

(5) evaluation of the manager's, the custodian's and other service providers' ability to fulfill their contractual obligations;

(6) cash flow analysis and stress test; and

(7) rating surveillance arrangement.

For transactions with replenishment feature, the report shall also include quantitative analyses of the historical performance of the underlying assets.

Article 12 Upon the completion of the issuance of each series of asset-backed securities, the manager shall disclose to the purchasers of such asset-backed securities the information related to such issuance on the same business day or the next business day.

Article 13 The manager and other responsible person for information disclosure shall, based on the characteristics of different asset types and following the look through principle, disclose the loan-level

information of the underlying assets in accordance with Article 9 hereof.

CHAPTER 3: INFORMATION DISCLOSURE DURING THE TERM OF THE ASSET-BACKED SECURITIES

Article 14 During the term of the asset-backed securities, the manager shall disclose to the qualified investors, two business days prior to each distribution date of the series of the asset-backed securities, the SAMP distribution date statement. The manager, prior to April 30 of each year, disclose an annual asset management report that has been audited by an accounting firm with business qualifications to engage in the securities and futures business.

For any SAMP that has been established less than two months, the manager is not required to prepare the annual asset management report.

Article 15 The annual asset management report shall include but is not limited to the following items:

- (1) operations and conditions of the underlying assets;
- (2) performance of the originators, the manager and the custodian of their respective duties;
- (3) operation conditions of the special originators;
- (4) receipt and disbursement of funds in the SAMP accounts;
- (5) principal and interest payments on each class of asset-backed securities;
- (6) purchase of asset-backed securities by the manager using the manager's proprietary assets, assets of other investment plans under its management, other customer assets or securities investment funds; and
- (7) other matters that shall be reported to the investors of asset-backed securities.

Article 16 At the same time when the manager issues the annual asset management report, the custodian shall simultaneously issue a custodial report with respect to the same time period, including but not limited to the following items:

- (1) the status of the SAMP assets under custody, including changes to the assets and status and the custodian's performance of its duties;
- (2) supervision by the custodian over the manager, including the compliance of the manager's instructions with the prospectus and the custody agreement, as well as the custodian's verification of the truthfulness, accurateness and completeness of data contained in the annual asset management report; and
- (3) other matters that shall be reported to the investors of asset-backed securities.

Article 17 If a rating agency is engaged to provide credit rating reports on the asset-backed securities, so long as the rated class is outstanding, such rating agency shall disclose to the qualified investors its annual surveillance rating reports prior to June 30 of each year for the previous calendar year and disclose other surveillance rating reports from time to time.

Each annual surveillance rating report shall include but is not limited to the following: rating opinions and factors taken into consideration; changes to the assets or the asset pool; summary of SAMP transaction structure; interest and principal payments on the asset-backed securities of the rated series; cash flow conditions of the underlying assets; stress test results with respect to the cash flow; credit quality analysis of the underlying assets or the asset pool; credit analysis of the special originators; analysis of other matters related to the SAMP transaction structure; and assigned ratings. For any SAMP with replenishment features, the report shall also include an analysis of the effectiveness of the replenishment mechanics.

Article 18 The convener of the meetings of the holders of asset-backed securities shall promptly notify the security holders of the time, form, agenda, procedures, voting mechanism and other matters related to the meetings and shall promptly disclose the meeting resolutions after the meetings.

Article 19 Upon the occurrence of any significant events that may have a material impact over the investment value or price of the asset-backed securities, the manager shall promptly disclose related information to the qualified investors and report the same to the AMAC. Significant events include, but not limited to, the following events:

- (1) failure to distribute income in accordance with the prospectus;
- (2) unfavorable change of ratings on the asset-backed securities;
- (3) realized losses to the SAMP assets exceeding 10% of the outstanding principal balance of the asset-backed securities;
- (4) significant changes to the operation of the underlying assets or their ability to generate cash flow;
- (5) the involvement of the special originator, the manager, the custodian or other securitization transaction parties in legal disputes that may affect the timely payment of income on the asset-backed securities;
- (6) a more than 20% decrease of cash flow from the underlying assets than prediction;
- (7) a breach of contract by the special originator, the manager, the custodian or other securitization transaction parties that have an adverse impact on the interest of the investors in the asset-backed securities;

(8) a significant change to the business operation of the special originator, the manager, the custodian or other securitization transaction parties or a decision made by such entity on capital reduction, merger, spin-off, dissolution or filing for bankruptcy etc., which may affect the interest of the investors in the asset-backed securities;

(9) change of the manager, the custodian, the rating agency or other securitization transaction parties;

(10) changes to the credit rating of the special originator, the manager, the custodian or other securitization transaction parties that may affect the interest of the investors in the asset-backed securities; and

(11) other circumstances that may have a material impact over the interest of the investors in the asset-backed securities.

Article 20 Within ten working days after the completion of SAMP liquidation, the manager shall disclose the liquidation report to the qualified investors.

Article 21 For any SAMP that use proceeds generated by the underlying assets to purchase new assets of the same type to be included in the pool, the manager and the other responsible person of information disclosure shall, in accordance with the prospectus, periodically disclose the amount of purchased assets that meet the replenishment criteria and the replenishment operations.

CHAPTER 4: SUPPLEMENTARY PROVISIONS

Article 22 During the term of the asset-backed securities, the information disclosure documents shall be submitted by the manager to the AMAC for filings within five working days after the related disclosure date.

Article 23 The power to interpret these Guideline shall remain with the China Securities Regulatory Commission.

Article 24 These Guidelines shall come into effect as of the date of publication.

[6]—Guidelines for Securities Companies and Subsidiaries of Fund Management Companies on Asset Securitization Due Diligence Investigation

CHAPTER 1: GENERAL PROVISIONS

Article 1 In order to standardize and provide guidance on the due diligence investigations related to asset securitization and to improve the quality of the due diligence investigations, these Guidelines are promulgated in accordance with the Provisions for the Administration of Asset Securitization Business of Securities Companies and Subsidiaries of Fund Management Companies.

Article 2 For the purpose of these Guideline, “due diligence” refers to the process whereby the securities companies or subsidiaries of fund management companies (hereinafter, the “manager”) duly investigate the transaction participants and the underlying assets to be securitized through document review, in-person interviews, participation in meetings, on-site diligence and other methods so as to form an adequate basis to assure that the related issuance documents and information disclosure are true, accurate and complete.

“Transaction participants” hereby refer to the originators, asset servicing institutions, custodians, credit enhancement providers and other transaction parties that may have a material impact over the transaction.

Article 3 These Guideline only set forth general requirements on the manager’s due diligence investigations. The manager shall conduct due diligence investigations on any events that may have a material impact over the investors’ investment decisions regardless of whether these Guideline requires so explicitly.

Article 4 The manager shall establish comprehensive internal management mechanisms and robust process for the due diligence in accordance with these Guideline. The manager shall also ensure that the personnel participating in the due diligence process adhere to the principal of independence, objectiveness and fairness, have a high standard of work ethics and professional ability to carry out the duties.

Article 5 For information in the prospectus and related documents that are not opined on by professional agencies, the manager shall reach its independent conclusion after obtaining ample materials through the due diligence process and comprehensively analyzing such materials.

For information in the prospectus and related documents that are opined on by professional agencies, the manager shall carefully review and verify such professional opinions based on the information acquired by the manager through the due diligence process. If the manager disagrees with any of the opinions, the manager shall require the professional agency to explain and/or provide supporting materials for its opinion. Upon discovery of material difference between the opinions and the information acquired through the due diligence process, the manager shall verify and re-investigate such matters and may engage different professional agencies to provide the services.

CHAPTER 2: SCOPE OF DUE DILIGENCE AND REQUIREMENTS

Subchapter 1: Due Diligence Investigation on the Transaction Participants

Article 6 Due diligence investigations on the transaction participants mainly include their legal existence and status, business qualifications and performance of related business operations.

Article 7 Due diligence investigations on the special originators shall include, but are not limited to, the following items:

(1) General: the establishment of the special originator; its legal existence and status; its shareholding structure, organizational structure and corporate structure;

(2) Business and financials: the situation of the industry to which the special originator belongs, comparison analysis of the special originator's competitiveness and position in the industry, status of its main line of business, financial reports and analysis thereof, fund raising activities in the capital markets, and credit history in the most recent three years; significant debts and liabilities, use of line of credit and nature of external guarantees. For any special originator that is formed for less than three years, all related information since the date of its formation; and

(3) Business operations related to the underlying assets: the conditions of the business operations of the special originator related to the underlying assets; related business management and risk control mechanisms.

Article 8 Due diligence investigations on the asset servicing institution shall include, but not limited to, the following items:

(1) General: the establishment of the asset servicing institution; its legal existence and status; its business performance, financial status and credit status in the past year; and

(2) Business operations related to the underlying assets: the business qualifications and legal basis upon which the asset servicing institution provides management services to the underlying assets; the asset servicing institution's related rules, procedures and risk control measures for its asset servicing business; the status of its asset servicing business; the measures to insure the segregation of the underlying assets, the asset servicing institution's proprietary assets and other entrusted properties.

Article 9 Due diligence investigations on the custodians shall include, but are not limited to, the following items:

(1) The custodian's credit status; and

(2) The custodian's business qualifications; management of its custodial services, procedures and risk control measures.

Article 10 Due diligence investigations on the credit enhancement provider shall fully address its credit level and repayment capacity and shall include, but are not limited to, the following items:

(1) General: the establishment of the credit enhancement provider; its legal existence and status, its shareholding structure, organizational structure and corporate structure; its credit status and external credit ratings;

(2) Business and financials: performance of the credit enhancement provider's main business lines, financial reports and analysis of key financial data, and credit history in the most recent three years; significant debts and liabilities, use line of credit and nature of external guarantees; for any credit enhancement provider that is formed for less than three years, related information since its date of formation; and

(3) Others: the approval or management process of its business and risk control measures; any data related to its repayment capacity (including its leverage data, if any); historical records of repayments.

Article 11 A debtor shall be considered to be a "significant obligor" if the outstanding principal balance of a single debtor's loan exceeds 15% of the asset pool or if the outstanding principal balance of loans owned by a debtor and his affiliates, collectively, exceeds 20% of the asset pool. The manager shall fully investigate the business operation of the special originator and its financial conditions and reflect on its repayment ability and credit status.

Article 12 Due diligence investigations on the other important transaction participants related to the pooling and management of underlying assets and the trading of the asset-backed securities shall include, but are not limited to, the following items: such participants' general information, credit status; such participant's business qualifications, past experience and other factors that may affect the securitization transaction.

Subchapter 2: Due Diligence Investigations on the Underlying Assets

Article 13 Due diligence investigations on the underlying assets shall include the legal title and ownership, legality of the transfer, operations of the underlying assets and historical cash flow. The manager shall also prepare reasonable analysis and predictions with respect to the underlying assets' future cash flow.

Article 14 Due diligence investigations on the underlying assets' legality shall include, but are not limited to, the following: the truthfulness and legality of the creation and continuous existence of the underlying assets; conditions of the underlying assets including legal

ownership, related litigations, encumbrances and restrictions; suitability of the underlying assets to be securitized; and completeness of the underlying assets, etc..

Article 15 Due diligence investigations on the legality of the transfer of the underlying assets shall include, but is not limited to, the following: whether there exists any conditions that will prohibit transfer of the underlying assets, by law or by contract; the approval, registration, filing, notice and other procedures to be completed in connection with the transfer of the underlying assets (including pertinent rights) and their legal consequence; the completeness of such transfer.

Article 16 According to the types of the underlying assets, the manager shall perform due diligence investigations on the cash flow of the underlying assets, which shall include, but is not limited to, the following: the quality of the underlying assets; the stability and historical performance of the cash flow from the underlying assets; and reasonable analysis and prediction of future cash flow from the underlying assets.

CHAPTER 3: DUE DILIGENCE REPORT

Article 17 The manager shall establish a working paper system for the due diligence investigations.

The due diligence working papers refer to, collectively, all types of work records and important materials related to the asset securitization acquired or prepared during the due diligence process.

The due diligence working papers shall be true, accurate and complete, reflecting the work process of the due diligence.

Article 18 The manager shall prepare a due diligence report based on its due diligence investigations.

The due diligence report shall specify the reference date, the scope and the procedures of the due diligence investigations.

The due diligence report shall present a clear opinion as to whether the securitization transaction is in compliance with related laws, regulations and administrative rules.

The due diligence report shall be signed by all staff who have participated in the due diligence investigations, stamped with the corporate seal of the manager and dated.

CHAPTER 4: SUPPLEMENTARY PROVISIONS

Article 19 For asset-backed securities that have applied to be transferred in a stock exchange, after completion of its filing but prior to the quotation and transfer of such asset-backed securities, the manager shall follow these Guidelines and continue performing its due diligence obligations.

Article 20 The manager shall keep on file all the relevant information acquired during the due diligence process for future inspection. Such relevant information shall completely and truthfully reflect the entire due diligence process and be kept on file for at least ten years after the termination of the related SAMP.

Article 21 The power to interpret these Guidelines shall remain with the China Securities Regulatory Commission.

Article 22 These Guidelines shall come into effect as of the date of publication.