

Deal Agent Agreement—Key Principles

Deal Agent Adds New Governance and Oversight Role for RMBS Trusts

- The role of the Deal Agent is analogous to that of a Board of Directors, in that the Deal Agent has high-level oversight of the other parties that act on behalf of the trust, coupled with a robust continuous fiduciary duty.
- The Deal Agent will be charged with protecting the interests of the RMBS trust, maximizing the net present value of its assets and making certain strategic decisions in the limited circumstances that doing so becomes necessary.
- Consistent with this governance role, the Deal Agent's duties are a combination of prescribed and open-ended—i.e., including but not limited to specific tasks--within the categories described below.

Deal Agent as Fiduciary

- Duty of care: the obligation of the Deal Agent to act with the care an ordinarily prudent person in a like position would exercise under similar circumstances to maximize the value of the Loans and any other Trust assets and to otherwise protect the interests of the Trust, as if it were acting on its own behalf.
- Duty of loyalty: the obligation of the Deal Agent to act solely on behalf of the Trust without regard to its own self-interest, to exercise its judgment and discretion in a manner it reasonably believes to be in the best interests of the Trust and to avoid conflicts of interest and/or self-dealing.
 - The duty of loyalty includes the duties of good faith and fair dealing.
 - The Deal Agent would not place the interests of any class above those of any other class, and there would be no directing class or controlling class.
 - Investors would be able to communicate with the Deal Agent, but would not generally have authority to direct the Deal Agent.
 - The Deal Agent may be guided by a vote of all bondholders in very specific situations.

Review and Oversight Functions

- Review of representations and warranties
 - Certain trigger events will cause the Deal Agent to determine whether to review a Loan to evaluate whether a breach of any representation or warranty has

occurred with respect to the Loan. Deal Agent will be permitted to use its own judgment in considering whether to conduct the review.

- Deal Agent will have authority to obtain all information necessary to undertake such evaluation (including credit files, servicing files, underwriting guidelines, etc.) and enforce repurchase demands.
- Review of servicer compliance
 - Deal Agent will supervise each servicer to ensure that the servicers are focused on maximizing the value of the assets and that there is no self-dealing.
 - Review is intended to be procedures-based, rather than outcomes based (i.e., the Deal Agent would review whether the servicer was complying with its own articulated standards and those set forth in the transaction documents, rather than attempting to determine whether better outcomes could have been achieved).
 - Deal Agent would have authority to evaluate breaches of servicing obligations, and in appropriate circumstances to pursue claims against the servicer and/or terminate the servicer.
 - Deal Agent would be expected to ensure that all cash flows under the transaction would be reconciled on a monthly basis.¹

Reporting

- Deal Agent would report its findings and review status related to its performance of services on a monthly basis.
- The Deal Agent will share the reported information with all bondholders.

Indemnification

- Deal Agent would be protected, either through Trust indemnification or through an alternative means if agreed by the parties, from liability so long as it has acted in accordance with its duties of care and loyalty.
- Bondholders will be able to sue and remove the Deal Agent if it fails to act in accordance with its duties of care and loyalty.

¹ Note: This continues to be under discussion, including as to the practical logistics of such reconciliation and the role of the master servicer.

- Deal Agent would be liable for gross negligence or willful misconduct, and will be expected to comply with all privacy laws relating to non-public personal consumer information.
- The Deal Agent framework will be enforced through arbitration whenever possible to reduce legal costs to the Trust and the Deal Agent.