



DISCLOSURE AND ELIGIBILITY REQUIREMENTS FOR THE ISSUANCE ASSET BACKED SECURITIES BY WAY OF RESTRICTED OFFER OR LIMITED RESTRICTED OFFER

(The Capital Markets Policy Guidance Note on Issue of Asset Backed Securities, 2017)

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1. MINIMUM CONTENT OF OFFERING MEMORANDUM/PROSPECTUS

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
1. General Requirements, Issuer & Parties Responsible for the Prospectus Or Offering Memorandum		
Glossary of defined terms, a table of contents and a summary at the beginning of the document with a cross reference to the pages of the offering memorandum		
The names and addresses of the issuer, of each other person specifying the functions of all persons responsible for the offering memorandum or any part thereof,		
If the issuer and the offeror are different the names and address of the person offering the document		
On the cover and in a prominent position in the document the following words <i>" In making your investment decision to invest in ABS you should be aware that there is very limited, if any, recourse to the assets of the issuer, the seller or originator or to those of the trustee" and/or</i>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<i>"Recourse and rights and action in most cases will be limited entirely to the assets of the securitization trust which may be insufficient to pay the claims of all, or any, investors"</i>		
The date of publication of the offering memorandum and the period in which the offer is open		
A statement that the offering memorandum has been approved by the Authority		
A statement that the offering memorandum has been drawn in accordance with the Act and any regulations		
A statement as appropriate to the classification of the issue or offer that the Authority takes no responsibility for the contents of the offering memorandum and shall not be liable to any action in damages suffered as a result of any documents having been approved by the Authority or in respect of any offering memorandum, including , where relevant, the Authority's issue of a stop order or failure to issue a stop order		
Where the offering memorandum contains any statement by an expert, or any statement is said in the offering memorandum to be based on a statement made by an expert, the offering memorandum shall state that:		



Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>a) The expert has given consent. b) That the expert has not withdrawn such consent before the date of the offering memorandum is filed with the Authority for approval or issue.</p> <p>The final document shall include a statement that updates such statements to the date of issue.</p>		
<p>A statement which provides</p> <p><i>"If you are in any doubt about the contents of this document you should consult a person licensed under the Act who specializes in advising on the acquisition of shares and other securities"</i></p>		
<p>A list of the transaction documents and details of where they can be inspected or how and where copies may be obtained and by whom.</p>		
2. Summary Of The Asset Backed Securities to Which the Offering Memorandum Relates And The Offer		
<p>Brief description of number, type and nature of the asset backed security to be issued.</p>		
<p>The classification of the offer should be clearly stated together with a clear statement as to who can be an investor in the securities and restrictions on transfer</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>A summary of:</p> <ul style="list-style-type: none"> a) the investor entitlement to payments, b) nature of payments; and c) priority of payment to investors where more than one class or tranche is being issued or offered, including any subordinated classes or tranches or residual interests 		
<p>Summary details of how payments on each class or tranche are calculated and payable</p>		
<p>A schedule of the payment dates and the circumstances in which payments may not be able to be made or made in full on scheduled dates to investors</p>		
<p>Information on the Credit Rating Agency.</p> <p>If a credit rating is being sought and the issue or offer is conditional on the assignment of a particular rating details of:</p> <ul style="list-style-type: none"> a. The name(s) of credit rating agency(s) from whom the rating has been sought. b. The rating level the attainment of which a condition of the issue or offer of a class or tranche; and 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
c. The name(s) of any other credit rating agency with whom rating discussions were held and whether any other credit rating agency declined to rate the transaction.		
Where any class or tranche is to be rated include a statement to the effect that: <i>"The inclusion of a rating is not a recommendation to buy or sell the securities, rating may be subject to revision or withdrawal at any time by the credit rating agency and securities may be subject to other risks not covered by the rating (including markets and liquidity risks). Any prospective investors should make its own evaluation independent of the credit rating agency's opinion"</i>		
Include a statement detailing any restriction on the free transferability of the securities being issued or offered		
Listing of the Securities. Include a statement as to whether- i. The securities are eligible for listing on a securities exchange; ii. If any of the securities being offered have been listed on a securities exchange; or		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>iii. An application for the listing has been made. And</p> <p>Where no such application for listing has been made, or such an application has been made and refused, a statement as to whether or not there are, or are intended to be, any other arrangements for there to be dealings in securities and, if there are, a brief description of such arrangements.</p>		
<p>The total proceeds that will be raised from the issue or offer to which the offering memorandum relates and from the other issues or offers being made in conjunction with the issue or offer</p>		
<p>Details of fees or estimated expenses payable in connection with the issue or offer of these or other ABS securitization transaction, the amounts and to whom the fees or estimated expenses are payable</p>		
<p>Details of the underwriter(if any) and details of fees and expenses payable</p>		
<p>Names and addresses of paying, transfer or registration agent</p>		
<p>Arrangement for payment for the securities, their form and arrangement and timetable for their delivery</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
The Arrangement during the period prior to the delivery of the securities being offered relating to the moneys received from applicants including the arrangements for the return of moneys to applicants where their applications are not accepted in whole or in part and the timetable for return of such moneys		
3. Diagram/S Setting Out Structure of the Securitisation Transaction, The Parties & Cash Flows		
<p>A diagram to setting out the structure of securitization. The diagram to include:</p> <ul style="list-style-type: none"> a. Structure of transaction b. All relevant parties and to whom they owe responsibilities c. Cash flow both in and out of the securitization trust d. Order of payments and priority in the event of a shortfall e. Internal and external credit enhancements, liquidity facilities and risk management facilities 		
4. Parties Responsible For The Offering Memorandum, And Identity Of Parties Involved In The Transaction & Respective Roles & Obligations		
Securitization Arranger		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>Clearly identify the arranger, if any, its role responsibilities, including if a sponsor of the transaction, and its experience. The following key details should be disclosed:</p> <ul style="list-style-type: none"> a) Where there is a securitization arranger b) Role of the arranger; c) Functions it has undertaken; d) Its role in the initiation or generation of the securitization transaction; e) The experience of the arranger in carrying out such roles or functions; f) Its capacity and operations in Kenya; g) Its relationship or affiliations with any other party to the securitization transaction; and h) Its obligations and liabilities to investors in the ABS <p>Where no Securitization Arranger has been appointed , an explanation on who has undertaken the function and provide relevant details of that party and how the securitization transaction has been initiated and by whom;</p>		
Seller(s) or Originator(s)		
<p>Clearly identify the seller(s) or originator(s) of the assets, provide names and addresses and provide details of:</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> a. The history of the seller or originator; b. The performance of any other securitization transaction that it has been involved in as a seller or an originator, irrespective of the nature of the assets; and c. The extent to which the transaction is reliant on the seller or originator's ongoing capacity to sell or originate additional assets; d. The seller or originator's capacity to originate assets, including threats and challenges; e. The processes and procedures utilized to originate or generate or generate the assets of the type included in the securitization transaction and underwriting standards, and f. The size, type and growth of the seller or originator's portfolio of similar assets and the performance of its portfolio of assets over time. 		
A clear statement which draws attention to the limited recourse, if any, that the investor in asset backed securities has to the seller or originator or to its assets in the event that the assets of the securitization trust generate insufficient funds to meet all the		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
payment obligations of the securitization trust. The limitation of the recourse, if any, should be detailed.		
Securitization Trustee and Securitization Manager: This should be adapted based on the structure of the SPV.		
<p>Where the SPV is structured as a common law trust , the IM should clearly identify the trustee and/or securitization manager; the roles and obligations, place of incorporation, incorporation, involvement in and performance in other securitization transactions and its experience, resources, financial standing and capacity to undertake the role as a trustee.</p> <p>The description should include clear statements on and details of:</p> <ul style="list-style-type: none"> a) The trustee’s and/or securitisation manager’s role and its relationship with other parties and in particular the differentiation between the role of the trustee and/or securitisation manager and the servicer and any note trustee or security trustee. b) In the case of a trust SPV, whether, the securitisation trustee proposes to appoint a securitisation manager to assist the trustee. c) In all cases where a securitisation manager is appointed details of the manager, its experience and capacity and the 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>relationship between the trustee or company SPV and its manager.</p> <p>d) A description of the:</p> <ul style="list-style-type: none"> i. any trustee's (including note trustee or security trustee) and the company SPV's and in the case of a company the board's or directors' duties and responsibilities under the transaction documents and the law, including its liability in respect of the actions or omissions of any securitisation manager or other party describe actions required by any trustees, SPV and/or securitisation manager and whether any notice is required to be given to the Authority, investors, rating agencies or third parties in the event of a default, or other breach or a transaction representation and warranty or covenant and the required percentage of vote of the investors in any class or classes or tranche needed for the trustee to take action; ii. limitations on any trustee's, SPV's and/or securitisation manager's liability; iii. any indemnification that entitles any trustee, SPV and/or securitisation manager or other person to be 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>indemnified from the assets of the securitisation trust; and</p> <p>iv. provisions in any of the transaction documents or understandings regarding the removal, resignation or replacement of any trustee, SPV and/or securitisation manager and how the associated costs or expenses of moving from one trustee to another will be paid and any fees or payments to be made to any outgoing trustee and in what circumstances.</p> <p>f. Detail any trustee's, director of SPV and/or securitisation manager entitlement to receive fees and for the payment of the expenses of the securitisation transaction in priority to the making of payments to the investors in asset backed securities.</p> <p>g. The limited recourse, if any, that the investor in asset backed securities has to any trustee and that the obligation to make payment is not supported by the assets of the trustee; and</p> <p>h. State whether any trustee or securitisation manager is authorized or approved by the Authority.</p> <p>i. The circumstances and procedures for the resignation or removal of any trustee or securitisation manager and the</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>appointment of a new trustee or securitisation manager and any payments due on removal.</p> <p>j. List material contracts entered or proposed to be entered into by the trustee, SPV and/or securitisation manager in respect of the securitisation trust and the securitisation transaction.</p> <p>k. Declaration that a full copy of any trust deed and transaction documentation is available from the trustee and/or securitisation manager or on request a copy will be made available without payment of a fee by the issuer or offeror.</p>		
The SPV		
<p>Clear description of:-</p> <p>a. The nature of and form of SPV(Common law trust or Company)</p> <p>b. The relationship of the investors in the asset-backed securities with;</p> <p>i. Where the SPV is a trust, the trust, the trustee, any securitization manager, the assets, any note or security trustee, other investors in the asset backed</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>securities and with other parties to the securitization transaction; and</p> <p>ii. Where the SPV is a company, the company, Board of the company, any securitization manager, the assets, any note or security trustee, other investors in the assets and any other parties to the securitization transaction.</p> <p>c. Where the SPV is a Trust, the objectives of the trust, authorized activities and powers of the trustee and set out the limitations and restrictions on the activities of the trust.</p> <p>d. Where the SPV is a Company, the mechanisms in place to segregate and safeguard the assets of the trust and the rights and entitlements of the investors in the asset-backed securities as beneficiaries of the trust.</p>		
Note Trustee and Security Trustee		
<p>Details should be provided for:</p> <p>a. The roles and responsibilities of any note or security trustee.</p> <p>b. Whether the assets of the SPV are subject to a charge in favour of the ABS</p> <p>c. The priority of the various parties to payment under charge; and</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
d. Limitation on recovery under the charge		
Servicer and Alternative Servicer		
<p>Provide details of:</p> <ul style="list-style-type: none"> a. The servicer, or servicers including name, address, details of business, prior experience and capacity to perform the role as a servicer. b. The rating of the servicers borrowing, if any, and any other rating and by whom each credit has been provided c. Whether the servicer has any other interest or role in the securitization transaction, including as residual beneficiary and the extent to which its rights (including voting rights) rank with or are subrogated to those of other investors in the asset backed securities d. Roles, responsibility and oversight of the servicers and a clear description of the servicing function and the parties involved together with details of their obligations and liabilities, limitations and liabilities and the relationship between the servicer and other parties to securitization transaction 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> e. The servicer's association or relationship with any seller or originator to the SPV f. Clear statement of the limited recourse to the servicer and its assets g. Comment on the possible adverse impact on the securitization transaction of deterioration in the servicer's financial position h. If the servicer has previously acted as a servicer its performance and any prohibition orders made in respect of its activities i. Any special or unique factors relating to the servicing of the specific transaction or the assets j. A summary of the material terms of the servicing agreement and other transaction documents as regards the servicer. including: <ul style="list-style-type: none"> i. servicer's responsibility for calculating or making distributions to investors in the asset backed securities and to other parties and the division of such functions between any trustee, any securitisation manager and the servicer or servicers, 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> ii. obligations of the servicer to segregate and remit funds collected and the mechanisms in place to prevent or minimize the potential for commingling of funds with the assets of the servicer or any other party, iii. ability of the servicer to waive or modify any terms, fees, payments or penalties in respect of the assets and the potential impact of such authority on the cash flows from the assets iv. The terms relating to cash advances and recoveries, if applicable, v. The fees payable to the servicer and comment on whether the fees payable are market fees, and vi. Any trigger clauses which could result in a change in the removal of the servicer or a change in servicer. k. Details of the alternatives servicer, its role and obligations, resources and capacity to fulfill the role as a servicer if required to do so, fees payable and the arrangements that have been put in place to ensure that the alternative servicer is readily able to assume the role as the servicer with the minimum interruption l. Process and procedures and terms under which the alternative servicer may become the servicer or on which the 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>servicer may be removed or resign and the process for transferring the servicing of the assets</p> <p>m. Material terms of the contract with the alternative servicer and details of the fees payable to any alternative servicer</p> <p>n. Where no alternative servicer is identified in and provided for in the transaction documents how a requirement for change of servicer would be addressed</p> <p>o. That a full copy of the agreement with the servicer, and alternative servicer (if any) is available from the Authority or on request will be made available without payment of a fee by issuer or offeror.</p>		
Credit Enhancers, Liquidity providers and other Transaction Parties		
<p>Where other parties are included in the specific securitization transaction then details should be provided on:</p> <p>a. The name and address of the party and its role, responsibilities and liabilities and any limitations on such liabilities</p> <p>b. Rating of the party</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> c. Relevant experience, resources and financial capacity of the party and past involvement in securitization transaction or in undertaking similar roles d. The relevance of the person and the role it plays to the securitization transaction, the ability to replace such person and the implications of doing so e. Material provisions of any transactions documents to which the person is party including fees payable f. Where the transaction involves infrastructure assets or cash flows generated from infrastructure assets then the government and or any authority or government related body with authority in relation to the project, infrastructure assets or cash flows, permitting or limiting operations or the setting of tariffs, fees or charges or the provision of the licenses or approvals or who otherwise has a regulatory power in respect of asset, the cash flows of the transaction shall be deemed to be a party and relevant particulars and information should be included. 		
5. Assets Of The SPV and the Nature Of The Origination Of The Assets Into the SPV or of The Sale, Assignment or Transfer of the Assets		
Overview of the asset. <ul style="list-style-type: none"> a. Nature of the asset 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> b. Eligibility and criteria necessary to be able to be included as an asset in the securitization trust c. Description of the assets and their legal characteristics d. Confirmation of the legal capacity of the originator or seller to originate, sell transfer or assign the assets to the special purpose vehicle e. Details of any potential for a third party to claim an interest in the assets including by way of operations of the law 		
<p>Transfer or vesting of asset in the Special Purpose Vehicle.</p> <p>Details should be confirmed in the legal opinion to include:</p> <ul style="list-style-type: none"> a. The method of origination, sale, assignment or transfer of the assets to the SPV and the trustee's and beneficiaries' interest in the assets b. The method of transfer or vesting, process and risks associated with the transfer or vesting in the transaction c. Approvals, consents or licenses required and obtained and registrations effected or to be effected and implications of any transitional or intervening period, in particular for the validity of the transaction and the ability of third parties to raise claims d. The circumstances in which the seller or originator is required to repurchase the assets or to substitute assets 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>Other assets supporting cash flows, including credit enhancements.</p> <p>Describe: -</p> <ul style="list-style-type: none"> a. Any form of internal structure credit enhancement, assumptions, triggers and sensitivities b. Any form of external credit enhancement. Details of provider, amount, terms and circumstances of use and rating of provider c. Any mechanism to ensure that payments to investors are timely d. Provide details of any derivatives to provide credit enhancement of the assets or the asset-backed securities or to support timely payments or minimize other structural risks e. Details of authorized investments for cash f. Provide an example of the order in which facilities can be drawn on and the limitations on drawing including conditions g. Detail the effect of the package of credit and other enhancements h. Clearly differentiate between classes of investors and tranche and the likelihood of different classes or tranches to 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
receive reduced payments. The impact of subordination on the holder of any subordinated on the holder of any subordinated calls should be clearly addressed		
6. Static Pool Information		
<p>Where the securitization transaction involves a pool of assets the offering memorandum should include static data on how different pools of similar assets have performed over time and include details which assist in the identification of patterns of performance of the assistant over period of time.</p> <p>Data should be included for as long a period as is reasonably available or can reasonably be constructed from secondary sources relating to other or hypothetical pools so that the performance of the assets in different economic cycles is illustrated.</p> <p>This information should include:</p> <ul style="list-style-type: none"> a. General information regarding pool asset types and selection criteria. b. Pool characteristics. c. If the asset pool includes mortgages, to be extent material. d. Delinquency, default and loss of information. e. Prepayment information. 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> f. Sources of pool cash flow and use. g. Representations and warranties and repurchase obligations regarding pool assets, summaries and details of implications and rights. h. Revolving asset pools, prefunding accounts and other changes to asset pools, provide details of terms, cost, arrangements, and percentage of pools that can be prefunded, triggers and implications. i. Process and ability to remove assets from pool which do not comply. j. Circumstances in which monies in prefunding accounts or revolving accounts can be returned to investors or otherwise used. k. Amortizing assets pools provide details of assumptions, historic information and sensitivities. l. Revolving master trusts, clear description and implications of the structure should be provided. Data should be provided in periodic increment to provide meaningful information. m. Residual value information where there is an assumption of access to residual values as a source of funds 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
7. Infrastructure & Other Non-Pool Type Assets – Provision Of Targeted Information Appropriate To The Nature Of The Assets And Cash Flows.		
<p>Infrastructure assets and a range of non-traditional asset backed securities of their nature are not homogenous. What is required is an adaption of the principles set out in PART VI.</p> <p>Disclosure should include:</p> <ul style="list-style-type: none"> a. Assumed source of cash flows from the infrastructure related cash flows, b. Assumptions on which the cash flows are based, c. The drivers of each assumption (Please refer to page 66 of the PGN for guidance) d. Life of Concession and the make good or handover obligations need to be considered and factored into cash flows, e. Internal and external credit enhancement, liquidity lines and risk management products should be detailed, and <ul style="list-style-type: none"> 1. A worked example should be provided which links the cash flow waterfall with a shortfall in revenues and the drawing on various facilities to maintain scheduled payments to some or all classes of investors, 2. A sensitivity analysis should be included. 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>3. Role of the servicer and any operator, trustee and any securitisation manager should be detailed in the collection of tolls, remitting funds to the trustee should be detailed together with the process for auditing and dealing with shortfalls arising from operational issues, technology failure or misappropriation etc.,</p> <p>i. Detail of representations and warranties of the concessionaire or originator or seller and implications of failure to comply.</p>		
8. Description of the Asset Backed Securities to be issued		
<p>General Information</p> <p>Details should be provided of:-</p> <p>a. Type or categories of securities that will be issued or offered, numbers, entitlements to participate and priority of payments</p> <p>b. Coupon rates and basis for setting and resetting</p> <p>c. Legal and if different expected maturity of securities</p> <p>d. Any prior issues or offering of securities with claims over the cash flows</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> e. Full details of any associated issues and of residual or subordinated interests f. Relevant information on how the principal or interest or other distributions on each class of security or tranche is calculated and payable, amortization, performance or similar triggers and their effects on the transaction, if triggered g. Details of calculation process and timing and process of payment h. Optional or mandatory redemption or termination, ability to redeem, call, pay or distribute on other dates i. Process if shortfalls j. Provisions for step up rates k. Payment, maturity and yield consideration and effect of prepayments on yield and weighted average yield l. Details of cross collateralization or cross default provisions m. Details of voting rights and entitlements of each class of investors in relation to amendment of documentation, waivers, changes in trustees, etc 		
<p>Credit rating</p> <p>Provide details of:-</p> <ul style="list-style-type: none"> a. Is rating required for various class or classes or tranches 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> b. Is minimum acceptable rating conditions of issue and offer and if so the minimum rating for specific classes and/or tranches c. Acceptable rating agency d. Arrangements for ongoing monitoring of securities by rating agency and obligations of parties to provide information, submit reports and pay rating fees e. Rating report should clearly specify what if any due diligence or verification the rating agency has undertaken of the data or information provided to it f. Any party to the transaction should disclose if; <ul style="list-style-type: none"> i. It has obtained a preliminary rating from another rating agency ii. An agency has declined to rate the transaction or any class or tranche of the issue g. Specific statement should be included in the document explaining that the rating is not a recommendation to buy or sell or hold securities. That the rating might be subject to revision or withdrawal at any time by the assigning rating agency and that each offer should be evaluated independently of any rating 		
9. Structure of the Transaction		
This is to include key elements of the structure of the transaction and incorporate key disclosures on the following.		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> a. Flow of funds. b. Distribution frequency and cash management c. Fees and expenses and deductions payable to any party. d. Excess of cash flow. e. Prepayment, maturity and yield considerations. f. Ability to draw credit enhancements and/or liquidity lines; and g. Option of mandatory redemptions or termination 		
<p>Where the structure utilizes master trust or a similar structure then there should be included a clear disclosure of the fact that additional securities can be issued backed by a common pool of assets. Sufficient disclosures should be made regarding:</p> <ul style="list-style-type: none"> a. Potential impact of the new issuance on existing investors; b. Any cross collateralization c. Priority as between different issues d. Method of allocation of cash flow, expenses and losses e. Consent required to additional issuance f. Conditions, if any, required to be met prior to additional issuance; and g. Independent verification, if any, required that conditions met prior to new issuance. 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
10. Credit Enhancement and Other Support, Including Certain Derivative Instruments		
Provide a narrative description of the credit enhancements and other supporting elements forming part of the transaction		
<p>Where the enhancement or support is provided by an external third party then adequate information on the third party should be disclosed.</p> <p>It should be clear for whose benefit a facility can be drawn and the implications for each class of investors.</p> <p>Where applicable details should be included of the credit rating of any provider of credit enhancements as well as any conditions on the ability to draw on any credit enhancement</p>		
<p>The following information on derivative instruments should be provided:</p> <ul style="list-style-type: none"> a. A narrative description of the instruments, b. A description of how the derivative would operate in the structure of the transaction and detail the circumstances in which it can be utilised. c. Provide financial data and details of any credit rating of the provider of the derivative sufficient for the party to make an 		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>assessment of the providers' capacity to make a payment if required to do so.</p> <p>d. Details of any potential liability for the SPV arising out of the derivative transaction.</p> <p>e. Details of the impact, if any, of the derivative on the cash flows of the transaction e.g. where earnings are brought forward or deferred.</p>		
11. Risk Factors Key Assumptions Underlying The Assumed Cash Flows And Sensitivity Analysis		
<p>It should be made clear that the only recourse that investors have for payment is to the assets of the SPV including any credit enhancement and that there is no recourse to the seller or any other party except for breach of fiduciary or contractual duties, fraud, misconduct or breach of representation, covenant or warranty.</p>		
<p>Particular structure, assets and issue.</p> <p>There should be disclosed in a concise manner the key material risks.</p> <p>a. Focus should be, as well as on generic and common risks, on the risks of the specific transaction,</p> <p>b. The disclosure should clearly set out all relevant credit, legal, structural, regulatory and documentation risks faced by investors in various classes of securities,</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<ul style="list-style-type: none"> c. The document should be structured to divide up risks into different categories and where possible the potential impact of the risks should be quantified, d. Where appropriate sensitivity analysis should be included and the use of graphs to illustrate should be considered, e. Emphasis should be on illustrating the risks of the particular transaction and the type of assets backing the securities rather than extensive discussion of generic risks;and f. Where the transfer of the assets has not been via a legal assignment the risks associated with an equitable assignment should be clearly set out together with what searches have been conducted and/or other actions taken to mitigate these risks both initially and on an ongoing basis as the assets the subject of the securitisation revolve 		
12. Markets And Liquidity Factors & Restrictions If Any On The Sale Or Transfer Of The Asset Backed Securities		
<p>Details on the restrictions, if any, on the sale or transfer of the ABS securities.</p> <p>Requirements as to listing, if an unrestricted offer, should be included including dates for listing and the exchange for listing.</p> <p>For a restricted offer detail should be included of any entities providing liquidity or on OTC trading a potential.</p>		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
Specific reference should be made to the market and liquidity risks which are not addressed by credit or structural enhancements or the quality of the underlying assets.		
13. Security over Assets of SPV		
Where security (e.g. by a charge or mortgage) is provided over the assets of the SPV to support payments due to asset backed security investors or any class or group of investors then details of the nature of the security, registration, who is entitled under the security, the priority and ranking of parties and risks associated with the security (e.g. avoidance, preference, priority, being set aside etc.) should be set out. The role of the various parties in enforcing or calling on the security should be described		
The security should also be addressed in the legal opinion and any material issues raised in that opinion including risks should be set out in the Offering Memorandum. A cross reference to the legal opinion should also be included.		
14. Taxation, Imposts, Withholdings and Charges		
Disclose the taxation treatment of the transaction as a whole and of the income and expenses of the trust and attributable to the transaction and potentially impacting on available cash flows available to investors.		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>The disclosure should:</p> <ul style="list-style-type: none"> a. Address all relevant taxes, stamp duty, VAT and other imposts on the transactions, cash flows and documentation anticipated to be entered into or given effect to as part of the establishing, implementing and maintaining the operation of a securitisation transaction. b. State where any regulations have been specifically enacted or rulings obtained, c. Refer to the expert report attached to the offering document, and d. Provide an estimate of the impact of changes on the cash flows and the ability of the trust to make scheduled and timely payments. Where appropriate a sensitivity table might be included 		
<p>Separate from the taxation of the trust or the company SPV there should be discussion of the taxation treatment of cash flows and capital gains, or losses if any, in the hands of each class or type of investor.</p> <p>These issues should also be addressed in one of the legal, accounting or taxation opinions forming part of the offer document.</p>		
15. Legal Proceedings		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
<p>Include details of any legal proceeding involving the trust or the trustee in its capacity as trustee and of their possible impact on the transaction. Where appropriate, statements from the legal representatives conducting such proceedings or defence of such proceedings should provide an opinion for inclusion. Legal proceedings involving any party to the securitisation transaction should be addressed.</p>		
16. Reporting to Investors and Meetings		
<p>Include details of:</p> <ul style="list-style-type: none"> a. Annual and half-yearly reporting and accounts obligations, b. Periodic reports required and distribution timing and of who is responsible for the preparation and circulation, c. Continuous disclosure obligations under the Act, the regulations, the listing rules of the exchange and the transaction documentation. <p>Include details of meeting provisions for ABS holders which comply with the Guidance Note.</p>		
17. Expert Opinions, Related Party Transactions, Fees and Material Contracts		

Requirement	MET: Y/N	<i>Indicate the paragraph and page number of the information memorandum where the requisite disclosure has been made</i>
Provide a legal opinion in accordance with Appendix "D" of this Guidance Note.		
<p>Include other experts' reports as have been prepared for the purpose of the securitisation transaction and the preparation of this offering document.</p> <p>Taxation of the SPV should be addressed including access to deductions together with the accounting treatment of cash flows in the SPV.</p>		
Detail and affiliations, relationships and related party transactions and include details of the process set up to address such conflicting roles.		
Include details of experts and legal advisors, the fees payable to these parties and the relationships, if any, with any originator, seller, transferor or assignor of assets, any securitisation arranger or securitisation manager, any trustee, any servicer or alternative servicer, credit enhancers or providers of liquidity facilities, or underwriter.		
Include details of such material or contracts and if document is not annexed provide details of where inspection is available free of charge		



2. MINIMUM CONTENTS OF LEGAL OPINION

Note:

1. Where more than one legal jurisdiction is involved (e.g. origination of assets, jurisdiction of originator or sellers establishment or regulation of any parties with roles in the transaction) then an opinion will be required in respect of each jurisdiction.
2. The legal opinion contained in the offering memorandum shall be addressed to the trustee/s or the SPV (as appropriate to the structure) for the benefit of the trustee/s, the SPV if a company, and the investors in the asset backed securities and contain as appropriate to the nature of the assets backing the securities

Requirement	MET (Y/N)	Indicate the paragraph and page number where disclosure has been made
Details of the formation of the trust or company and express an opinion on the validity of the appointment of the trustee and the trust or the formation of the company SPV		
Confirmation that the terms of any trust deed and any trust and/or the memorandum and articles of association, shareholding and board comply with the requirements of the Act and this Guidance Note		
Details the legal nature of the sale, transfer or assignment of the assets or the origination of the assets to the trustee of the securitisation trust or to the company SPV, compliance with the requirements of the Act and Guidelines and outline what steps, if any, are still required in order to perfect the legal		

sale, transfer or assignment of the assets		
Opinion as to whether the sale, transfer or assignment to the trustee of the securitisation trust or the company SPV, constitutes a true sale which complies with the requirements of the Act and this Guidance Note and detail the grounds, if any, on which the sale, transfer or assignment could potentially be challenged by creditors or shareholders of the originator, seller, assignor or transferor		
Opinion on the validity of the origination of assets into the securitisation trust or the company SPV and in respect of any sale, transfer or assignment of the assets and the potential claims against the assets by parties other than the trustee or the investors in the asset backed securities as beneficiaries or creditors of the SPV trust		
Opinion on the validity of the registration (if required) and enforceability any charge given over the assets of the SPV to the security trustee		
Details of any notices, consents or approvals required by any regulator or other third party to the establishment of the trust or company SPV, the sale, transfer or assignment of the assets and any charge over the assets and confirm that such consents have been obtained and, if subject to conditions, that such conditions have been met;		
State what:		

<ul style="list-style-type: none"> a. provision of notices, consents, approvals, licences or registrations or filings or other like actions, if any, is required in respect of the various actions anticipated by the securitisation transaction or to give effect to the sale, transfer or assignment of assets or the provision of any credit enhancement, structural or liquidity support or risk management mechanism in relation to the securitisation transaction, b. whether these have been given, obtained, filed or undertaken, c. if any matters or actions are outstanding the impact of there not having been obtained or undertaken, the timescale for obtaining or completing all such actions and whether there are any impediments to obtaining consents or completing such actions, and d. the legal implications for investors in the asset backed securities of such consents not having been obtained or actions not having been completed 		
<p>Details of provisions in the memorandum and articles of association of a company SPV and the potential for parties (e.g. shareholders, non- securitisation creditors) to claim against the assets;</p>		
<p>Details of the due diligence which the party providing the opinion has conducted including searches of registers of e.g. title, mortgages, charges, bills of sale and the register maintained by the Authority in respect of filings made of summaries of assets securitised as required by Section 30Y</p>		

Detail the legal risks associated with the transaction and circumstances in which the validity of the sale, transfer or assignment of the assets, the establishment of the trust and SPV and the securitisation transaction when looked at in its entirety could be challenged or rendered void or invalid;		
Detail the security, if any, provided over the assets of the SPV, the legal nature of such security, in whose favour the security is held and by whom, whether registration, consent or approval is required and if so has this been obtained or how is it to be effected, any risks to investors associated with the granting of security including;- avoidance, invalidity, priority, claw-back, set-off etc.		
Comment on the implications of the securitisation transaction's documentation and the procedures provided for in relation to commingling, segregation of funds, charging of assets and the potential for setoffs or other third party claims and of the legal risks of such for investors in the asset backed securities		
<p>An opinion on the validity and the trustee's, or company SPV or note or security trustee's (and any successor), ability to enforce in its own name and without the need to either take action in the name of the originator, seller, transferor or assignor or to join any such person as a party to the action:</p> <p>a. rights in respect of the assets sold, transferred or assigned (e.g. where the assets are mortgages the ability to enforce the</p>		

<p>mortgage against the borrower or, if a lease receivable against the lessee); or</p> <p>b. under any guarantees, charges, security or other credit, structural or liquidity support, licence or concession agreement, forming part of the securitisation transaction or the transaction documentation</p>		
<p>Comment from a legal perspective the potential for third party claims against the assets and the implications of bankruptcy or insolvency of a seller or originator, a servicer or the securitisation trustee, note trustee or security trustee or securitisation manager, including the potential for claw back or a transaction being voided or challenged by creditors or shareholders of any party,</p>		
<p>Comment on the likelihood of recognition by the courts of the subordination of the claims of one class of investor in asset backed securities relative to another and by any residual beneficiary and of a court giving effect to the priority of payments provisions in the transaction documents</p>		
<p>Comment on the likelihood of recognition by the courts of the non-petition (i.e. provision in transaction documents by parties agreeing not to seek winding up of a company SPV by creditors), limited-recourse provisions and waterfall payment schedules</p>		
<p>Details of any additional matter which the credit rating agency has required to be addressed in the opinion provided to it to support the rating of the transaction</p>		

<p>Where the transaction assumes that there will be cash flows from future receivables comment on the ability to sell, transfer or assign future receivable in the particular jurisdiction and the legal risks, if any, associated with such a transaction,</p>		
<p>Where the transaction involves the issue of infrastructure backed securities detail which assets are assets of the trust and specifically comment on the:</p> <ul style="list-style-type: none"> a. enforceability of the concession agreement, stature or licence or other document or instrument supporting the right to conduct or to own, operate or undertake the service or the infrastructure related activity, b. nature of the assets from which it is assumed that the cash flows supporting the infrastructure backed securities arise and the trustee's and company SPV's rights and entitlements to receive such cash flows and to distribute the cash flows as provided for in the transaction documents, c. ability of the trustee to enforce its rights in respect of the assets of the securitisation trust, d. impact from a legal perspective on the cancellation of the concession agreement, licence or other right to operate the infrastructure; or of a breach of a law, material agreement of contract relating to the infrastructure supporting the cash flows of the securitisation transaction, or of the insolvency of a party to a material agreement or contract, and e. the potential for claims by third parties, 		



Specifically address issues relevant to the legal status and legal risks associated with the specific transaction,		
An opinion as to the stamp and other duty, charges or imposts applicable to the all aspects of the transaction and taxation implications (including, for investors, the SPV and the transfer of assets) except to the extent that the taxation aspects have been addressed in an opinion from a taxation law specialist,		
Comment on any other law or legal issue of material relevance to the transaction		
Details of or comments on any other matter required to be addressed by the guidelines		