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CASE MANAGEMENT CONFERENCE SET

AUG 13 2010 9⁰⁰ AM

DEPARTMENT 212

15 Attorneys for Plaintiff
16 Federal Home Loan Bank of San Francisco

17 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

19 FEDERAL HOME LOAN BANK OF SAN
20 FRANCISCO,

21 Plaintiff,

22 v.

23 DEUTSCHE BANK SECURITIES INC.;
24 DEUTSCHE ALT-A SECURITIES, INC.;
25 DB STRUCTURED PRODUCTS, INC.;
26 J.P. MORGAN SECURITIES, INC., F/K/A
27 BEAR, STEARNS & CO. INC.;
28 STRUCTURED ASSET MORTGAGE
INVESTMENTS II, INC.;
THE BEAR STEARNS COMPANIES, LLC,
F/K/A THE BEAR STEARNS
COMPANIES, INC.;
COUNTRYWIDE SECURITIES
CORPORATION;
CREDIT SUISSE SECURITIES (USA) LLC,
F/K/A CREDIT SUISSE FIRST BOSTON
LLC;
RBS SECURITIES, INC., F/K/A/
GREENWICH CAPITAL MARKETS, INC.;

No. CGC - 10 - 497839

COMPLAINT FOR RESCISSION AND
DAMAGES FOR:

- (1) VIOLATIONS OF §§ 25401 AND 25501 OF THE CALIFORNIA CORPORATE SECURITIES ACT;
- (2) VIOLATIONS OF §§ 11 AND 15 OF THE SECURITIES ACT OF 1933;
- (3) VIOLATIONS OF §§ 12(a)(2) AND 15 OF THE SECURITIES ACT OF 1933;
- (4) VIOLATIONS OF §§ 1572 AND 1710 OF THE CALIFORNIA CIVIL CODE (NEGLIGENT MISREPRESENTATION); and

COMPLAINT

1 RBS ACCEPTANCE, INC., F/K/A
2 GREENWICH CAPITAL ACCEPTANCE,
3 INC.;
4 RBS HOLDINGS USA, INC., F/K/A
5 GREENWICH CAPITAL HOLDINGS,
6 INC.;
7 MORGAN STANLEY & CO.
8 INCORPORATED;
9 UBS SECURITIES, LLC;
10 MORTGAGE ASSET SECURITIZATION
11 TRANSACTIONS, INC.;
12 MERRILL LYNCH, PIERCE, FENNER &
13 SMITH, INC.; AND,
14 DOES 1-50,

15 Defendants.

**(5) RESCISSION OF CONTRACTS
UNDER § 1689 ET SEQ. OF THE
CALIFORNIA CIVIL CODE**

16 Plaintiff, FEDERAL HOME LOAN BANK OF SAN FRANCISCO (referred to in this
17 complaint as **the Bank**), alleges, based upon its continuing investigation, including the continuing
18 investigation of its counsel, that the following allegations and other factual contentions have
19 evidentiary support or, where specifically identified as being pled "on information and belief," are
20 likely to have evidentiary support after a reasonable opportunity for further investigation or
21 discovery.

NATURE OF THIS ACTION

22 1. This is an action for rescission and damages as a result of the violation by the
23 Defendants of the California Corporate Securities Act, the federal Securities Act of 1933, the
24 California Civil Code, and the common law. As alleged in detail below, the Defendants sold or
25 issued to the Bank 36 certificates in 33 securitization trusts backed by residential mortgage loans.
26 The Bank paid more than \$5.4 billion for those certificates. When they offered and then sold
27 these certificates to the Bank, the Defendants made numerous statements to the Bank about the
28 certificates and the credit quality of the mortgage loans that backed them. On information and
belief, many of those statements were untrue. Moreover, on information and belief, the
Defendants omitted to state many material facts that were necessary in order to make their
statements not misleading. For example, the Defendants made untrue statements, or omitted
important information, about such material facts as the percentage of equity that borrowers had in

1 6. Defendant **DB Structured Products, Inc.** is a corporation organized under the
2 laws of Delaware. DB Structured Products, Inc. controls or controlled Deutsche Alt-A. Under
3 Section 15 of the Securities Act of 1933, 15 U.S.C. § 77o, DB Structured Products, Inc. therefore
4 is liable to the Bank jointly and severally with, and to the same extent as, Deutsche Alt-A.

5 7. Defendant J.P. Morgan Securities, Inc. (formerly known as Bear, Stearns & Co.
6 Inc. and referred to as **Bear Stearns**) is a corporation organized under the laws of Delaware. Bear
7 Stearns sold the Bank four of the certificates.

8 8. Defendant Structured Asset Mortgage Investments II, Inc. (referred to as **SAMI II**)
9 is a corporation organized under the laws of Delaware. SAMI II was the issuer of three of the
10 certificates that Bear Stearns sold to the Bank.

11 9. Defendant The Bear Stearns Companies, LLC (formerly known as and referred to
12 as **The Bear Stearns Companies, Inc.**) is a limited liability company organized under the laws
13 of Delaware. The Bear Stearns Companies, Inc. controls or controlled SAMI II. Under Section 15
14 of the Securities Act of 1933 The Bear Stearns Companies, Inc. therefore is liable to the Bank
15 jointly and severally with, and to the same extent as, SAMI II.

16 10. Defendant Countrywide Securities Corporation (referred to as **Countrywide**) is a
17 corporation organized under the laws of California. Countrywide sold the Bank two of the
18 certificates.

19 11. Defendant Credit Suisse Securities (USA) LLC (formerly known as Credit Suisse
20 First Boston LLC and referred to as **Credit Suisse**) is a limited liability company organized under
21 the laws of Delaware. Credit Suisse sold the Bank eight of the certificates.

22 12. Defendant RBS Securities, Inc. (formerly known as Greenwich Capital Markets,
23 Inc. and referred to as **Greenwich Capital**) is a corporation organized under the laws of
24 Delaware. Greenwich Capital sold the Bank three of the certificates.

25 13. Defendant RBS Acceptance, Inc. (formerly known as Greenwich Capital
26 Acceptance, Inc. and referred to as **Greenwich Capital Acceptance**) is a corporation organized
27 under the laws of Delaware. Greenwich Capital Acceptance was the issuer of the three certificates
28 that Greenwich Capital sold to the Bank.

1 jurisdiction over the Bank's causes of action for violation of Sections 11, 12(a)(2), and 15 of that
2 Act, 15 U.S.C. § 771.

3 21. Under Section 22(a) of the Securities Act of 1933, "no case arising under this title
4 and brought in any State court of competent jurisdiction shall be removed to any court of the
5 United States." Because its activities are not localized in one state, the Bank is not a citizen of any
6 state under 28 U.S.C. § 1332(c), so the Federal courts have no jurisdiction of this action under 28
7 U.S.C. § 1332(a). This action is not removable to Federal court.

8 22. This Court has personal jurisdiction over Deutsche, DB Structured Products, Inc.,
9 Bear Stearns, Countrywide, Credit Suisse, Greenwich Capital, Morgan Stanley, UBS, and Merrill
10 Lynch because each of them is registered to do business in California. This Court has personal
11 jurisdiction over all of the Defendants because they offered and sold the certificates to the Bank
12 "in California" within the meaning of Section 25008 of the California Corporate Securities Act.

13 23. Venue is proper in this County because the Defendants offered and sold the
14 certificates to the Bank in this County, and because the violations of law alleged in this
15 complaint, including the making of materially untrue or misleading statements, occurred in this
16 County.

17 SECURITIZATION OF MORTGAGE LOANS

18 24. The securities that the Defendants sold the Bank are so-called **asset-backed**
19 **securities**, or **ABS**, created in a process known as **securitization**. Securitization begins with loans
20 (for example, loans secured by mortgages on residential properties, credit card loans, etc.) on
21 which the borrowers are to make payments, usually monthly. The entity that makes the loans is
22 known as the **originator** of the loans. The process by which the originator decides whether to
23 make particular loans is known as the **underwriting** of loans. In the loan underwriting process,
24 the originator applies various criteria to try to ensure that the loan will be repaid. Until the loans
25 are securitized, the borrowers on the loans make their loan payments to the originator.
26 Collectively, the payments on the loans are known as the **cash flow** from the loans.

27 25. In a securitization, a large number of loans, usually of a similar type, are grouped
28 into a **collateral pool**. The originator of those loans sells them (and, with them, the right to

1 receive the cash flow from them) to a **trust**. The trust pays the originator cash for the loans. The
2 trust raises the cash to pay for the loans by selling **bonds**, usually called **certificates**, to investors
3 such as the Bank. Each certificate entitles its holder to an agreed part of the cash flow from the
4 loans in the collateral pool.

5 26. Thus, schematically, there are six steps in a securitization.

- 6 1. Investors pay money to the trust.
- 7 2. The trust issues certificates to the investors.
- 8 3. The trust pays money to the originator.
- 9 4. The originator sells to the trust the loans in the collateral pool, including
10 the right to receive the cash flow from those loans.
- 11 5. The trust collects cash flow from payments on the loans in the
12 collateral pool.
- 13 6. The trust pays each certificateholder its agreed part of the cash flow that
14 the trust receives from payments on loans in the collateral pool.

15 *

16 27. A few other aspects of securitization are significant to the allegations of this
17 complaint. Each securitization has a sponsor, the prime mover of the securitization. Sometimes
18 the sponsor is the originator or an affiliate. In originator-sponsored securitizations, the collateral
19 pool usually contains loans made by the originator that is sponsoring the securitization. Other
20 times, the sponsor may be an investment bank, which purchases loans from one or more
21 originators, aggregates them into a collateral pool, sells them to a trust, and securitizes them. The
22 sponsor arranges for title to the loans to be transferred to an entity known as the **depositor**, which
23 then transfers title to the loans to the trust.

24 28. The obligor of the certificates in a securitization is the trust that purchases the
25 loans in the collateral pool. Because a trust has no assets other than the loans that it purchased, it
26 may not be able to satisfy the liabilities of an issuer of securities (the certificates). The law
27 therefore treats the depositor as the **issuer** of an asset-backed certificate.

28 *

29. **Securities dealers**, like the eight that sold the certificates to the Bank, play a
critical role in the process of securitization. They underwrite the sale of the certificates, that is,

1 they purchase the certificates from the trust and then sell them to investors. Equally important,
2 securities underwriters provide to potential investors the information that they need to decide
3 whether to purchase certificates.

4 30. Because the cash flow from the loans in the collateral pool of a securitization is the
5 source of funds to pay the holders of the certificates issued by the trust, the credit quality of those
6 certificates is dependent upon the credit quality of the loans in the collateral pool. The most
7 important information about the credit quality of those loans is contained in the files that the
8 originator develops while making the loans, the so-called loan files. For residential mortgage
9 loans, each loan file normally contains the information in such important documents as the
10 borrower's application for the loan, credit reports on the borrower, and an appraisal of the
11 property that will secure the loan.

12 31. Collateral pools usually include thousands of loans. Instead of potential investors
13 reviewing thousands of loan files, the securities firms that will underwrite the sale of the
14 certificates in a securitization are responsible for gathering, verifying, and presenting to potential
15 investors the information about the credit quality of the loans that will be deposited into the trust.
16 As will be alleged in detail below, the information that the Defendants presented to the Bank
17 about the credit quality of the loans in the collateral pools of the 33 trusts contained many
18 statements that were material to the credit quality of those loans, but, on information and belief,
19 were untrue or misleading. Moreover, on information and belief, the Defendants were negligent
20 in making those untrue or misleading statements to the Bank.

21 **TOLLING OF THE STATUTE OF LIMITATIONS**

22 32. The Bank is a member of the proposed classes in *New Jersey Carpenters Vacation*
23 *Fund v. The Royal Bank of Scotland Group, PLC*, United States District Court for the Southern
24 District of New York No. 08-cv-05093, filed on May 14, 2008, *Massachusetts Bricklayers &*
25 *Masons Trust Funds v. Deutsche Alt-A Securities, Inc.*, United States District Court for the
26 Eastern District of New York No. 08-cv-3178, filed on June 27, 2008, *New Jersey Carpenters*
27 *Health Fund v. Bear Stearns Mortgage Funding Trust 2006-ARI*, United States District Court for
28 the Southern District of New York No. 08-cv-08093, filed on August 20, 2008, and *In Re*

1 *IndyMac Mortgage Backed Securities Litigation*, United States District Court for the Southern
2 District of New York No. 09-cv-04583, filed on May 14, 2009, the pendency of which actions has
3 tolled the running of the statute of limitations on causes of action alleged in this complaint.

4 **THE SALES OF THE CERTIFICATES**

5 33. The Defendants sold to the Bank 36 certificates in Securitizations Nos. 1 through
6 33. Details of each trust and each certificate are stated in Item 33 of Schedules 1 through 33 of
7 this complaint, which correspond to Securitizations Nos. 1 through 33. The Bank incorporates
8 into this paragraph 33, and alleges as though fully set forth in this paragraph, the contents of Item
9 33 of the schedules.

10 **MATERIAL UNTRUE OR MISLEADING STATEMENTS**

11 **ABOUT THE CERTIFICATES**

12 34. In connection with their offers and sales of the certificates to the Bank, each of the
13 eight dealers sent numerous documents to the Bank at its office in San Francisco County. In each
14 case, these documents included a term sheet, the prospectus supplement for the certificates that
15 was filed with the SEC, drafts of some of the statistical tables to be included in the prospectus
16 supplement, and a computer model of the financial structure of the securitization. In each of these
17 documents, each dealer made statements of material fact about the certificate that it offered and
18 sold to the Bank.¹ A true copy of the prospectus supplement for each securitization is available
19 from the Securities Exchange Commission website.²

20 35. On information and belief, many of the statements of material fact that each dealer
21 made in these documents were untrue or misleading. These untrue or misleading statements
22 included the following.

23
24 _____
25 ¹ Two of the certificates that the Bank purchased were certificates in re-securitizations of existing
26 certificates of mortgage-backed securities. In connection with the sale of those two certificates, the dealers
27 sent to the Bank a private placement memorandum for the re-securitization and prospectus supplements
28 filed with the SEC for the underlying securitizations. Details of the re-securitizations are included in their
respective schedules.

² A uniform resource locator for each prospectus supplement is included in Item 33 of
each schedule.

1 **A. Untrue or Misleading Statements about the Loan-to-Value Ratios (LTVs) and**
2 **Combined Loan-to-Value Ratios (CLTVs) of the Mortgage Loans in the Collateral**
3 **Pools of these Securitizations**

4 **1. The materiality of LTVs and CLTVs**

5 36. The loan-to-value ratio of a mortgage loan, or LTV, is the ratio of the amount of
6 the mortgage loan to the value of the mortgaged property when the loan is made. For example, a
7 loan of \$300,000 secured by property valued at \$500,000 has an LTV of 60%; a loan of \$450,000
8 on the same property has an LTV of 90%. LTV is one of the most important measures of the risk
9 of a mortgage loan, and the LTVs of the mortgage loans in the collateral pool of a securitization
10 are likewise one of the most important measures of the risk of certificates sold in that
11 securitization. LTV predicts the likelihood of default (the lower the LTV, the less likely that a
12 decline in the value of the property will wipe out the owner's equity, and thereby give the owner
13 an incentive to stop making mortgage payments and abandon the property). LTV also predicts the
14 severity of loss in the event of default (the lower the LTV, the greater the "cushion," so the
15 greater the likelihood that the proceeds of foreclosure will cover the unpaid balance of the
16 mortgage loan).

17 37. The denominator in LTV (value of the mortgaged property) is determined by
18 either an appraisal or by the purchase price of the property. In a refinancing or home-equity loan,
19 there is no purchase price to use as the denominator. For a purchase, the agreed price may be
20 higher than the value of the property, and an appraisal should ensure that the LTV is calculated
21 using the actual value as the denominator. Sometimes in a purchase, the denominator is the lower
22 of the purchase price or the appraised value.

23 38. Thus, an accurate appraisal is essential to an accurate LTV. In particular, a too-
24 high appraisal will understate, sometimes greatly, the risk of a loan. To return to the example
25 above, if the property whose actual value is \$500,000 is appraised instead at \$550,000, then the
26 LTV of the \$300,000 loan falls from 60% to 54.5%, and the LTV of the \$450,000 loan falls from
27 90% to 81.8%. In either case, the LTV based on the incorrect appraisal understates the risk of the
28 loan. It is also important to note that, the higher the correct LTV, the more the risk is understated
by an incorrect appraisal of any given magnitude. In the example above, there is little difference

1 in the risk of a loan with an LTV of 60% and one with an LTV of 54.5%; both are safe loans with
2 large equity cushions. But there is a very large difference in the risk of a loan with an LTV of
3 90% and one with an LTV of 81.8%. In the latter case, there is an equity cushion of 18.2% of the
4 value of the property, in the former, only 10%, just over half as much. Thus, an appraisal that
5 overvalues a property by just 10% produces an overstatement of more than 80% in the
6 homeowner's equity.

7 39. LTV is an important measure of the risk of a mortgage loan, and the LTVs of the
8 mortgage loans in the collateral pool of a securitization are likewise an important measure of the
9 risk of certificates sold in that securitization. LTV helps to predict both the likelihood of default
10 and the severity of loss in case of default. A reasonable investor considers LTV important to the
11 decision whether to purchase a certificate in a securitization of mortgage loans. Even small
12 differences in the weighted average LTV of the mortgage loans in the collateral pool of a
13 securitization have a significant effect on the risk of each certificate sold in that securitization,
14 and thus, are important to the decision of a reasonable investor whether to purchase any such
15 certificate.

16 *

17 40. Residential properties can secure more than one mortgage loan, a senior (or first)
18 and one or more junior mortgage loans. The combined loan-to-value ratio (CLTV) is the ratio of
19 the total outstanding principal balance of all loans (mortgages or home equity lines of credit) that
20 the property secures to the appraised value of mortgaged property. To return to the example in
21 paragraph 36, if a property valued at \$500,000 secures a first mortgage loan of \$300,000 and a
22 second mortgage loan of \$50,000, then it has a CLTV of 70%. If the first mortgage loan on the
23 same property is \$450,000 and the second is \$50,000, then the CLTV is 100%.

24 41. Like LTV, CLTV is an important measure of the risk of a mortgage loan, and the
25 CLTVs of the mortgage loans in the collateral pool of a securitization are likewise an important
26 measure of the risk of certificates sold in that securitization. CLTV helps to predict the likelihood
27 of default of a mortgage loan. A reasonable investor considers CLTV important to the decision
28 whether to purchase a certificate in a securitization of mortgage loans. Even small differences in

1 the weighted average CLTV of the mortgage loans in the collateral pool of a securitization have a
2 significant effect on the risk of each certificate sold in that securitization, and thus, are important
3 to the decision of a reasonable investor whether to purchase any such certificate.

4 **2. Untrue or misleading statements about the LTVs and CLTVs of the mortgage**
5 **loans in the collateral pools of these securitizations**

6 42. In the prospectus supplement and other documents they sent to the Bank, the
7 Defendants made statements about the LTVs and CLTVs of the mortgage loans in the collateral
8 pools of these securitizations. Some of these statements were in so-called collateral stratification
9 tables. Those tables divided the mortgage loans into several categories of LTV and CLTV and
10 presented quantitative information about the loans in each category. All of the statements in each
11 prospectus supplement about the LTVs and CLTVs of the mortgage loans in the collateral pools
12 of Securitization Nos. 1 through 33 are incorporated herein by reference.

13 43. On information and belief, these statements were materially untrue or misleading
14 because (i) the stated LTVs and CLTVs of a significant number of those mortgage loans were
15 lower than the actual LTVs or CLTVs; (ii) the Defendants omitted to state that the appraisals of a
16 significant number of the properties that secured the mortgage loans in the collateral pools were
17 biased upward, so that stated LTVs and CLTVs based on those appraisals were lower than the
18 true LTVs and CLTVs of those mortgage loans; or (iii) the stated CLTVs did not reflect second
19 mortgages on a significant number of the properties that secured the mortgage loans in the
20 collateral pools.

21 44. Since the dates of Securitizations Nos. 1 through 33, loans in the collateral pools
22 of each securitization have been foreclosed upon. In nearly all of the pools, the properties that
23 secured those foreclosed loans were sold for much less than the value ascribed to those same
24 properties in the LTV and CLTV data reported in the prospectus supplements and other
25 documents that the Defendants sent to the Bank. The large difference cannot be explained by the
26 declines in house prices in the areas in which those properties were located, even after taking
27 account of the fact that properties in foreclosure sometimes sell for less than their fair market
28 value. Analysis of data in an industry-standard database of securitized mortgage loans shows, for

1 almost all of Securitizations Nos. 1 through 33, that the differences between the values ascribed to
2 these properties and the prices at which the properties were sold in foreclosure are significantly
3 greater than the declines in house prices in the same geographical areas over the same periods
4 (that is, between the making of each mortgage loan and the corresponding foreclosure sale). This
5 unexplained difference is evidence that the values ascribed to those properties, and to all
6 properties in the collateral pools, in the LTV and CLTV data reported in the prospectus
7 supplements and other documents that the Defendants sent to the Bank were too high, the
8 resulting LTVs and CLTVs were too low, and thus that the statements in the prospectus
9 supplements and other documents sent to the Bank about the LTVs and CLTVs were untrue or
10 misleading. The results of this analysis for nearly all of Securitizations Nos. 1 through 33 are
11 stated in Item 44 of Schedules 1 through 33 of this complaint. The Bank incorporates into this
12 paragraph 44, and alleges as though fully set forth in this paragraph, the contents of Item 44 of the
13 schedules.

14 45. On information and belief, by these untrue and misleading statements, the
15 Defendants materially understated the risk of every certificate that any of them sold to the Bank.

16 **B. Untrue or Misleading Statements about the Occupancy Status of the Properties That**
17 **Secured the Mortgage Loans in the Collateral Pools of these Securitizations**

18 **1. The materiality of occupancy status**

19 46. Residential real estate is usually divided into primary residences, second homes,
20 and investment properties. Mortgages on primary residences are less risky than mortgages on
21 second homes and investment properties.

22 47. Occupancy status (that is, whether the property that secures a mortgage is to be the
23 primary residence of the borrower, a second home, or an investment property) is an important
24 measure of the risk of a mortgage loan, and the percentage of loans in the collateral pool of a
25 securitization that are secured by mortgages on primary residences rather than on second homes
26 or investment properties is an important measure of the risk of certificates sold in that
27 securitization. Other things being equal, the higher the percentage of loans secured by primary
28 residences, the lower the risk of the certificates. A reasonable investor considers occupancy status

1 important to the decision whether to purchase a certificate in a securitization of mortgage loans.
2 Differences in the percentage of the mortgage loans in the collateral pool of a securitization that
3 are secured by mortgages on primary residences have a significant effect on the risk of each
4 certificate sold in that securitization and thus are important to the decision of a reasonable
5 investor whether to purchase any such certificate.

6 48. Because they are less risky than other mortgage loans, mortgage loans on primary
7 residences usually have more favorable terms, including lower interest rates, than mortgage loans
8 on second homes and investment properties. Applicants for loans on second homes and
9 investment properties therefore have an incentive to state that the property will be their primary
10 residence even when it will not.

11 **2. Untrue or misleading statements about the occupancy status of the properties**
12 **that secured the mortgage loans in the collateral pools of these securitizations**

13 49. In the prospectus supplements and other documents that they sent to the Bank, the
14 Defendants made statements about the occupancy status of the properties that secured the
15 mortgage loans in the collateral pool of this securitization. Some of these statements were in so-
16 called collateral stratification tables. Those tables divided the mortgage loans into several
17 categories of occupancy status and presented quantitative information about the loans in each
18 category. All of the statements in the prospectus supplement and other documents about the
19 occupancy status of the mortgage loans in the collateral pool of this securitization are
20 incorporated herein by reference.

21 50. On information and belief, these statements were materially untrue or misleading
22 because (i) the stated number of mortgage loans that were secured by primary residences was
23 higher than the actual number of loans in that category; (ii) the stated number of mortgage loans
24 that were secured by second homes was lower than the actual number of loans in that category;
25 (iii) the stated number of mortgage loans that were secured by investment properties was lower
26 than the actual number of loans in that category; or (iv) the Defendants omitted to state that the
27 occupancy status of a significant number of the properties that secured the mortgage loans in the
28 collateral pool was misstated because of fraud.

1 51. On information and belief, by these untrue and misleading statements, the
2 Defendants materially understated the risk of every certificate that any of them sold to the Bank.

3 **C. Failure to Disclose the Substantial Deterioration of LTV and Credit Score as**
4 **Predictors of the Performance of Mortgage Loans Securitized by the Defendant**
5 **Dealers**

6 52. Investors in mortgage-backed securities, including the Bank, rely extensively on
7 certain characteristics of the mortgage loans in the collateral pool of a securitization to predict the
8 performance of those loans and thereby to determine the risk both of those loans and of the
9 certificates sold in that securitization. Reasonable investors consider information about these
10 characteristics important to the decision whether to purchase a certificate in a securitization of
11 mortgage loans. Among the most important of these characteristics are LTV, described above,
12 and the credit score of the borrower.

13 53. In the prospectus supplements and other documents they sent to the Bank, the
14 Defendants made statements about the LTVs and credit scores of the mortgage loans in the
15 collateral pools of each of Securitizations Nos. 1 through 35. All of those statements are
16 incorporated herein by reference.

17 54. During the time before each of Securitizations Nos. 1 through 35, the power of
18 LTV and credit score to predict the performance of otherwise similar mortgage loans deteriorated,
19 even after taking account of declines in house prices and other macroeconomic factors. Put
20 somewhat differently, loans that were very similar in these characteristics performed worse if the
21 loans were made in 2007 than if they were made in 2006, worse if made in 2006 than if made in
22 2005, etc.

23 55. On information and belief, all statements that the Defendants made about the
24 LTVs and credit scores of the mortgage loans in the collateral pools of these securitizations were
25 misleading because the Defendants omitted to state that, in the time before these securitizations,
26 loans that they or their affiliates securitized were nearly constant in reported weighted-average
27 LTV and weighted-average credit score, yet performed worse if the loans were made in 2007 than
28 if they were made in 2006, worse if made in 2006 than if made in 2005, etc.

1 56. On information and belief, by these misleading statements, the Defendants
2 materially understated the risk of every certificate that any of them offered and sold to the Bank.

3 **D. Untrue or Misleading Statements about the Underwriting Guidelines of the**
4 **Originators of the Mortgage Loans in the Collateral Pools of these Securitizations**

5 1. **The materiality of underwriting guidelines and the extent of compliance with**
6 **them**

7 57. Most or all originators of mortgage loans had written guidelines by which they
8 evaluated applications for loans. An originator's guidelines, and the extent to which the originator
9 complies with them, are important indicators of the risk of mortgage loans made by that
10 originator and of certificates sold in a securitization in which mortgage loans made by that
11 originator are a substantial part of the collateral pool. A reasonable investor considers the
12 underwriting guidelines of each originator of a substantial part of the mortgage loans in the
13 collateral pool of a securitization, and the extent to which the originator complied with its
14 guidelines, important to the decision whether to purchase a certificate in that securitization.
15 Differences in those guidelines or in the extent to which an originator complied with them have a
16 significant effect on the risk of each certificate sold in that securitization and thus are important to
17 the decision of a reasonable investor whether to purchase any such certificate.

18 2. **Untrue or misleading statements by the Defendants about the underwriting**
19 **guidelines of the originators of the mortgage loans in the collateral pools of**
20 **these securitizations and about the extent of their compliance with those**
21 **guidelines**

22 58. In the prospectus supplements, the Defendants made statements about the
23 underwriting guidelines of the originators of the mortgage loans in the collateral pools of
24 Securitizations Nos. 1 through 33. Those statements are described in Item 58 of Schedules 1
25 through 33 of this complaint. The Bank incorporates into this paragraph 58, and alleges as though
26 fully set forth in this paragraph, the contents of Item 58 of the schedules.

27 59. On information and belief, these statements were materially untrue or misleading
28 because the Defendants omitted to state that (a) the originators were making frequent, and
increasingly frequent, exceptions to those underwriting guidelines; (b) the originators were
making frequent, and increasingly frequent, exceptions to those underwriting guidelines when no

1 compensating factor was present; and (c) the originators were failing frequently, and increasingly
2 frequently, to follow quality-assurance practices intended to detect and prevent fraud.

3 60. On information and belief, by these untrue and misleading statements, the
4 Defendants materially understated the risk of every certificate that any of them offered and sold to
5 the Bank.

6 **FIRST CAUSE OF ACTION**

7 **UNTRUE OR MISLEADING STATEMENTS IN THE SALE OF SECURITIES**
8 **(Cal. Corporations Code §§ 25401, 25501)**

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
Deutsche	Securitizations Nos. 1 through 4
Bear Stearns	Securitizations Nos. 5, 7, and 8
Credit Suisse	Securitizations Nos. 11 through 16
Greenwich Capital	Securitizations Nos. 18 and 19
Morgan Stanley	Securitizations Nos. 20 and 21
UBS	Securitizations Nos. 22 through 27
Merrill Lynch	Securitizations Nos. 29 through 33

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14 61. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1
15 through 60.

16 62. In doing the acts alleged, the Defendants named above violated Sections 25401
17 and 25501 of the California Corporations Code in the sale to the Bank of the certificates in the
18 securitizations referred to above.

19 63. This action is brought within two years after the discovery of the untrue and
20 misleading statements in the prospectus supplements and other documents that the Defendants
21 sent to the Bank, and within five years of the Bank's purchase of these certificates, or within any
22 applicable period as tolled by the pendency of the class actions referred to above or others.
23 Despite having exercised reasonable diligence, the Bank did not and could not reasonably have
24 discovered earlier the untrue and misleading statements in the prospectus supplements and other
25 documents.

26 64. Under Cal. Corp. Code §§ 25401 and 25501, the Bank is entitled to recover the
27 consideration that it paid for each of these certificates, plus interest at the legal rate from the date
28 of purchase to the date on which it recovers the purchase price, minus the amount of income it has

1 received on the certificate. Pursuant to § 25501, the Bank will tender each certificate before entry
2 of judgment.

3 **SECOND CAUSE OF ACTION**

4 **UNTRUE OR MISLEADING STATEMENTS**
5 **IN REGISTRATION STATEMENTS**
6 **(Section 11 of the Securities Act of 1933)**

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
Deutsche	Securitization No. 4
Deutsche Alt-A	Securitization No. 4
Bear Stearns	Securitizations Nos. 7 and 8
SAMI II	Securitizations Nos. 7 and 8
Credit Suisse	Securitizations Nos. 11 through 16
Greenwich Capital	Securitizations Nos. 18 and 19
Greenwich Capital Acceptance	Securitizations Nos. 18 and 19
Morgan Stanley	Securitization No. 21
Merrill Lynch	Securitizations Nos. 32 and 33

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12 65. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1
13 through 64.

14 66. In doing the acts alleged, the Defendants named above violated Section 11 of the
15 Securities Act of 1933 in the sale to the Bank of the certificates in the securitizations referred to
16 above.

17 67. The certificates in these securitizations were issued pursuant or traceable to
18 registration statements. Details of each registration statement and each certificate are stated in
19 Item 33 of Schedules 1 through 33.

20 68. Deutsche Alt-A, SAMI II, and Greenwich Capital Acceptance are depositors of the
21 securitizations listed above and therefore are the issuers of the certificates in those securitizations.
22 Deutsche, Bear Stearns, Credit Suisse, Greenwich Capital, Morgan Stanley, and Merrill Lynch
23 acted as underwriters of the certificates listed above.

24 69. This action is brought within one year after the discovery of the untrue and
25 misleading statements in the registration statements, as amended by the prospectus supplements,
26 and within three years of these certificates having been sold to the public, or within any
27 applicable period as tolled by the pendency of the class actions referred to above or others.
28

1 Despite having exercised reasonable diligence, the Bank did not and could not reasonably have
2 discovered earlier the untrue and misleading statements in the prospectus supplements.

3 70. The prospectus supplements contained untrue statements of material fact and
4 omitted to state material facts necessary in order to make the statements, in the light of the
5 circumstances under which they were made, not misleading. These untrue and misleading
6 statements included all of the untrue and misleading statements described in paragraphs 34
7 through 60.

8 71. The Bank expressly excludes from this cause of action any allegation that could be
9 construed as alleging fraud or intentional or reckless conduct. This cause of action is based solely
10 on claims of strict liability or negligence under the Securities Act of 1933.

11 72. Based upon the truth of the statements made in the prospectus supplements, the
12 Bank purchased these certificates.

13 73. The Bank did not know when it purchased these certificates that the statements in
14 the prospectus supplements were untrue or misleading.

15 74. The Bank has suffered a loss on each of these certificates.

16 75. The Bank is entitled to recover damages as described in 15 U.S.C. § 77k(e).

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THIRD CAUSE OF ACTION

**UNTRUE OR MISLEADING STATEMENTS IN THE SALE OF SECURITIES
(Section 12(a)(2) of the Securities Act of 1933)**

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
Deutsche	Securitization No. 4
Deutsche Alt-A	Securitization No. 4
Bear Stearns	Securitized Nos. 7 and 8
SAMI II	Securitized Nos. 7 and 8
Credit Suisse	Securitized Nos. 11 through 16
Greenwich Capital	Securitized Nos. 18 and 19
Greenwich Capital Acceptance	Securitized Nos. 18 and 19
Morgan Stanley	Securitization No. 21
Merrill Lynch	Securitized Nos. 32 and 33

76. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1 through 75.

77. In doing the acts alleged, the Defendants named above violated Section 12(a)(2) of the Securities Act of 1933 in the sale to the Bank of the certificates in the securitizations referred to above.

78. This action is brought within one year after the discovery of the untrue and misleading statements in the prospectus supplements, and within three years of these certificates having been sold to the public, or within any applicable period as tolled by the pendency of the class actions referred to above or others. Despite having exercised reasonable diligence, the Bank did not and could not reasonably have discovered earlier the untrue and misleading statements in the prospectus supplements.

79. Deutsche Alt-A, SAMI II, and Greenwich Capital Acceptance are depositors of the securitizations listed above and therefore are the issuers of the certificates in those securitizations. In connection with the offer and sale of these certificates to the Bank, the issuers also made all of the statements of material fact about these certificates that were in the prospectus supplement and other documents that the dealers sent to the Bank.

1 80. The Bank expressly excludes from this cause of action any allegation that could be
2 construed as alleging fraud or intentional or reckless conduct. This cause of action is based solely
3 on claims of strict liability or negligence under the Securities Act of 1933.

4 81. The Defendants named above, for their own financial gain, solicited the Bank to
5 purchase these certificates, and sold the certificates to the Bank, by means of the prospectus
6 supplements.

7 82. Based upon the truth of the statements made in the prospectus supplements, the
8 Bank purchased these certificates.

9 83. The prospectus supplements contained untrue statements of material fact and
10 omitted to state material facts necessary in order to make the statements, in the light of the
11 circumstances under which they were made, not misleading.

12 84. The Bank did not know when it purchased these certificates that the statements in
13 the prospectus supplements were untrue or misleading.

14 85. The Bank has suffered a loss on each of these certificates.

15 86. The Bank is entitled to recover the consideration that it paid for each of these
16 certificates, plus interest at the legal rate from the date of purchase to the date on which it
17 recovers the purchase price, minus the amount of income it has received on each certificate. The
18 Bank will tender each certificate before entry of judgment.

19 **FOURTH CAUSE OF ACTION**

20 **LIABILITY OF CONTROLLING PERSON**
21 **(Section 15 of the Securities Act of 1933)**

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
DB Structured Products, Inc.	Securitization No. 4
The Bear Stearns Companies, Inc.	Securitizations Nos. 7 and 8
Greenwich Capital Holdings, Inc.	Securitizations Nos. 18 and 19

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25 87. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1
26 through 86.
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1 88. The Defendants named above are liable because, in doing the acts alleged, persons
2 they controlled violated Sections 11 and 12(a)(2) of the Securities Act of 1933 in the sale to the
3 Bank of the certificates in the securitizations referred to above.

4 89. DB Structured Products, Inc. by or through stock ownership, agency, or otherwise,
5 controlled Deutsche Alt-A within the meaning of Section 15 of the Securities Act of 1933.

6 90. The Bear Stearns Companies, Inc. by or through stock ownership, agency, or
7 otherwise, controlled SAMI II within the meaning of Section 15 of the Securities Act of 1933.

8 91. Greenwich Capital Holdings, Inc. by or through stock ownership, agency, or
9 otherwise, controlled Greenwich Capital Acceptance within the meaning of Section 15 of the
10 Securities Act of 1933.

11 92. In doing the acts alleged, each controlled person named in paragraphs 89 through
12 91 is liable under Sections 11 and 12(a)(2) of the Securities Act of 1933 for the reasons alleged in
13 paragraphs 1 through 86.

14 93. Each Defendant named above is therefore jointly and severally liable with and to
15 the same extent as the person it controlled.

16 **FIFTH CAUSE OF ACTION**

17 **NEGLIGENT MISREPRESENTATION**

18 **(Cal. Civil Code §§ 1572 *et seq.* and 1709 *et seq.*, and Common Law)**

19

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
Deutsche	Securitizations Nos. 1 through 4
Deutsche Alt-A	Securitization No. 4
Bear Stearns	Securitizations Nos. 5 through 8
SAMI II	Securitizations Nos. 5, 7, and 8
Countrywide	Securitizations No. 9
Credit Suisse	Securitizations Nos. 10 through 16
Greenwich Capital	Securitizations Nos. 17 through 19
Greenwich Capital Acceptance	Securitizations Nos. 17 through 19
Morgan Stanley	Securitizations Nos. 20 and 21
UBS	Securitizations Nos. 22 through 28
MAST	Securitizations Nos. 22 through 24
Merrill Lynch	Securitizations Nos. 29 through 33

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27 94. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1
28 through 93.

1 95. As alleged above, the Defendants named above made untrue or misleading
2 representations regarding the LTVs and CLTVs of the mortgage loans in the collateral pools of
3 these securitizations, the occupancy status of properties that secured the mortgage loans in these
4 securitizations, underwriting guidelines of the originators, and related matters.

5 96. In making the representations referred to above, the Defendants intended to induce
6 the Bank to rely on those representations in making its decision to purchase these certificates in
7 these securitizations. The Defendants expected that the Bank would rely on those representations
8 in deciding whether to purchase these certificates.

9 97. When the Defendants made these representations, they had no reasonable ground
10 for believing them to be true. Upon information and belief, the Defendants had access to the files
11 on the mortgage loans in the collateral pools for these securitizations, and, had the Defendants
12 inspected those files, they would have learned that the information they gave the Bank contained
13 untrue or misleading statements. In addition, upon information and belief, the Defendants hired
14 one or more "due-diligence contractors" to ascertain whether the mortgage loans in the collateral
15 pools complied with the representations and warranties made about those loans, and these
16 contractors reported to the Defendants that a material number of the loans in the collateral pools
17 were materially different from the descriptions of those loans in the prospectus supplements.
18 Thus, on information and belief, the Defendants had access to information that either did make
19 the Defendants aware, or would or could have made them aware had they heeded that
20 information, that the representations they made to the Bank contained materially untrue or
21 misleading statements about the mortgage loans in the collateral pools.

22 98. The Bank reasonably and justifiably relied on the representations described above
23 in analyzing and deciding to purchase these certificates. Had the Defendants not made these false
24 and misleading representations, the Bank would not have purchased these certificates.

25 99. When it purchased these certificates, the Bank did not know about the untrue and
26 misleading statements alleged herein.

27 100. As a direct and proximate result of the negligent misrepresentations by the
28 Defendants, the Bank was damaged in an amount to be proved at trial.

1 **SIXTH CAUSE OF ACTION**

2 **RESCISSION OF CONTRACT**
3 **(California Civil Code §§ 1689 and 1710, and Common Law)**

4

<i>Against Defendant:</i>	<i>In connection with Securitizations:</i>
Deutsche	Securitizations Nos. 1 through 4
Bear Stearns	Securitizations Nos. 5 through 8
Countrywide	Securitization No. 9
Credit Suisse	Securitizations Nos. 10 through 16
Greenwich Capital	Securitizations Nos. 17 through 19
Morgan Stanley	Securitizations Nos. 20 and 21
UBS	Securitizations Nos. 22 through 28
Merrill Lynch	Securitizations Nos. 29 through 33

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10 101. The Bank hereby incorporates by reference, as though fully set forth, paragraphs 1
11 through 100.

12 102. The Bank purchased each certificate pursuant to a contract in writing between the
13 Bank and the dealer from which it purchased that certificate. Each contract stated the
14 consideration that the Bank paid each dealer for each certificate.

15 103. In making each contract to purchase the certificates, the Bank relied on the truth of
16 the statements that the Defendants named above made in the prospectus supplements. Because
17 those statements were untrue or misleading, the Bank was mistaken about its basic assumptions
18 underlying its purchase of each certificate, and this mistake had a material adverse effect on the
19 agreed-upon exchange represented by the Bank's purchase of each certificate. Because the
20 Defendants named above were responsible to provide accurate information in the prospectus
21 supplements, the Bank did not assume, nor does it bear, the risk of the fundamental mistake
22 underlying its decision to purchase these certificates.

23 104. The Defendants named above obtained the consent of the Bank to the contracts to
24 purchase the certificates by means of their assertion, as facts, of that which was not true, when
25 those Defendants had no reasonable ground for believing those assertions to be true.

26 105. Pursuant to Cal. Civil Code. § 1689 et seq., the Bank is entitled to rescind, and
27 does hereby demand the rescission of, each contract for the sale and purchase of these certificates.
28

1 The Bank offers to restore all benefits that it has received under those contracts and is entitled to
2 recover all consideration that it paid under them.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, the Bank respectfully demands judgment as follows:

5 On the first cause of action, the consideration that the Bank paid for each certificate with
6 interest thereon, less the amount of any income that the Bank has received thereon, upon the
7 Bank's tender of each certificate;

8 On the second cause of action, damages in an amount to be determined at trial;

9 On the third cause of action, the consideration that the Bank paid for each certificate with
10 interest thereon, less the amount of any income that the Bank has received thereon, upon the
11 Bank's tender of each certificate;

12 On the fourth cause of action, the consideration that the Bank paid for each certificate
13 with interest thereon, less the amount of any income that the Bank has received thereon, upon the
14 Bank's tender of each certificate;

15 On the fifth cause of action, damages in an amount to be determined at trial;

16 On the sixth cause of action, the consideration that the Bank paid for each certificate with
17 interest thereon, less the amount of any income that the Bank has received thereon, upon the
18 Bank's tender of each certificate;

19 All together with the costs of this action, the reasonable fees of the Bank's attorneys in
20 this action, and such other and further relief as the Court may deem just.

21 ///

JURY DEMAND

THE BANK DEMANDS TRIAL BY JURY OF ALL ISSUES SO TRIABLE.

Dated: March 15, 2010

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP

GRAIS & ELLSWORTH LLP

By 

Robert A. Goodin
Attorneys for Plaintiff
Federal Home Loan Bank of San Francisco

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