February 24, 2014

Jamey Basham
Assistant Director
Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219
Re: Docket Number OCC-2013-0010

David Alexander
Senior Attorney
Legal Division
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Re: Docket No. R-1411

Gene Pocase
Acting Senior Examination Specialist
Division of Risk Management Supervision
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: RIN 3064-AD74

Kathleen Russo
Supervisory Counsel
Legal Division
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: RIN 3064-AD74

Arthur Sandel
Special Counsel
Office of Structured Finance
Division of Corporation Finance
U.S. Securities and Exchange Commission
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Washington, DC 20549-3628
Re: File Number S7-14-11

David Beaning
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U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-3628
Re: File Number S7-14-11

Re: Proposed Rules on Credit Risk Retention

Ladies and Gentlemen:

Please refer to our October 30, 2013 letter commenting on your agencies' re-proposed rules for credit risk retention (the "Re-Proposals"). We would be grateful to have the opportunity to meet with you personally so that we can further explain and clarify our ideas about the Re-Proposals, and to be able to respond directly to your concerns.

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In particular, we understand from other industry commentators that the agencies remain skeptical about changing the restriction prohibiting eligible ABCP conduits from acquiring ABS interests that are collateralized by assets not originated by a depositor. We agree that various forms of "aggregation" caused problems in the *retail residential mortgage* arena. By contrast, the acquisition of third-party generated, *short-term commercial insurance premium finance loans* is a very safe and important part of the way we and the rest of our industry operates. We would like to explain how the practice in the insurance premium finance loan industry is different from other troublesome market practices, and how it is very unlikely to be the source of "bubble" behavior or other materially increased credit risks for ABCP conduits.

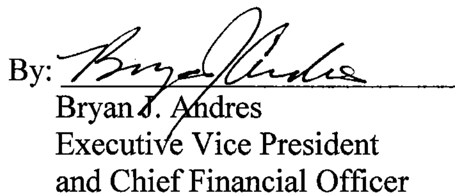
Also, we would like to discuss and respond to any remaining concerns you have about our specific type of master trust and our suggestions that spring from that structure.

We would appreciate your making the time to meet with us on these important issues. We're not sure that the industry groups that are commenting on the Re-Proposals are able to convey our points effectively on those issues because of the large number of different constituent concerns that they need to address.

Please contact me with any questions that you might have. We look forward to working with you.

Sincerely,

IPFS CORPORATION

By: 
Bryan J. Andres
Executive Vice President
and Chief Financial Officer

October 30, 2013

Legislative and Regulatory Activities Division
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Washington, DC 20219
Re: Docket Number OCC-2013-0010

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Re: File Number S7-14-11

Robert deV. Frierson
Secretary
Board of Governors of the Federal
Reserve System
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Washington, DC 20551
Re: Docket No. R-1411

Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA43
Federal Housing Finance Agency
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Washington, DC 20552
Re: RIN 2590-AA43

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: RIN 3064-AD74

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500
Re: RIN 2501-AD53/ 24 CFR Part 267

Re: Proposed Rules on Credit Risk Retention

Ladies and Gentlemen:

IPFS Corporation ("IPFS", the "company", "we" or "our"), an originator and servicer of insurance premium finance loans, respectfully submits these comments on the jointly re-proposed rules for credit risk retention (the "Re-Proposals"). Based on reports filed with licensing authorities, we believe that IPFS (together with its subsidiaries) is the largest insurance premium finance company in the United States. It is also the largest insurance premium finance company that is not owned by a bank. IPFS finances approximately $7.5 billion of insurance premiums for approximately 575,000 customers annually. We submitted comments on the initial proposals that were made in 2011 (the "2011 Proposals"), and are attaching a copy of that letter for the convenience of the joint agencies.

As we said in our 2011 comments, most of IPFS's customers are small businesses. Through IPFS and the rest of the premium finance industry, those businesses can get convenient, competitively-priced loans at the same time that they're arranging insurance coverage with their

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independent insurance brokers. The loans are disbursed quickly, without the need for SBA support or for the customer to pledge other business assets as collateral. Because of the small average loan size (approximately 83% of our customers finance premiums less than $5,000, and over 90% of our customers finance premiums less than $10,000), and the specialized nature of the return premiums as collateral, many commercial banks choose not to make premium finance loans. The premium finance industry, including IPFS, fills that gap by providing critical financing for American businesses. The Federal Reserve Board recognized that critical role by including premium finance loans (along with a handful of other particularly safe and important asset classes) in its successful Term Asset- Backed Securities Loan Facility ("TALF") program, noting that:

> More than 1.5 million insurance premium finance loans are extended to small businesses each year so they can obtain property and casualty insurance. The loans are often funded through the asset-backed securities (ABS) market and have become more expensive and more difficult to obtain since the shutdown of that market last fall. The inclusion of insurance premium ABS as TALF-eligible collateral will facilitate the flow of credit to small businesses.[1]

Like the Federal Reserve Board, President Obama remains committed to the financing of our small business customers.[2] We are proud of our industry's role in providing that financing, and look forward to being able to continue in that role once the joint agencies issue their final risk-retention rules.

We appreciate the opportunity to comment on the Re-Proposals, which appear responsive to some of the concerns that we and other commentators made on the 2011 Proposals. The modification which permits credit retention by either the sponsor or its majority-owned affiliate will allow our wholly-owned SPV to satisfy the risk retention requirement, which was a change that we sought. The change to the 2011 Proposals regarding master trusts that permits them to hold ABS securities collateralized by non-revolving accounts was also helpful, both to us and to many other issuers of loan and trade receivables-backed ABS. There remain, however, a number of features in the Re-Proposals that we wish to address, as it remains the case that none of the existing options proposed works well for us.

The joint agencies noted in the release accompanying the Re-Proposals (the "Proposing Release") that insurance premium funding securitizations are a relatively small part of the securitization universe, which we readily acknowledge. Because other asset classes dominate the market, we have concern that the joint agencies' possible lack of familiarity with our business and facility structure may be a handicap in developing rules that will apply to us, and accordingly want to familiarize you with key aspects of both. By doing so, you will hopefully come to a better

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[1] Press Release, Board of Governors of the Federal Reserve System, *Federal Reserve Announces Expansion of Eligible Collateral Under Term Asset-Backed Securities Loan Facility* (May 1, 2009), *available at* http://www.federalreserve.gov!newsevents/press/monetary/20090501a.htm.

[2] Press Release, Office of the Press Secretary, The White House, *Presidential Proclamation – National Small Business Week, 2013* (June 14, 2013), *available at* http://www.whitehouse.gov/the-press-office/2013/06/14/presidential-proclamation-national-small-business-week-2013

understanding of the risk retention aspects of facilities such as ours, and we will more readily be able to point out aspects of the Re-Proposals that are particularly troublesome to us. The attached copy of our letter commenting on the 2011 Proposals contains useful background on our business. In today's letter, we summarize key risk retention aspects of our facility. Our comments will address primarily those aspects of the Re-Proposals which we believe are most harmful to our facility. As discussed below, we request that the Re-Proposals be modified to do the following:

- Confirm that an SPV that is a majority-owned affiliate of a sponsor or a majority-controlled OS affiliate of an originator-seller can satisfy the respective sponsor's or originator-seller's risk retention requirement.

- Either (i) limit the restriction prohibiting eligible ABCP conduits from acquiring ABS interests that are collateralized by assets not originated by a depositor to the securitization markets in which aggregation has been a problem, or (ii) redefine "originator-seller" and "eligible ABCP conduit" so that the terms allow for the acquisition by originator-sellers of assets originated in accordance with policies that have been approved in all material respects by the eligible ABCP conduit's funding agent/liquidity provider.

- Modify the ABCP option to permit eligible ABCP conduits to acquire ABS interests collateralized by assets acquired in business combinations or asset purchases when their liquidity providers have had an opportunity to review the performance of the block of assets proposed to be acquired and to determine that the policies under which they were originated are comparable to the depositor's own policies and consistent with the liquidity provider's risk profile.

- Permit transfers of ABS interests between conduits with a common liquidity provider and transfers of positions between one liquidity provider/conduit group and another, notwithstanding any other attempts to limit secondary market acquisitions by ABCP conduits.

- Change the definition of the term "master trust" by deleting the requirement that it be a "trust" or even a separate legal entity and by focusing on the issuing entity's activities, rather than on its form or what might be contained in historical organizational documents. Instead of defining the term as an entity "established" for the purpose of issuing multiple series, we ask that the term "master trust" merely be defined by what the SPV does (or, if it has not yet done so, proposes to do), so that it means "any entity that issues or proposes to issue multiple series, classes, subclasses, or tranches of asset-backed securities all of which are collateralized by a common pool of securitized assets that will change in composition over time."

- Permit the use of subordinated seller's interests in the master trust context without imposing fair value accounting, and expand the types of excess funding accounts that will count toward the required 5% seller's interest.

- Limit the records retention requirement to three years after a particular Series of ABS interests has been retired or, in the case of revolving ABS interests, after the extension of the scheduled maturity of such ABS interests.

- Clarify that "series level" retention in the context of special horizontal interests in master trusts includes trust-wide risk retention that is allocable to a series.

- Confirm that the subordination provisions applicable to special horizontal interests in master trusts do not preclude reinvestment of principal collections, and do not preclude the release of excess principal collections allocable to the residual special horizontal interest when the asset pool of a master trust is shrinking (e.g., as a result of reduced borrowings under variable funding notes) and the excess principal collections are not required for payments to investors, risk retention or investments in new assets. Similarly, confirm that the subordination provisions do not apply to excess concentration and other assets for which no risk retention credit is given.

- Confirm that the subordination and projected cash flow provisions applicable to eligible horizontal interests are not intended to preclude reinvestment of principal collections or to preclude distribution of cash flows from assets for which an SPV receives no risk retention credit.

- Adopt the alternative eligible horizontal residual interest proposal but modify it to distinguish between payments from finance charge collections and principal collections, to permit reinvestment of principal collections in new assets, and to permit distribution of finance charges in an amount greater than a proportionate share thereof to an eligible horizontal interest if a sufficient amount is set aside to provide for interest due on the ABS interests on the next interest payment date.

- To accommodate issuers of ABS interests backed by short-duration assets with regular turnover, particularly if such ABS interests are in the form of revolving notes, permit only occasional (e.g., annual) fair value determinations (if face value accounting remains unacceptable) and provide that the date of any increase or decrease should be treated as a new issue date for purposes of determining the residual interest's proportionate share of principal and interest distributions.

- Risk retention should only be applied to master trust series issued after the effective date of the proposed rules.

A. Risk Retention in Our Facility

1. Summary of PFSFC Facility.[3]

Before we proceed with the technical discussion of our facility structure, it would be helpful to step back and discuss the essential nature of our securitization and how it differs from other types of securitization. We hope that will shed light on why we think our interests are already aligned with our investors and that we should be considered compliant with Dodd-Frank's risk retention requirements while using our existing structure.

Our transaction is, at its core, an ongoing financing transaction that uses a trust indenture to provide common collateral for, and a complex but effective inter-creditor agreement among, various types of conduit, bank, money market and other institutional investors. Once one cuts though the complex terminology (part of which sprang from now-historical Financial Accounting Standards Board accounting rules such as "FAS 125"), what we have is a fully-secured credit facility with a borrowing base structure.[4] Our SPV basically has to maintain enough eligible loans in the borrowing base to cover both the principal amount of the investor notes plus a required amount of overcollateralization, which is the seller's interest. The overcollateralization is measured in the same way as the base collateralization, i.e., by the principal amount of the underlying eligible loans in the pool. There is no incentive or possibility in our structure to assign "better" or "faster paying" collateral to the seller's interest. Furthermore there is no incentive or design to "recover" the seller's interest in a way that is harmful or disadvantageous to creditors. Our goal isn't to on-sell receivables, then make a one-time profit on a residual. Our goal isn't even to have a seller's interest that is pari passu in all respects. Rather, our goal is to operate a stable financing platform that provides investors comfort that they are well-collateralized and that our sellers will continue to generate, and occasionally acquire, high quality, non-revolving loans that are customary in the premium finance industry. Our term investor notes provide for scheduled "bullet" maturities (designed to be refinanced if possible) as our investors do not seek amortizing notes. Our revolving, or "variable funding", investor notes tend to be in place for many years through regular extensions of their maturity dates, so that our SPV, much like the rest of corporate America, enjoys sustained use of its revolving credit facilities. We rely on our master trust facility as our principal means of finance and have every incentive to keep investors happy over the long term. Hopefully that perspective will shed light on why some of the requirements set forth in the Re-Proposals and the Proposing Release, particularly those that seem designed to prevent gamesmanship by occasional securitizers with different goals, appear foreign to us. As you'll see, we urge you to avoid placing those restrictions on an already-robust structure that has never come even close to producing any losses for investors.

The following is a summary of the key technical aspects of our facility.

a. *Nature of Facility*. Our facility is a two-tiered structure, and is among those commonly called a "master trust." Our wholly-owned subsidiary, PFS Financing Corp. ("**PFSFC**") acts as the "master trust" and issues multiple series of notes under a trust indenture for which a national banking association serves as trustee ("**Trustee**"). All collateral securing PFSFC's ABS interests, (styled as notes in our facility) are secured by a first priority security

[3] Please refer again to our 2011 comment letter as well.

[4] The structured finance technique underlying the borrowing base structure is the "true sale" of receivables from our affiliated sellers to PFSFC.

interest in favor of the Trustee for the benefit of the holders of the ABS interests ("**Noteholders**"). PFSFC has outstanding twelve series of notes (each a "**Series").** They consist of (i) six Series of revolving or "variable funding" notes (sometimes called the "**VFN Series**"), which generally are issued to banks acting as funding agents for ABCP conduits and committed purchasers and which are renewable at the option of PFSFC and the lenders, (ii) five Series of term notes, which are issued in Rule 144A-eligible transactions in two classes, a senior Class A and a subordinate Class B, and which have fixed redemption dates, and (iii) one Series of extendable term notes, which at any time have a maturity date not more than 397 days in the future. If not renewed prior to its scheduled commitment termination date, a variable funding Series will go into a scheduled amortization period, during which all principal collections otherwise allocable to other non-amortizing Series will be applied as "shared principal collections" to the amortizing series. If not redeemed on its scheduled redemption date, a term Series will similarly go into a scheduled amortization period. If not extended by the lender at the request of PFSFC, the extendable term Series will go into a short accumulation period and then a controlled amortization period that is designed to assure full payment by the end of the then extended term.

b. *Residual Interest.* PFSFC retains a residual interest in the Trust Estate which may be deemed to be composed of both Series-level risk retention, or "Required Reserve Amount", and trust-wide risk retention, or "Available Issuer Interest".

In our facility, the term "**Issuer Interest**" means an amount equal to the aggregate amount of principal receivables held as part of the collateral securing outstanding notes (the "**Trust Estate**"), plus the sum of the amounts on deposit in the collection account, the Excess Funding Account and the principal account maintained by the Trustee for the benefit of Noteholders, minus the aggregate of the "Investor Interests" of each Series of notes. The amount of the Issuer Interest will fluctuate as the amount of receivables in the Trust Estate changes from time to time.

At all times, PFSFC must meet the "**Coverage Test**". The failure to do so, if not promptly cured, will result in early amortization of all Series. PFSFC will not meet this test if, on any date of determination, the Issuer Interest as of such date does not exceed the largest required "Minimum Issuer Interest" of any outstanding Series (such excess being herein called the "**Available Issuer Interest**") as of such date. The "**Minimum Issuer Interest**" for any date of determination means an amount equal to (a) the "Excess Concentration Amount" as of such date plus (b) the outstanding balance of all receivables that are not "Eligible Receivables" as of such date. "**Eligible Receivables**" are those that meet specified criteria set forth in the Indenture. The "**Excess Concentration Amount**" is the principal amount of Eligible Receivables that exceed specified concentration limits set forth in the Indenture. As of September 30, 2013, PFSFC's Available Issuer Interest approximated 4.1% of the principal amount of all outstanding Series on such date. <u>This could be said to constitute trust-level risk retention by PFSFC, which is allocable to and benefits the various Series</u>. Although the Available Issuer Interest is not a prescribed amount (except that it must always be positive), over the past four years it has never been below 2.1% of the outstanding principal amount of notes and has ranged as high as 10.9% of the outstanding principal amount of notes.

c. *Investor Interest.* For each term Series, the "**Investor Interest**" is, on any date of determination, an amount equal to (a) the initial principal amount of the notes of the Series, <u>minus</u> (b) the aggregate amount of principal payments made to, or set aside in the payment account for distribution to, the Series Noteholders prior to such date, <u>minus</u> (c) the aggregate

amount of "Investor Charge-Offs" pursuant to the Indenture, plus (d) the aggregate amount of all funds applied prior to such date pursuant to the Indenture to reimburse Investor Charge-Offs, plus (e) the "Required Reserve Amount". The Investor Interests for the other types of Series of notes are similarly determined. An "**Investor Charge Off**" results when the amount allocable to a Series from finance charge collections and the Excess Funding Account are insufficient to cover the allocable amount of receivables that become defaulted receivables during a monthly period, and (ii) such shortfall exceeds the portion of the Available Issuer Interest allocable to a Series. Thus, any losses from defaulted receivables are first absorbed by Available Issuer Interest, and the Investor Interest of a Series is not reduced until the Available Issuer Interest allocable to the Series has been reduced to zero[5].

d. *Required Reserve Percentage*. As noted above, the Investor Interest of each Series is enhanced by the addition of a "Required Reserve Amount". This represents the Series-level contractual risk retention component of PFSFC's facility. The Required Reserve Amount generally is based, in whole or in part, on a percentage ("**Required Reserve Percentage**") of the outstanding principal amount of the notes of a Series, and can vary from Series to Series. The Required Reserve Percentage of each currently outstanding Series of variable funding notes, term Series Class A notes and extendable term notes is 10%, subject to upward adjustment if certain pool characteristics exceed specified limits. The Required Reserve Percentage of the currently outstanding term Series Class B notes varies by Series and ranges from 4.25% to 6.25%, subject to upward adjustment if certain pool characteristics exceed specified limits.

e. *Required Reserve Amount.* The Required Reserve Amount represents Series' level retention in our facility. In addition to Available Issuer Interest, it shields noteholders' principal investment from loss. Once all principal and interest on notes of a Series is paid, the Investor Interest is reduced to zero and no further distributions are made to noteholders of that Series based on any unused Required Reserve Amount.

The Required Reserve Amount for PFSFC's various Series of notes ranges from 4.4% to 11.1% of the aggregate outstanding principal amount of the notes of such Series. The aggregate Required Reserve Amount for the notes of all outstanding Series as of September 30, 2013, represented 6.6% of the aggregate principal amount of all outstanding notes at such date. As noted above, the Available Issuer Interest as of such date represented an additional 4.1% of the aggregate principal amount of outstanding notes.

The Required Reserve Amount may only increase (e.g., through amendments increasing the Required Reserve Percentage or through the issuance of a new Series) to the extent of the allocable portion of the Available Issuer Interest at such time. Thus, PFSFC must have trust-wide "skin in the game" in excess of what exists at the series level in order to issue a new Series of notes. When it issues a new Series, this excess trust-wide risk retention is converted to series level retention.

[5] After Available Issuer Interest is reduced to zero, no Series noteholder would incur principal loss unless unreimbursed losses allocable to the Series exceeded the Required Reserve amount of the Series. In the fourteen year history of our facility, we have never had an Investor Charge-Off.

f. *Allocation and Distribution of Collections*. Each month finance charge and principal collections for the related monthly period that are on deposit in the trust accounts are allocated among the various Series, based upon each Series' respective "Investor Percentages" and shared principal collections. The "**Investor Percentage**" of a Series generally is derived by dividing that Series' Investor Interest by the sum of the Investor Interest of all Series. During a scheduled or early amortization period, allocations of principal collections are fixed, based on the various Investor Interests at the end of the revolving period that preceeds the amortization period. The manner of distributing collections is substantially the same in all Series. The method of making allocations in the term Series can be generally summarized as follows:[6]

(i) during all periods, finance charge collections are applied to trustee fees and expenses, Class A and Class B interest, and servicing fees; any excess is treated as "Excess Spread", which is described below;

(ii) during the revolving period, principal collections are applied to cover any shortfalls in Trustees fees and expenses, interest and servicing fees, to the extent of the Available Issuer Interest and as shared principal collections, if required; any excess is deposited in the Excess Funding Account, which is described below;

(iii) during early or scheduled amortization periods, principal collections are applied first, to unpaid Class A interest not covered by finance charge collections; next, to Class A principal; next, to unpaid Class B interest not covered by finance charge collections; next, to Class B principal; next, to unpaid Trustee expenses (to the extent Available Issuer Interest exceeds zero); next, any remaining account is deposited in the Excess Funding Account.

g. *Excess Spread*. Excess finance charges are referred to as "**Excess Spread**" and applied first to pay unpaid fees and expenses from prior periods, if any, then to cover the amount of defaulted receivables that arose during the period, if any; thereafter, they are treated as principal collections and deposited in the principal account.

h. *Excess Funding*. An "**Excess Funding Account"** is shared by all Series and to the extent amounts on deposit therein are insufficient to cover all distributions therefrom allocable to each Series, such amounts are allocated to each Series based on the "Investor Interest" for each such Series. Except as set forth below in the following paragraph, any collections deposited into the Excess Funding Account are held in the Excess Funding Account and, prior to the commencement of a scheduled amortization period or early amortization period, first applied, if necessary, to cover monthly interest, other amounts payable monthly from finance charge collections, and current or previous charge offs allocable to Noteholders that had reduced

[6] Each VFN Series and the extendable term series has only one class. In the extendable term series there is provision in step (iii) for an accumulation period and a controlled amortization period during which principal collections would initially be set aside for one month and thereafter would be applied on a controlled basis over a nine-month period to pay off the Series.

the Investor Interest.[7] So long as no accumulation or amortization period has commenced, any amount remaining may be paid to PFSFC on a monthly basis (so long as the Coverage Test and certain other conditions are satisfied) to purchase additional receivables, for use as dividends or to pay expenses that are permitted under the transaction documents.

In order to assure continuity of operations, so long as no scheduled or early amortization period is continuing with respect to any Series, any collections deposited into the principal account may be paid to PFSFC on any date, rather than monthly, to the extent of, and to be used by PFSFC solely for, the purchase of receivables. This may occur only so long as (A) the Coverage Test remains satisfied (or will be satisfied on such date through the use of such collections to pay for the purchase of new receivables from one or more Sellers), (B) the "Required Amount Coverage Test" remains satisfied and (C) such payment and the application thereof shall not result in the occurrence of (1) a pay-out event for any Series, a servicer default or an event of default under the Indenture, or (2) an event or occurrence, which, with the passing of time or the giving of notice thereof, or both, would become a pay-out Event for any Series, servicer default or an event of default. The "Required Amount Coverage Test" generally means, on any date of determination, that there is an aggregate amount on deposit in respective accounts for payment of finance charges and principal to Noteholders on such determination date to provide for payments of interest and fees required on the next monthly payment date, the Aggregate Investor Default Amount, if any, for such monthly period, and, in the case of the extendable term Series, principal required to be paid or set aside during an accumulation or controlled amortization period. Thus, PFSFC generally may use collections to acquire new receivables throughout the month, provided there is no ongoing accumulation or amortization period and amounts due on the next payment date have been set aside.

B. ABCP Conduit Comments

1. Confirm that majority-controlled OS Affiliates of ABCP conduits may satisfy risk retention requirement.

The changes made in the Re-Proposals permitting eligible ABCP Conduits to purchase interests in a SPV collateralized by assets originated by an originator-seller or one or more "majority-owned OS Affiliates" was helpful, as it permits our SPV, PFSFC, to acquire receivables originated by our other wholly-owned premium finance subsidiaries. Another helpful change, which the joint agencies discuss at page 98 of the Proposing Release and presumably intended to make in the Re-Proposals, permits the risk retention required of originator-sellers of an intermediate SPV to be satisfied by their majority-controlled OS affiliates. This permits our SPV, PFSFC, to satisfy the risk retention required to make a conduit an eligible ABCP conduit, and dovetails with the basic risk retention requirement in § __.3 of the Re-Proposals. <u>However,</u>

[7] Unlike the type of temporary excess funding account described in the Proposing Release, which is activated only if the <u>pari passu</u> seller's interest does not meet a specified amount, in our facility all excess collections (unless available for use to acquire new receivables) go to the Excess Funding Account before they may be used by the SPV for permissible uses. Amounts held in the Excess Funding Account, the collection account and the principal account are "servicing assets", as such term is defined in the Re-Proposals, and are used in the computation of Issuer Interest in our facility. It is appropriate that these accounts, which are comprised primarily of principal proceeds and which, along with receivables, are part of the Trust Estate securing the SPV's obligations to Noteholders, be used in the determination of Issuer Interest. The account is mostly used as a secure holding bin for principal collections pending the availability of new receivables to purchase.

we note that § __.6(b)(1) of the Re-Proposals only refers to the originator-seller as the risk retainer and does not mention majority-controlled OS affiliates, and thus appears inconsistent with the joint agencies' explanation in the Proposing Release. We request that the final rules conform to the explanation in the Proposing Release by stating that majority-controlled OS affiliates (including an SPV) can satisfy the originator-seller's risk retention requirements.

2. Modify the limitation restricting eligible ABCP conduits from holding asset-backed securities not originated by the originator-seller.

As noted above, PFSFC issues multiple Series of notes that are secured by a common pool of premium finance receivables under a single trust indenture. Notes representing approximately 28% of PFSFC's present maximum potential outstanding debt are variable funding notes of a revolving credit nature and are issued to bank funding agents, who act on behalf of their ABCP conduit and back-up committed purchasers, which generally are the funding agent or an affiliate of the funding agent. These borrowings give PFSFC indirect access to the commercial paper markets, thereby reducing borrowing costs and indirectly the borrowing costs of our customers. Our business has seasonal aspects to it, and, under provisions applicable to these variable funding notes, PFSFC can increase borrowings in peak season up to a maximum amount applicable to each Series, and decrease borrowings in less busy times by repaying principal to the Noteholders of the variable funding notes. It also can provide for growth by "reloading" the notes of the variable funding Series by issuing a term Series and using the proceeds to refinance outstanding variable funding Series. This variable funding program has been the key component of our facility since inception.

Another key aspect of our business model relates to how we generate loans. Most are directly originated from one of our 25 offices, but approximately 8.6% of the receivables presently in our facility were acquired from third-party originators. These are primarily smaller premium finance companies that are unable to cope with the complexities of the securitization market and that focus on front-end regulations and relationships with small business. Those smaller companies rely on being able to sell loans that they originate to companies like IPFS. Neither the 2011 Proposal nor the Re-Proposals permit eligible ABCP conduits to acquire ABS securities collateralized with such receivables, and, if unmodified, this feature will force us to either break up our facility or change our business model.

We believe the position taken by the joint agencies results from concerns by bank regulators over "aggregators" in the mortgage market, along with the well-publicized deficiencies of many mortgage brokers. We do not understand why a historical concern with one securitization market must result in an across-the-board rule that applies to other markets where the concern has not been an issue. We do not acquire receivables in the ordinary course of business in the "market", in the sense that we believe the joint agencies use that term. Purchased receivables that we acquire from third-party originators are originated pursuant to the same credit standards, policies and procedures, as apply to loans directly originated by us. When we acquire a Receivable from a third party, we do so concurrently upon its origination, and in fact may fund the insurance policy directly in the same fashion as when we originate a premium finance loan from one of our own offices. The receivables that we so acquire from third party originators and sell to PFSFC must meet the same eligibility standards that apply to receivables that we originate directly, and as noted above, must conform to the same credit policies. These credit policies have been furnished to the funding agents of the variable funding Series of notes that PFSFC has issued, and we cannot amend them in any material respect without prior notice to the funding

agents. Under these circumstances, we think there should be no concern that the policies and practices of the liquidity providers of the ABCP conduits in our facility for managing and monitoring risk exposure might be interfered with.

We are as much concerned with monitoring the risk of our portfolio as are the ABCP conduit liquidity providers, and perhaps more so. Our facility has various pay-out events that are triggered by potential deterioration in the quality of PFSFC's portfolio, and should one of these events occur under a note Series, early amortization of all Series will occur. In such event, all collections on the portfolio will be trapped until all Noteholders are paid, and during such time there will be no available funds from collections to generate new receivables.

One measure of our portfolio quality is our "**Defaulted Receivable Rate**".[8] A pay-out event will occur under our facility if, among other matters, at the close of any monthly period the Defaulted Receivable Rate exceeds 1.5%. Over the past 6 years, PFSFC's average monthly Defaulted Receivable Rate, which takes into account receivables acquired from third party originators both upon origination and pursuant to asset acquisitions, has never approached this level. Furthermore, PFSFC's average monthly net portfolio yield (i.e., "excess spread") over such period, which generally means the excess of collections over interest, costs, fees and defaulted receivables, divided by the outstanding balance of receivables, has always ranged several multiples over the highest defaulted receivable rate experienced. PFSFC's Noteholders have never experienced a charge off, let alone a charge off that resulted from a Defaulted Receivable originated by a third party originator, nor are they likely to do so in light of the excess spread and the pay-out event triggers in our facility.

In light of the long running quality of PFSFC's portfolio, we again ask the joint agencies to modify the provisions that would prevent ABCP conduits in our facility from continuing to do business with us if we sell receivables to PFSFC that we acquire from a third party substantially contemporaneously with their origination. This might be effected in several ways. One which

[8] "**Defaulted Receivable Rate**" means, with respect to each monthly period, the rate, calculated as of the last business day of such monthly period by dividing (i) the aggregate outstanding balance of all defaulted receivables on such date (other than any such defaulted receivables that became "Charged-Off Receivables" in any calendar month prior to the second calendar month preceding such month) by (ii) the average aggregate outstanding balance of receivables for the immediately preceding monthly period, expressed as a percentage.

A"**Defaulted Receivable**" means a receivable: (i) as to which any payment, or part thereof, remains unpaid for (x) 30 days from the original due date for such payment without cancellation of all of the related insurance policies or (y) 180 days or more after cancellation of all such policies, (ii) as to which the obligor thereunder is, to the best of the applicable Seller's or Servicer's knowledge using reasonable business practices to keep informed, the subject of an event of bankruptcy, (iii) as to which payments have been extended, or the terms of payment thereof rewritten other than in accordance with the provisions of the servicing agreement, without the consent of required persons for each Series, (iv) which is a Charged-Off Receivable or (v) as to which Servicer has attempted to collect, from direct obligors (borrower), unpaid amounts due and payable for at least 45 days after the receipt of any unearned premium from the insurance company that issue the policy.

A "**Charged-Off Receivable**" is one that consistent with the applicable credit and collection policy, would be written off the Issuer's or any Seller's books as uncollectible.

strikes us as particularly appropriate would be to limit application of the provision to the securitization markets in which the problem arose and not extend it to premium finance loans. Another would be to redefine "originator-seller" and "Eligible ABCP conduit" so that the terms allow for the acquisition by originator-sellers of assets originated in accordance with policies that have been approved in all material respects by the eligible ABCP conduit's liquidity provider.

We also ask for relief from this restriction in the case of asset acquisitions in which we acquire the assets of another company in connection with the purchase of its business. We note that, in question 35(c), the joint agencies ask whether the ABCP option appropriately captures assets acquired in business combinations, and are of the view that it does not. Such assets would be excluded because they are not originated by the originator-seller. Although one might attempt to distinguish between assets acquired by an originator-seller in a merger and those acquired in an asset purchase, we see no reason to distinguish between the two types of acquisitions and believe both types of acquired assets should be permissible collateral if appropriate guidelines are met. In the case of our own facility, such receivables are not "Eligible Receivables" unless approved by the Required Persons of each outstanding series if, together with any other similarly acquired receivables that have not been so approved, they exceed 5% of the outstanding balance of receivables. The "**Required Persons**" of our variable funding Series are at least two funding agents of notes representing at least 66 2/3% of the maximum principal amount of the outstanding variable funding notes of all Series. (Although not required to do so, in order to maintain good relations with holders of our VFN Series, we typically seek and obtain 100% approval to such matters.) Through this mechanism, liquidity providers of ABCP conduits in our facility have an opportunity to review the performance of a block of assets proposed to be acquired and to determine that the policies under which they were originated are comparable to our own and consistent with their risk profile. We believe the ABCP option should be modified to permit acquisitions of assets in business combinations and asset purchases where liquidity providers have had such opportunities.

We note, as we did in our comments to the 2011 Proposals, that it would have been difficult or impossible for us to finance our 2010 acquisition of AIG's insurance premium finance business, which spared American taxpayers from a costly bailout and kept credit available for thousands of businesses. In that acquisition, IPFS and its originator subsidiaries bought approximately $1.4 billion in premium finance loans from AIG's subsidiaries and seamlessly blended the loans into our existing securitization structure. Our investors and the rating agencies had an opportunity to evaluate those loans, and the fact that they weren't originally generated by IPFS was largely irrelevant because they met customary industry criteria. In closing this comment, we point out that the AIG transaction nearly doubled our size, yet there was no appreciable difference in our Defaulted Receivable Rate as a result of the acquisition.

3. **Eliminate or modify the requirement that ABCP conduits may not purchase ABS interests in the secondary market.**

One of the proposed characteristics of an eligible ABCP conduit that is both puzzling and problematic for us is the requirement that ABS assets which it holds must be acquired by it in an original issuance. The reasons the joint agencies want to impose this condition is not clearly articulated in the Proposing Release, and if adopted will lead to unnecessary issuance costs. As noted above, our facility has included ABCP conduits since 2001, during which time there have been instances in which a funding agent/liquidity provider sought to substitute one of the conduits which it sponsored with another (or perhaps to add an additional conduit), or in which a funding

agent and its related conduit wished to exit the facility by assigning their positions to another funding agent/conduit group. The Re-Proposals would seem to prohibit either practice, without apparent benefit in either case and to the potential detriment of PFSFC in both, as it would be forced to incur issuance costs to replace the former conduit that could be avoided if a simple assignment were permitted. We encourage the joint agencies to drop this condition or to modify it to permit transfers between conduits with a common liquidity provider and transfers of positions between one funding agent/liquidity provider/conduit group and another. We don't believe such transactions are the type of secondary market trades that the joint agencies have in mind. Our transfers are more akin to transfers of whole loan positions among bank lenders in a syndication – PFSFC ends up having a direct relationship with the transferee in the same way that PFSFC would have had the transferee been an original syndicate member. We believe that is significantly different from an ABCP conduit snatching up an occasional, previously-issued MBS security, for example.

C. Master Trust Comments

1. Expand the definition of "Master Trust" to apply to entities other than common law or statutory trusts and clarify Proposing Release comment respecting Master Trust.

As explained below, neither the eligible vertical interest nor the eligible horizontal interest options will work well in our facility. However, we believe that our facility is among those commonly called a "master trust". We appreciate the modification made in the Re-Proposals that permits master trusts to hold non-revolving assets.[9] Nevertheless, the new definition of master trust in the Re-Proposals still appears to exclude our SPV, PFSFC, because it only contemplates a trust as the issuing entity. There is no apparent reason for this limitation, and we believe that many issuing SPV's are formed as limited liability companies, limited partnerships or, as in our case, a corporation. In order for the master trust option to be available to us, we request that the definition of the term be changed by deleting the requirement that it be a "trust" or even a separate legal entity and by focusing on the issuing entity's activities, rather than on its form or what might be contained in historical organizational documents which cannot be corrected. Instead of defining the term as an entity "established" for the purpose of issuing multiple series, we ask that the term "master trust" merely be defined by what the SPV does (or, if it has not yet done so, proposes to do), so that it means "any entity that issues or proposes to issue" multiple series, classes, subclasses, or tranches of asset-backed securities all of which are collateralized by a common pool of securitized assets that will change in composition over time."

In connection with the foregoing request, we would also appreciate confirmation that when the Re-Proposals state that the seller's interest (or permitted horizontal alternatives) may be retained by one or more wholly-owned affiliates of the sponsor, an SPV is included as a permitted holder if it is a wholly-owned affiliate of the sponsor.

One aspect of the Proposing Release relating to master trusts which is troubling is a comment on page 66 that "a trust with a re-investment period that precedes an ultimate

[9] However, please see our later objection to the early amortization components of the Re-Proposal being limited to master trusts with non-revolving assets.

amortization period would not be eligible for the seller's interest option". We see nothing in the Re-Proposals to this effect and do not know what is intended by the comment or whether the comment applies to the special horizontal interest referred to in paragraph § __.5(f). Perhaps it is meant to get to the same concern expressed in the first full paragraph of page 77, which we address below. Either way, the comment concerns us because all of our term Series and variable funding Series of notes ultimately provide for a scheduled amortization period which will apply if we are unable to refinance them on a scheduled date, and our extendable term notes may have a controlled accumulation and controlled amortization period if not extended. If the comment were rephrased as "a trust with a re-investment period that precedes a scheduled ultimate amortization period that is applicable to all series", that could capture any master trust that is designed to go away quickly but still keep ours in place, since we have no scheduled amortizations that apply to all Series.

2. **Modify the seller's interest option to permit subordinated seller's interests, measured on a face value basis rather than a fair value basis, and modify the early termination provisions.**

As the Re-Proposal is currently drafted, we do not anticipate being able to rely on the seller's interest option because of the pari passu requirement. We do not understand why such interests must be pari passu to investor interests except during early amortization, and suspect that most interests held by sponsors are subordinate, at least in certain respects, to investor interests at other times. At the top of page 68 of the Proposing Release, you mention that the agencies are considering whether to permit sellers' subordinated interests to count toward the 5 percent seller's interest treatment. We believe you should permit that treatment. We can't see why subordinated interests don't represent good "skin in the game". Indeed, they should be preferable to investors in every situation we can think of. Our subordinated residual seller interest structure is also consistent with the borrowing base loan analogue that we described earlier in our letter, and is designed to provide protection to investors.

The fair value accounting discussion in the carryover paragraph of page 68 of the Proposing Release, however, is troublesome to us. For transactions that finance short-duration assets that turn over continuously, such as premium finance loans and trade receivables, we believe that it would be impractical to frequently calculate fair values within a master trust structure. The average life is four to five months. Where the underlying assets are short term, the default rates have been historically low and excess spread has been more than sufficient to cover what limited defaults there have been, face value of the excess receivables that supply PFSFC's risk retention can be reasonably used as a conservative proxy for fair value and should be permitted. Indeed, PFSFC's previous studies of the fair value issue have generally concluded that fair value equals face value in this particular asset class. We propose face value as an alternative that we think provides for objectively fair measurement: the amount of the seller's interest should be measured on a face value basis, using the same eligibility criteria that apply to the assets securing the ABS interests. In other words, there must be a sufficient principal amount of cash and eligible receivables in the pool to be able to support both the aggregate principal amount of the ABS interests and an aggregate seller's interest (whether at series or trust level) at least equal to 5% of the aggregate principal amount of the ABS Interests. That way, all comparisons of the seller's interest and the ABS interests will be on the same basis, and there will be no room to manipulate the seller's interest.

With respect to § __.5(e) of the Re-Proposals, please expand the types of excess funding account balances that can be counted toward the required 5% seller's interest. As we mentioned earlier in this letter, particularly in footnote 8, our excess funding account usage is not triggered by a failure to meet the minimum seller's interest requirements under the securitization transaction documents. Rather, the account is in continuous use and mostly serves as a place to retain principal collections pending availability of new receivables to purchase. Our excess funding account can contain very large amounts of money from time to time in the ordinary course, largely driven by seasonality. Our excess funding account balances are appropriately included in the calculation of Available Issuer Interest under our transaction documents, and the funds therein secure the ABS interests until used in accordance with the transaction documents. It is clear to us that there is variation in the market's use of the term "excess funding account". Please try to accommodate that variation.

Furthermore, we do not understand why the early amortization provisions in § __.5(h) or the Re-Proposals are limited to master trusts with revolving assets. The comment on page 77 of the Proposing Release that securitizers of "ordinary" non-revolving assets might create transactions that revolve only briefly and thereby circumvent the cash distribution restrictions does not offer any insight into why the distinction is made; whatever it is meant to imply, in the context of a seller's interest that is subordinated in amortization (which most are, we suspect), the disparate treatment of non-revolving asset master trusts makes no sense. Why should such a master trust be out of compliance if, as a result of absorbing losses, the seller's interest is reduced below its initial level? From our perspective, that would be the essence of "skin in the game". We aren't sure what gamesmanship the Re-Proposals are trying to avoid, but our structure (with non-revolving underlying assets) has full subordination of the seller's interest during early amortization, and has never led to any investor loss. Please reconsider your limitation in §__.5(h) to master trusts with only revolving assets.

Also on the subject of early amortization, § __.5(h)(4) of the Re-Proposals states that the revolving master trust, after an early amortization, may not issue additional ABS interests except to affiliates of the sponsor. We find that troubling in two important respects. First, the text doesn't seem to take into account the possibility of a cure of the default or pay-out event that caused the early termination. Once cured, the transaction should be able to continue on as before. That concept is particularly important for master trusts, which are designed to operate over many years (twelve so far, in our case) and which have received the benefit of significant infrastructure investment over the years that otherwise might go to waste. Second, our industry is subject to numerous licensing requirements, and any newly-created SPV would probably need to go through a lengthy and expensive licensure or exemption process, even if we use the original SPV and master trust to issue trust certificates to the new SPV as described in the Re-Proposals and the Proposing Release. We don't see why an existing master trust would automatically be so "tainted" as to preclude continued use after an early amortization if the market is otherwise prepared to permit that use. Please reconsider this limitation.

Finally, with respect to the record maintenance provisions in § __.5(g)(2) of the Re-Proposals, we urge you to limit the records retention requirement to three years after a particular Series of ABS interests has been retired (as indicated on page 75 of the Proposing Release) or, in the case of revolving ABS interests, after the extension of the scheduled maturity of such ABS interests.

3. **Modify and clarify conditions for application of special horizontal interest described in § __.5(f) of the Re-Proposal.**

As we mentioned above, PFSFC's retained residual interest does not meet the definition of a "seller's interest" described in § __.5(a) because it is not pari passu with each series of investors' ABS interests at times other than early amortization.[10] Instead, it generally is always subordinate to each series of investors' ABS interests. However, we note that the joint agencies have proposed that master trusts may use qualifying, series level, special horizontal interests to satisfy their risk retention instead of a seller's interest. As defined in the Re-Proposals, this special horizontal interest must meet the following requirements, individually or in the aggregate:

- Each series issued by the trust distinguishes between the series' share of interest and fee cash flows and its share of principal repayment cash flows (which may include excess cash flows available from other series);
- The horizontal interest's claim to any share of interest and fee cash flows for any interest payment period is subordinated to all accrued and payable interest and principal due to more senior ABS interests in the series for that period and reduced by the series share of losses, to the extent such payments would have been included in amounts payable to more senior interests; and
- The horizontal interest has the most subordinated claim to any part of the series share of principal repayment cash flows.

We believe that components of PFSFC's residual interest in its facility substantially meet the conditions of special horizontal interest[11] described in in § __.5(b), but that the joint agencies need to clarify what is meant by "series level" retention in the context of a special horizontal interest and that modifications must be made to the definition of special horizontal interest in order for PFSFC to receive the full benefit of its substantial existing risk retention in its facility. We ask that the joint agencies approve the special horizontal interest concept with the modifications described below.

a. *Give credit for trust- level retention that benefits all Series and is allocable on a Series-by-Series basis.* The Proposing Release states that issuers who wish to use the special horizontal interest to satisfy their risk retention requirement must maintain the specified level of risk retention in every series of the applicable trust. It is not clear that this construct gives proper recognition to a portion of the risk retention that we maintain through Available Issuer Interest, and we ask that the joint agencies clarify that "series level" retention in the context of special horizontal interests includes trust-wide risk retention that is allocable to a series.

[10] As noted below, another reason is that a portion of the risk retention represented by PFSFC's residual interest may be deemed trust-level retention.

[11] The Re-Proposals state that this special horizontal interest may only be used while the master trust continues to operate by issuing multiple series. It would be helpful to know what the test is for "continuing" to issue; i.e., is there a maximum time interval between issuances?

As we have explained, in our facility all collections are allocated among Series based on their respective Investor Percentages, which in turn are based on their respective Investor Interests. The Investor Interest of a Series of notes in our facility is comprised initially of the principal amount of the notes, which represent the investors' purchase price, and the Required Reserve Amount, which is the amount of risk retention which PFSFC must have in the facility at issuance to support the particular Series of notes. This may be represented by excess Eligible Receivables or cash held in the Trust Estate and is the minimum amount at which PFSFC is at risk at the Series level at issuance of a Series.

Because PFSFC must at all times meet the Coverage Test and have "Available Issuer Interest", it has always maintained a comfortable cushion of Available Issuer Interest. As noted above, over the past four years PFSFC has maintained an Available Issuer Interest ranging from between 2.1% and 10.9% of the outstanding principal amount of notes. It expects that it will always have more than the minimum amount of risk retention represented by the Required Reserve Amount. As a result, because all collections run through the waterfall and are allocated to investors before they may be used by PFSFC to purchase receivables or pay dividends, noteholders of all Series benefit from the availability for distributions of collections in excess of what would be available if PFSFC were to maintain no Available Issuer Interest. Further, during both the revolving and amortization periods, excess finance charges from Available Issuer Interest are available to apply to default amounts otherwise allocable to investors. In the event of amortization, all collections, including those related to Available Issuer Interest, are trapped until principal required to be paid on the amortizing Series is paid. Further, charge offs first reduce Available Issuer Interest, which is allocable to each Series based on the "Investor Percentage" of such Series, before reducing the Investor Interest of the Series. Thus, the overall risk retention in our facility was, at September 30, 2013, 4.1% higher than what it would otherwise have been if only the Required Reserve Amounts of the various Series were taken into account. Therefore we ask the joint agencies to clarify that "series level" retention in the context of special horizontal interest gives credit at the Series level for the allocable portion of Available Issuer Interest. By doing so, assuming sufficient Available Issuer Interest, our facility could remain in compliance when Series level risk retention represented by the Required Reserve Amount of a Series is below 5%.

If such credit is not given, allowance should be made in the rules relating to subordination that gives recognition to the fact that a portion of finance charge and principal collections come from Available Issuer Interest in excess of the Required Reserve Amount that is allocable to each Series.

b. *Clarify requirement that the horizontal interest has the most subordinated claim to principal collections.* One condition of the special horizontal interest that appears too broadly stated is the requirement that the special horizontal interest have the most subordinated claim to any part of the series' share of principal repayment cash flows. If applied literally, this would preclude the use of principal collections to repurchase new assets, which we assume is not what was intended. We assume that the discussion at page 65 of the Proposing Release has relevance here, and that master trusts can use principal collections to reinvest in new extensions of credit at a predetermined price; however, we would appreciate clarification of this point in the final rules.

We would also wish to point out that in a facility such as ours, which is designed to allow for peaks and valleys of outstanding ABS interests through the use of revolving notes, at those times when the facility is shrinking and the principal of outstanding variable funding ABS interests are paid, there will be excess principal collections allocable to the residual interest that will not be required for risk retention or for investment in new receivables. Those excess principal collections should be available to the holder of the residual interest.

c. *Exempt collections from excess concentration and ineligible receivables from subordination requirement.* Although we receive no credit for them in determining Available Issuer Interest or Minimum Issuer Interest and strive to have no excess concentration receivables[12] or ineligible receivables in the pool, to the extent that we do have any such receivables, collections from them should be excepted from the subordination conditions applicable to special horizontal interests found in paragraph § __.5(f)(4) of the Re-Proposals.

d. *Permit valuation of special horizontal interest on the basis of principal balance.* The Re-Proposals require that, in contrast to a seller's interest, a special horizontal interest be measured on the basis of fair value. This will be a burdensome and irksome requirement, particularly if imposed monthly. Please refer to our other comments about fair value accounting throughout this letter.

e. *Risk retention should only be applied to master trust series issued after the effective date of the proposed rules.* Several of the series that we have outstanding have classes of ABS interests that may have less than 5% risk retention, even if, as we have suggested, credit should be given for series allocable Available Issuer Interest. Some of these may be outstanding on the effective date of the Proposed Rules. We believe that the proposal that a master trust relying on the seller's interest for risk retention be in compliance with the Proposed Rules on the first day after the end of the transition period should not apply to these series or other series where the sponsor uses horizontal interests or special horizontal interest to satisfy risk retention. If series level risk retention is to be required, we don't understand why outstanding series issued before the effective date must comply with the new risk retention requirement as of the effective date. We expect that when the Proposed Rules are adopted in final form, sponsors will be scrambling to analyze the final rules and apply them to new issues to meet their immediate needs for funding, and that amending existing issues to conform to the new rules will impose additional burdens that, however generous the time frame may seem, will prove difficult to meet. It only seems reasonable to us that the requirement be imposed on new series issued after the effective date

f. *Limit the requirement to measure fair value of revolving funding ABS interests to reasonable intervals.* We understand that risk retention for all forms of horizontal interest is determined by comparing GAAP fair value of the retained interest to the fair value of all ABS investors' interests as of the issue date. Whether the horizontal interest is measured at the trust level or series level, this requirement will impose a burden on sponsors where the ABS interest is a revolving note. In our case, for example, we have six series of such notes, and throughout the

[12] Excess concentration receivables are ones that exceed specified limitations imposed on receivables that share a common characteristic, such as receivables relating to insurance policies issued by the same insurance company. A receivable that becomes a defaulted receivable would no longer be treated as an eligible receivable, even though further receipts from such Receivable might be forthcoming.

year the outstanding principal amount of our borrowings under each series may be next to nothing or may approach the maximum borrowing limit. We think it makes sense to treat the date of each increase as the issue date for purposes of determining permissible distributions to the residual interest, but also feel that being required to determine fair value of the residual interest and all ABS interests in the series prior to each increase date will impose a terrible burden. We think our discussion of fair value in Section C.2 above is equally applicable here. However, if the joint agencies decide to require fair value determinations, then, in the context of revolving ABS interests we believe a fair value determination should only be required prior to the date of the initial borrowing and thereafter no more often than annually. If the lender requires less frequent renditions, that should be permissible. At other times, when a borrowing is made, as explained in Section C.2, a determination of face value should be sufficient. We also suggest that a fair value determination as of a closing date is not practical with a dynamic pool of assets, and that an earlier measurement date should be permitted.

D. Horizontal and Vertical Risk Retention.

We believe vertical risk retention will be inefficient and of little interest to many rated facilities, such as our own, as we expect that rating agencies will insist on some level of subordination through an additional residual issuer interest or other form of credit enhancement before they will rate the investor interests. However, we offer the following comments on the eligible horizontal interest provisions of the proposed rules.

1. Clarify the requirement that the horizontal interest has the most subordinated claim to principal collections.

Several of the comments that we make above regarding the special horizontal interest available for master trusts have equal application here.

One question that arises is whether the subordination and projected cash flow provisions applicable to eligible horizontal interests are intended to preclude reinvestment of principal collections. It is not apparent whether principal collections can be used for reinvestment when an eligible horizontal interest is the form of risk retention, whether or not the issuer of the ABS interests qualifies as a master trust.

Another comment that we make above when addressing master trusts that also seems applicable to the proposed rules on eligible horizontal interests relates to cash flows from assets for which an SPV receives no risk retention credit. These should be exempt from the subordination requirements for the reasons discussed above under our master trust comments.

2. Please adopt the alternative eligible horizontal residual interest proposal.

Under the Re-Proposals, sponsors that retain eligible horizontal interests must calculate and certify as of the closing date of each issue (i) the fair value of all cash flows projected to be paid to the holder of the horizontal interest through maturity and the percentage of that total to be paid as of each payment date through maturity, and (ii) the percentage of the aggregate principal amount of ABS interests issued that is projected to be paid as of each payment date. Sponsors also would have to certify that the percentage of cash flows paid to the holder of the horizontal

interest as of each payment date is not projected to exceed the percentage of principal returned to investors as of such payment date.

This proposal seems to be geared only to ABS interests with amortizing principal payments. Our transaction, by contrast, uses (a) term notes with a single "bullet" principal payment on a scheduled payment date that are designed to be paid through a refinancing (or a subsequent amortization if the financing does not occur) and (b) revolving notes the outstanding principal balance of which at any time is related mostly to seasonality in the underlying receivables pool rather than to any required amortization of the notes. Unfortunately, the eligible horizontal residual interest proposal strikes us as an option which would be unworkable as a substitute for a seller's interest under the master trust rules. As a result, relative to question 21 at the bottom of page 61 of the Proposing Release, we would ask that the eligible horizontal residual interest alternative not be adopted.

Most sponsors of a master trust wishing to use an eligible horizontal residual interest, instead of a seller interest, to satisfy their risk retention requirement would be forced to use the cash reserve account option, which would be very inefficient. Because of the difficulty in calculating the closing date projected principal payment rate, even a cash reserve account option might prove of limited use to a master trust whose ABS interests held by investors are of a revolving funding, non-amortizing nature.

If restrictions must be placed on payments made with respect to the retained interest, it appears to us that the alternative eligible horizontal residual interest proposal described at page 59 of the Proposing Release is a more reasonable approach because it compares all forms of payment to both the residual horizontal interest and the investor interest, in contrast to the eligible horizontal interest proposal which compares all forms of payment to the eligible horizontal interest and only principal payments to the investor interest. However, even it appears deficient, as it could trap finance charge collections not needed to support the ABS interests.

The alternative proposal would limit, as of any payment date, the cumulative amount paid to the eligible horizontal residual interest to a proportionate share of the cumulative amount paid to all holders of ABS interests, which proportionate share would be determined at the date of issuance and would be based on the fair value of the ABS interests issued in the transaction and the fair value of the residual interest. Assuming the ABS interests bear a market rate of interest, their fair value will approximate their principal amount at issuance, whereas the value of the horizontal interest, if not based on face value of the underlying excess receivables, would presumably reflect the opportunity to receive excess cash flow after payment of interest and other costs and after covering default amounts. In either case, it is difficult to imagine how the resulting valuation of the horizontal interest would produce an issue date value sufficient to permit distribution to it of all excess cash flow from finance charge collections. To the extent it did not do so, the undistributable excess finance charge collections would have to be held until the time that principal of the ABS interests was paid, which in a revolving master trust structure using "bullet" payments at maturity might be some years away. <u>It would be much more efficient to distinguish between payments from finance charge collections and principal collections and to permit amounts greater than a proportionate share of finance charge collections to be distributed to an alternative eligible horizontal residual interest on any interest payment date if a sufficient</u>

amount was set aside to provide for interest due on the ABS interests on the next interest payment date.

Another aspect of the alternate proposal that the joint agencies should consider is how compliance with the payment restrictions should be determined when the ABS interest is a variable funding note that may have increases and decreases in principal amount from time to time. In this instance, we suggest that the date of any increase or decrease should be treated as a new issue date for purposes of determining the residual interest's proportionate share of principal and interest distributions. In the case of our facility, we have had some variable funding notes in place for over ten years, and requiring us to make a determination of cumulative distributions over this period of time would be burdensome and of no obvious benefit.

To be workable as an alternative to a seller's interest under the master trust rules, the use of proceeds to acquire new assets should be clearly stated not to constitute a payment with respect to the residual interest.

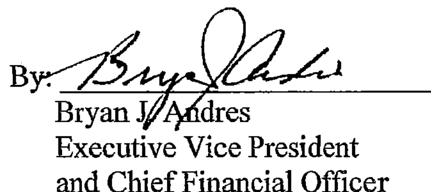
Conclusion.

We realize that the joint agencies' task is difficult. Nevertheless, we urge you be mindful that there are a significant number of transaction structures in the market that aren't envisioned by the Re-Proposals but that are robust, investor-friendly structures with plenty of seller "skin in the game". Those structures also serve a continuing and important role in the financing of small businesses. Please do your utmost to retain the successful aspects of the existing regulatory regime, while minimizing the cost and disruption of any changes that you deem necessary. If our fundamental comments aren't accepted, we would be grateful for the chance to comment on further developed proposals. We otherwise foresee a great deal of time spent with the agencies' staffs clarifying how several of the proposals would apply to premium finance loans and to our specific transaction structure.

Please contact us with any questions that you might have, or if you wish to discuss this matter further.

Sincerely,

IPFS CORPORATION

By: 
Bryan J. Andres
Executive Vice President
and Chief Financial Officer