American Honda Finance Corporation
DaimlerChrysler Services North America LLC
Ford Motor Credit Company
General Motors Acceptance Corporation
Navistar Financial Corporation

July 12, 2004

By E-Mail: rule-comments@sec.gov

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549-0609

Re: Proposed Rules for Asset-Backed Securities
(Release Nos. 33-8419; 34-49644; File No. S7-21-04)

Dear Mr. Katz:

The automotive and truck finance companies listed above submit this letter to comment on the releases identified above (the "Proposal"), by reference both to the text of the proposed amendments (the "Proposed Rules") and to the SEC's commentary on the Proposed Rules (the "Commentary"). We also have reviewed what we understand to be near-final drafts of the comment letters being submitted by the American Securitization Forum (the "ASF letter") and the American Bar Association (the "ABA letter"). We generally support the positions taken in the ASF letter and the ABA letter. We have not had an opportunity to review the American Securitization Forum's position with respect to static pool data, which we understand will not be included in the ASF letter and will be presented in a supplemental letter at a later date. This letter focuses on issues that are of particular interest to us as vehicle finance companies and active ABS issuers.

We appreciate the initiative and effort of the SEC in promulgating the Proposal. We believe that the adoption of a uniform set of rules will be of substantial benefit to the market. We propose certain revisions to the Proposed Rules based primarily on the impact we perceive on our sizeable segment of the securitization market. We support our positions with data and examples relating to vehicle finance receivables.

We are all active in the asset-backed securitization market. We access the stable and liquid ABS market to diversify our sources of funding, improve our liquidity and obtain lower cost funds. Securitization has been an attractive and reliable source of funding for us.

We securitize three types of vehicle finance receivables in the public market. Our securitizations of retail installment sale contracts[1] are typically static amortizing pool structures offering fixed and floating rate notes. These transactions may include revolving periods during which additional assets are added or prefunding periods. We also securitize our wholesale loans extended to vehicle dealers to finance their vehicle inventories, commonly referred to as dealer floorplan financing. These transactions are often effected through master owner trusts. Many of us also have securitized vehicle leases in amortizing pool structures.

Some of us have been sponsoring publicly offered securitizations for more than 15 years. For the calendar years from 2001 to 2003, the publicly registered ABS offerings backed by prime retail automotive installment sale contracts amounted to more than $156 billion[2] in the aggregate, and the members of the group sponsored a significant portion of those offerings. Automotive finance receivables are one of the largest classes of non-mortgage ABS offered in the U.S. market.

Investor demand for our ABS historically has been strong. Investors support vehicle finance receivables ABS because the transactions have performed well, are well understood by investors and allow investors to diversify their investment portfolios. Investors appreciate that we are frequent and steady issuers with consistent underwriting criteria and consistent pools of assets.

Without continued flexibility and predictability in the securitization market, our efforts to efficiently fund our companies and our ability to effectively support our manufacturer parent companies will be challenged.

We have four overriding points to make:

- Many of us have successfully sponsored ABS transactions with lease assets, with revolving periods and with prefunding periods. Our ability to efficiently and effectively continue to do so would be significantly impaired by the percentage limitations on lease residuals, revolving periods and prefunding periods in the proposed definition of "asset-backed security," to the detriment of investors in our ABS and our financing customers. Those limitations should be eliminated from that definition. In addition, those same limitations, together with proposed requirements relating to master trusts and the presentation of delinquency data, should be eliminated from, or, if retained, relaxed and clarified in, the tests for eligibility to use Form S-3.

- Regulation AB should encourage the disclosure of static pool data in the most efficient and accessible format -- on websites; and the SEC should provide a framework for such disclosure. A number of us already provide prior securitized pool data on a website. Regulation AB should not, however, specify the particular types or quantities of static

---

1 The term "retail installment sale contracts" as used herein also includes retail loans.

2 Source: Asset-Backed Alert (www.abalert.com).

pool data to be disclosed. The type and quantity of available and relevant data varies significantly even among the three categories of vehicle finance receivables we securitize in the public market. Nor should "materiality" be the yardstick for determining what static pool data to disclose -- at least not until market standards can be developed through issuer initiative steered by SEC guidance. It is important to recognize that we and the other primary participants in vehicle finance ABS (issuers, lawyers and bankers alike) have not previously concluded that static pool data is material.

- Our ABS transactions frequently include one or more classes of floating rate notes. They satisfy a significant market demand and allow for larger, more efficient transactions. The blanket imposition of disclosure requirements regarding the financial condition of contingently liable third parties, without a recognition of the differences between interest rate swaps and credit enhancement, without giving effect to the protections afforded by counterparty ratings downgrade triggers in swap contracts and without allowing for a means of calculating swap counterparty exposure that does not simply default to worst case assumptions, will significantly decrease the attractiveness and, therefore, the issuance, of floating rate ABS by us.

- Given the scope and complexity of the Proposed Rules, the consequences for the failure to comply with such Proposed Rules, and the willingness of the SEC to provide flexible transition periods for other initiatives, we recommend that the effective date of the new rules be at least 12 months after their publication. In addition, all securities (a) issued prior to the effective date of the final rules or (b) issued under a shelf registration statement that was filed and effective prior to the effective date of the final rules and not amended after the effective date of the final rules, regardless of when issued, should not be subject to Regulation AB in respect of either disclosure or periodic reporting requirements.

I. Securities Act Registration

A. Definition of "Asset-Backed Security" and Form S-3 Eligibility

We believe the definition of "asset-backed security" should not have percentage limitations on lease residuals, revolving periods and prefunding periods. We understand and accept, in principle, that eligibility for Form S-3 might be limited to ABS that meet certain tests, but we think that the other benefits of the Proposal should be made available to all ABS. However, we believe the SEC should use a principles-based approach rather than bright-line tests in the definition of "asset-backed security" and in determining Form S-3 eligibility so that the rules will contain the flexibility needed to accommodate the ever- changing financing products we offer as well as the continuously evolving structures in the ABS market.

Each of the three proposed threshold limitations would have disqualified one or more public ABS offerings sponsored by us in recent years. Some of us have issued ABS with prefunding in excess of the 50% threshold, some have issued ABS that have exceeded the one year or 50% limitations on reinvestments during a revolving period, and some of us have issued lease transactions with high residual levels. We believe that each of those transactions was, in every sense, an asset-backed transaction. The eligibility criteria for the receivables, the servicing procedures, the distributions to investors, the limited nature of the discretion of the transaction parties, and all other principal aspects of those transactions were consistent with other securitizations we have sponsored. The only significant distinguishing characteristic was with the level of prefunding, reinvestment or lease residual percentage relative to an arbitrary threshold. To exclude those types of transactions from the definition of "asset-backed security" is, we believe, to effectively exclude them from the public market. As issuers of ABS backed by those types of pools, we believe that we and our potential investors would be disadvantaged by that result.

1. Leases

We strongly support the SEC's determination to permit the registration of qualifying lease-backed securities on Form S-3. We believe this expansion of shelf registration eligibility will stimulate the securitization of auto and truck leases and that it is important to encourage the securitization of vehicle leases in the public market. At present, most such transactions are issued in the private market because of the difficulties associated with registering vehicle lease ABS. We believe that investors will welcome and benefit from the development of a public vehicle lease ABS market. We acquire large volumes of lease assets, and it is important for us and our manufacturing company parents that we maintain access to as many sources of liquidity as possible.

We do, however, have three concerns about the lease provisions as drafted. First, the Proposed Rules does not mention commercial vehicle leases. A number of us originate leases of commercial vehicles and may combine them with auto leases in future securitization transactions. We believe that all commercial vehicle leases should be treated on the same basis as automobile leases based on their commonalities, which include lease terms, range of residual values and nature of the resale process for the financed vehicle. For those reasons, we urge the SEC to replace the phrase "automobile leases" in all applicable places with "vehicle leases," with the latter term defined as "leases backed by automobiles (including, without limitation, light duty trucks, sport utility vehicles and vans), motorcycles, trucks, buses, trailers or other commercial vehicles."

Second, we believe that the residual value percentage limitation in Item 1101(c)(2)(v) of the Proposed Rules is unnecessary. The SEC should permit any pool of leases to be securitized in a public offering, regardless of the percentage of the residual value. Some of us originate a significant number of leases with 24-month terms. Leases with 24-month terms typically have "securitization value" residuals that exceed 70 to 75% of the manufacturer's suggested retail price for the vehicle. Also, imposition of a threshold would have the undesirable effect of excluding from a pool those leases backed by vehicles that best hold their value, because those vehicles are the ones that will have the highest contract residuals, all else being equal. In fact, we believe that some of our prior public vehicle lease ABS transactions would not have qualified as "asset-backed securities" if the proposed residual value test had been applied.[3]

---

[3] We have stated this point as a matter of belief rather than certainty because there is significant ambiguity as to how to perform the residual value percentage calculations in order to apply the proposed test and different

(Continued…)

Third, it would be difficult for us to justify registering securities on a shelf if there is a significant risk that we will not be able to take them down due to uncertainties about asset eligibility. If it becomes too cumbersome to securitize leases, and if the availability of a shelf offering is too attenuated, then many of us simply may not make the effort to effect public securitizations of vehicle lease backed ABS. This would be an unwelcome result for all parties in the vehicle manufacturing, sales and financing markets as well as investors seeking this asset class.

If the SEC is not persuaded to eliminate the percentage test with respect to residual values, we suggest in lieu of proposed Item 1101(c)(2)(v)(A), "for any pool of 'vehicle leases,' the aggregate contractual residual value (or, if not available, book value) for all pool leases (the 'Aggregate Pool Residual') is not greater than 80% of the aggregate of the manufacturer's suggested retail price or other recognized industry standard of value for all leased vehicles in that pool."

We believe this approach has the following advantages:

- It provides an easy and straightforward method for calculating the lease residuals based on industry standards that can be consistently applied.

- It allows sponsors to create pools with certainty as to whether they would meet eligibility standards.

- It eliminates the ambiguity of what should be included in "anticipated" cash flows.

In applying the foregoing test, we believe that certain types of leases should be attributed a residual value different than their contractual residual value because the ABS issuer is not the primary bearer of the residual value risk.

The first category, the "TRAC lease," would be attributed a zero residual value. A TRAC lease is a lease of a motor vehicle intended to qualify as a lease for federal income tax purposes, but that economically resembles a balloon loan rather than a true lease. Under the terminal rental adjustment clause, or "TRAC" provision, although the lease termination involves disposition of the vehicle, the lessee is obligated to make up any shortfall in, and is entitled to receive any excess of, the disposition proceeds relative to the contract residual.

The second category is a lease with a guaranteed residual where the lessor has obtained residual value insurance. In this case, the insurer bears all or a portion of the risk that disposition of the leased asset will yield less than the residual value at lease termination. For this calculation, these leases would be attributed a residual value equal to the uninsured portion of the total residual value.

---

methods would yield different results. We believe this is an additional shortcoming of the proposed threshold approach.

2. Exceptions to "Discrete Pool" Requirement for Master Trusts

In Section III.A.2.e. of the Commentary and Item 1101(c)(3) of the Proposed Rules, the SEC has expressly indicated its intention to permit the use of "master trusts" under Regulation AB, and has specifically identified dealer floorplan financings as intended to be covered. Most of us utilize dealer floorplan master trusts, which are generally accepted in the market today. However, we believe that the SEC needs to clarify this provision and other provisions of the Proposed Rules that relate to master trusts. Those clarifications are discussed and alternatives proposed with respect to all master trusts in the ASF letter, and we support those positions.

3. Limitations on Revolving Periods

a. Non-revolving assets

We believe that the limitations in Item 1101(c)(3)(iii) and Form S-3 General Instruction I.B.5.(e) on revolving periods based on duration and pool percentage for ABS of "fixed assets or other assets that do not revolve" is inappropriate and should be deleted. These "bright-line" limitations would prevent us from publicly registering retail installment sale contract ABS with revolving periods greater than one year on Form S-3 and, in many cases, Form S-1. The success of transactions with revolving periods when they have been used by us in the past has demonstrated that investors are provided adequate protection and that precluding those transactions would thwart the preferences of certain investors for ABS with longer average lives. In addition, we believe that the distinction drawn between "fixed" and "revolving" receivables in Item 1101(c)(3)(iii) and Form S-3 General Instruction I.B.5.(e) is arbitrary and inconsistent with the SEC's interpretations, policies and practices regarding the "discrete pool" requirement.

The proposed limitations on the percentage of non-revolving assets that may be replaced is inconsistent with current practice for securitization of auto and truck retail installment sale contracts. This limitation would reduce the effective length of the revolving period to less than a full year based on the speed at which these assets repay their principal. Our experience is that auto and truck retail installment sale contracts typically pay down at a rate of about 3% to 4% per month. Under the proposed limitation this would result in a revolving period of only 6 to 8 months in a typical transaction.

Over the past few years, certain members of this group have effected several revolving period securitizations. As the chart below indicates, each of those transactions has resulted in reinvestments of principal in the first year of the revolving period substantially in excess of the proposed 25% limitation for Form S-3 eligibility:

Recent Automobile ABS Revolving Period Transactions		
Issuing Entity	**Sponsor**	**Principal Reinvestment in First 12 Months**
Ford Credit Auto Owner Trust 2000-F	Ford Motor Credit	45%
Capital Auto Receivables Asset Trust 2002-3	GMAC	45%
Capital Auto Receivables Asset Trust 2003-1	GMAC	47%

We believe that the limitations on the amount of non-revolving assets, if maintained in the final rule, would render revolving period structures obsolete in vehicle retail installment sale contract securitizations. The proposed limitation on the use of the revolving period for retail installment sale contracts would limit the average life extension of asset-backed securities backed by vehicle receivables to approximately 6 to 8 months. At that level, the incremental cost of including a revolving feature would simply not be justifiable for issuers of auto and truck retail installment sale contract securitizations or attractive to investors. Investors who seek to buy asset-backed securities with longer weighted average maturities would be diverted away from vehicle related ABS; a situation that would ill serve issuers and investors. The same concerns also apply to vehicle lease securitizations.

We believe that what investors care about is not whether new receivables are added to an asset pool but that the receivables of the sponsor have remained relatively constant during the revolving period, so that the pool is not materially different at the end of the revolving period than it was at the beginning. To ensure this, rating agencies and investors demand covenants from sponsors that they will not select new receivables on a basis that is adverse to investors and that specify eligibility parameters and pool composition limits.

We also do not believe that these limitations serve any legitimate investor protection purpose. Any concern that the SEC may have regarding the “uniformity” of the pool can be — and has been — adequately addressed through the use of eligibility criteria that limit the new receivables to the same characteristics as the initial receivables. The fact that a pool has a high “turnover” would, therefore, seem to be irrelevant, because the assets that pay off are replaced with new assets that also meet the eligibility criteria.

Finally, we believe that the distinction drawn between “fixed” and “revolving” receivables is both arbitrary and inconsistent with the SEC’s interpretations, policies and practices regarding the “discrete pool” requirement. Permitting certain asset types, such as dealer floorplan receivables, to have unlimited revolving periods but limiting the revolving period for others, such as retail installment sale contract receivables, does not serve any rational purpose or investor protection policy. As with retail installment sale contract securitizations, dealer floorplan pools also can have high "turnover" of receivables as the dealers purchase additional vehicles and vehicles are sold to customers.

To illustrate this point, consider the following comparisons among retail installment sale contract and dealer floorplan securitizations:

Comparison of Receivables Turnover and Account Composition during Revolving Period			
Trust	**Asset Type**	**Relevant Period**	**New Receivables in Period (% of total principal bal.)**
Capital Auto Receivables Asset Trust 2003-1	Retail	1 year	47%
Ford Credit Auto Owner Trust 2000-F	Retail	2 years	102%
Superior Wholesale Inventory Financing Trust VII	Dealer Floorplan	2 years	799%
Ford Credit Floorplan Master Owner Trust A	Dealer Floorplan	1 year	582%

The data in the preceding table shows a significantly lower percentage of new receivables for retail installment sale contract pools than for the revolving asset dealer floorplan pools. In addition, prepayment speeds for vehicle retail installment sale contracts are well understood by investors; so, far from being deceived into providing revolving financing for non-revolving assets, investors are knowingly and willingly expressing their preferences for longer average life securities.

For all the above reasons, we believe that the proposed limitation cuts back in several respects on the SEC's existing standards, and would result in making a revolving period less useful for sponsors and investors and should be eliminated.

b. If limitations are retained, modifications are appropriate

If the SEC is unwilling to remove all limitations on revolving periods, then we believe that modifications are needed to proposed Item 1101(c)(3)(iii) and Form S-3 General Instruction I.B.5.(e) to effectively address the points raised above and provide clarifications.

If the SEC will not eliminate the limitation on the use of a revolving period in a securitization of non-revolving assets, then, for the reasons discussed above, we suggest that the use of revolving periods for non-revolving assets be permitted for up to 36 months. With a 36-month revolving period, we could structure ABS with weighted average lives of 4 and 5 years. This would improve the efficiency of transactions, as issuers could amortize transaction expenses over a longer period of time and lock in longer-term financing while appealing to a broader array of investor preferences.[4]

We are also concerned about a potential ambiguity in the kinds of asset classes to which the limitations would apply. Item 1101(c)(3)(iii) of the Proposed Rules specifies that the duration and re-investment limitations on revolving periods apply to "fixed receivables or other financial assets that do not revolve." Our concern is that most asset classes do not have revolving receivables; they have revolving *accounts* under which specific (arguably, "fixed") receivables are generated.

We note that the Commentary says that this proviso would not limit "receivables or other financial assets that by their nature revolve (e.g., credit cards, dealer floorplan financings or home equity lines of credit) . . ." However, a strict interpretation of the Item 1101(c)(3)(iii) could limit the future availability of revolving periods for assets that have traditionally enjoyed an unlimited ability to utilize revolving periods. Based on the commentary, we do not believe that is the SEC's intent. The dealer floorplan example that follows demonstrates the danger of drawing distinctions based on form rather than substance.

For example, in the dealer floorplan business, the "revolving" relationship typically is established at the account level. Generally, we extend a line of credit to the dealer, with a maximum credit limit. In each dealer account a new receivable for a fixed amount and secured by a specific vehicle is created for each vehicle purchased by the dealer. Each receivable is repaid on a specified due date, when the financed vehicle is sold, or on demand. The overall amount owed by the dealer will continuously "revolve" as new vehicles are acquired and as vehicles are sold to the dealers' customers, but that is at the "account" level, not at the individual "receivable" level.

We recommend that any limitation on non-revolving assets should focus on the nature of the relationship between the sponsor and the obligor, not on the terms of the specific receivable. Specifically, we suggest replacing the phrase "fixed receivables or other financial assets that do not revolve" with "asset pools consisting directly or indirectly of receivables which do not arise

---

4 We note a technical ambiguity in the proviso to the Proposed Rule. The proviso says that "the duration of the revolving period [can] not extend for more than one year from the initial date of issuance of securities backed by the same pool. . ." We would like to clarify that this limitation is meant to allow the reinvestment of up to a full year's worth of collections in new receivables. Doing so could take slightly longer than a year from issuance of the ABS. Suppose, for example, that ABS is issued on July 12, 2004, with a cut-off date of July 1, 2004, and with monthly payment dates on the 15th day of the month following the collection period. The 12th month of the first year of the transaction would end on June 30, 2005, and those collections would not be re-invested in new receivables until July 15, 2005, which would be slightly over a year after the initial issuance date.

We suggest that the restriction should instead read: "the duration of the revolving period does not extend for more than one year (plus any additional days until the related final reinvestment date) from the initial date of issuance of securities backed by the same pool. . ."

under revolving accounts." In addition, we suggest defining "revolving account" as "the relationship between a credit provider and an obligor that permits multiple repayments and re-borrowings."

4. Exception to "Discrete Pool" Requirement: Prefunding Periods

As noted in Section I.A. above, we believe that the definition of "asset-backed security" should not impose any limitation on the use of prefunding in securitizations. We think transactions that are 100% prefunded still constitute asset-backed securities in all relevant respects, and we do not believe that it is necessary or appropriate to exclude offerings with significant prefunding from treatment as ABS or from the use of shelf registration. The use of strict eligibility criteria for selection and the presence of an investment grade rating on the ABS should be sufficient assurance to investors that they are investing in a pool to be filled with receivables of a known type, rather than in a "blind pool."

We particularly do not understand the rationale for the imposition of a strict 25% limit on prefunding under Form S-3. Although the SEC previously had slightly limited prefunding through its tying of the exemption from Rule 15c2-8(b) to a limitation on the amount of prefunding, the SEC has expressly abandoned that relationship in the Proposal. Further, notwithstanding that prior relationship, the SEC routinely permitted registrants to effect offerings off the shelf utilizing prefunding well in excess of 25% — at times, in excess of 50%. We fail to see a justification for cutting back on this course of practice.

As between the percentage limit and the time limit, we are more concerned about the percentage limit. We think that it is rarely the case that a prefunding period would extend for more than a year, because the "negative carry" implications of raising funds that far in advance of their use will impose an economic constraint. On the other hand, we believe that it can be a rational exercise of business judgment to utilize 50% or more prefunding in a transaction in which the sponsor is confident that it will be able to generate quickly the receivables needed to fund the transaction. Therefore, we would be willing to support retention of the one-year prefunding period limitation, but we believe that the percentage limitation should be eliminated.

B. Presentation of Delinquency Data

Although we support the concept that material delinquency data should be presented to investors, we believe the SEC has taken too rigid a position in Item 1100(b) of the Proposal in several respects on presentation of delinquency data:

- Several of us do not track delinquencies for our retail installment sale contracts on the basis of 30-59 day and 60-89 day increments but instead use 31-60 days and 61-90 days past due. Each issuer currently displays delinquency data differently. We do not believe it is appropriate to require us to change our longtime practices and force us to be consistent with an arbitrary standard because of the time and expense that would be required to change our billing, late fee and other collection systems. We should be allowed to select our standards based on our normal business practices so long as our methods of calculation are clear.

- None of us track delinquencies in 30-day increments past 90 days and some of us only track delinquencies in 30-day increments to 60 days. There are several reasons for this practice. One principal reason is that most of our delinquencies are resolved before they reach 90 or more days, so that the number of delinquencies that are 90+ days is quite small. The following table demonstrates this phenomenon:

Retail Installment Sale Contract Delinquencies as a % of Portfolio[5] (as of December 31, 2003)			
Sponsor	**30-59 or 31-60 days**	**60-89 or 61-90 days**	**90+ or 91+ days**
Honda Finance	1.33%	0.23%	0.08%
DaimlerChrysler Services	1.77%	0.18%[6]	N/A
Ford Motor Credit	2.50%	0.34%	0.08%
GMAC	1.79%	0.19%	0.02%
Navistar Financial[7]	2.41%[8]	0.37%[9]	N/A

- Several of us do not have a specific date (*e.g.*, 120 days past due) at which we automatically charge-off a receivable. Instead the charge-off is made only after the vehicle has been repossessed and liquidated. On the other hand, others of us do effect charge-offs at 120 days past due.

- We also wish to point out that it is an automotive industry standard practice to not report an installment sale contract as delinquent if only a small amount is not paid (e.g., $25 or 10% of scheduled payment). We ask that the SEC take this into account in the final text of Item 1102(c)((3)(iii)(d).

---

5 Except for GMAC, the delinquency calculations for the sponsors are based on the dollar amount of the portfolio. For GMAC, the calculation is based on the number of units in the portfolio.

6 Represents percentage of retail installment sale contract receivables over 60 days past due.

7 Navistar Financial data is presented as of October 31, 2003, which is the end of its fiscal year.

8 Delinquency data for retail note contract portfolio only.

9 Represents percentage of combined retail note and lease portfolio over 60 days past due.

II. Disclosure

A. Disclosure of Static Pool Information

We understand the SEC's desire to address the matter of static pool disclosure and to provide a framework for its disclosure. We believe that properly presented static pool data can be a useful analytical tool for investors. Indeed, over the past several years, many of us have set up web sites on which investors and other parties can access servicer reports for our public securitizations. Through these websites, these parties can access performance information about our prior securitizations, including information that we believe would fit within the SEC's concept of "static pool data." We believe that websites, rather than the prospectus, should be the forum for disclosure of static pool data under Regulation AB based on advantages regarding cost, efficiency, expedience and investor access to and ability to analyze data.

The two factors we believe are most important in considering what static pool data should be required are the relevance and the availability of the data. We intentionally use the term "relevance" rather than "materiality" here, because we think the use of "materiality" creates a significant dissonance between past practice and the practice that the Proposal seeks to encourage. To date, none of us has been required by the SEC or other parties, or has independently decided, to disclose static pool data in a prospectus, and we have only received very limited investor requests for that information. That practice means, by definition, that we and our advisors, along with the investment bankers, have determined that static pool information is not "material to investors" in our ABS under federal securities laws. We understand that the SEC is seeking in the Proposal to cause all parties to re-evaluate disclosure practices, including the use of static pool data. However, we believe that it is insufficient for the SEC to simply require participants to disclose that information that is "material" without additional guidance.

The result of the approach suggested by Item 1104(e) in proposed Regulation AB could be that registrants will err on the side of over-inclusiveness for fear of being second-guessed on the question of materiality. That course of action would impose unnecessary costs on ABS transactions and potentially cause a limited amount of relevant information to be buried in a sea of less relevant or irrelevant information.

The proposed text of Item 1104(e) suggests that the SEC's view is that large amounts of static pool data should be provided. It also suggests that vintage pool data is more important than prior securitized pool data. The text first references "static pools of periodic originations or purchases by the sponsor of assets of the type to be securitized" and calls for disclosure of that data in monthly or quarterly increments. This type of "pool," which includes both securitized and non-securitized receivables, is commonly referred to as a "vintage pool." Item 1104(e) then states that, *in addition*, the sponsor should disclose loss and delinquency data "on a pool level basis with respect to prior securitized pools involving the same asset type established by the sponsor during this period." The text goes on to instruct that loss and delinquency data for these "prior securitized pools" should, to the extent material, be presented for sub-groupings by other factors.

We believe the SEC should provide better guidance regarding the disclosure of static pool data and should then refine issuers' responses to that guidance through the registration statement comment process. In this regard, we note that the SEC's recently disclosed intention to make staff comment letters publicly available and the responses thereto will enhance the effectiveness of this approach. We anticipate that in fairly short order, trends for the disclosure of static pool data will develop in the market, guided by staff comments. That approach was quite effective in the implementation of plain English, and we believe it would be with respect to static pool disclosure as well. In each case, both registrants and the SEC must navigate through uncharted territory, and the suggested process will allow for adjustments as the terrain becomes more familiar through experience.

We believe the initial guidance regarding static pool disclosure should take the form of instructions to Regulation AB and be modeled after the instructions contained in Item 10 of Regulation S-K regarding the disclosure of future economic performance (*i.e.*, projections). While historical data and projections on the surface are different, we believe there are useful parallels. Each is providing information that is intended to be helpful in understanding likely future performance.

The relevance and availability of static pool data varies significantly among retail installment sale contracts, leases and dealer floorplan. The following discussion provides you with guidance on the static pool information we would expect to provide if our recommended approach is adopted.

- For **retail vehicle installment sale contract and lease ABS**, availability of information is high, based on the long and consistent history of issuance in that asset class, and we acknowledge that it is relevant. In those asset classes, we would provide cumulative loss data on prior securitized pools, which, for leases, would include credit losses and residual losses. It is our strong belief that prior securitized pool cumulative loss data is the single best predictor of the outcome for a new securitized pool of comparable assets. That data is currently made available in investor reports that a number of us already publish on our websites. Static pool loss curves can easily be generated from cumulative loss data and are already available from third party securitization service providers and the rating agencies. Cumulative losses reflect not only our origination standards but our servicing practices. In addition, pool composition statistics about prior securitized pools are available in the prospectuses for those pools, which some of us already post on our websites.

- We believe that prior pool loss data is a better, more consistent and more direct tool for assessing future losses than is delinquency data. We note that other data on prior pools will be available to investors on our websites, including delinquency data; but, these types of data do not lend themselves to static pool presentations because they are "point in time" data. We believe prior securitized pools are much more relevant than vintage pools, for a number of reasons:

  - prior securitized pools contain only receivables that satisfied securitization eligibility criteria at the time they were placed in those pools, unlike vintage pools that would contain all receivables of the specified vintage, whether or not eligible for securitization.

- data from prior securitized pools is truly "static" in that it represents a fixed pool for which data is available over a meaningful period of time, whereas vintage pools are subject to more variability in composition based on acquisitions and dispositions and the absence of the same degree of standardized segmentation and reporting.

- data from prior securitized pools is also more readily available at lower cost in that it is compiled on an ongoing basis in connection with the reporting requirements of the prior securitizations.

- we could present pool-specific "identifying information" on the metrics for each prior securitized pool as of the original cut-off date for that pool, such as the weighted average APR, aggregate amount financed, number of contracts, weighted average original maturity, weighted average remaining maturity, distribution of receivables by APR, and distribution of receivables by state. However, it would be extremely difficult to recreate this data for vintage pools. Further, the ability to cross-section these characteristics varies among the companies represented in this letter. For those whose systems are not currently configured for detailed cross-sectioning requirements, those requirements would impose significant monetary and human resource costs for systems enhancements and modifications. We believe those costs, some of which would likely be passed through to investors, would outweigh what we believe is minimal desire by investors for, and usefulness to investors of, that data.

- we acknowledge that circumstances might arise in which it would be appropriate to provide vintage pool data rather than prior securitized pool data; for example, if a sponsor were to securitize a pool of receivables which varied so much from the prior securitized pools that data about the prior securitized pools was materially misleading, but a vintage pool could be cut that would provide a meaningful comparison.

- For **dealer floorplan ABS**, on the other hand, it is widely acknowledged that historical loss and delinquency data is not relevant, either for prior securitized pools or for vintage pools. For dealer floorplan, we would continue to provide relevant portfolio statistics as we currently do. We wish to advise you of the following points:

  - Delinquency data is not something that we typically track for dealer floorplan. Principal is generally due on the sale of the related vehicle or at the end of a fixed period (e.g., 180 days) or on demand, and delinquencies of principal are extremely rare. Interest payments are generally made monthly, but most of us do not generally track delinquency data for those payments (and, for many of us, there are virtually no delinquencies).

  - Loss data is not a significant determinant in setting credit enhancement levels in dealer floorplan securitizations. Credit enhancement levels determined by rating agencies are <u>not</u> based to any significant degree on historical losses for dealer floorplan ABS. The actual losses experienced by dealer floorplan lenders are negligible; generally in the range of 0.0% to 0.1% per year In the most recent prospectuses for securitizations of dealer floorplan receivables by each of GMAC, Ford Motor Credit and DaimlerChrysler Services, the highest level of losses (as a percentage of average principal balance) reported by any of these three servicers for the three calendar years preceding the year of the offering was 0.11%. Yet, the typical level of credit enhancement for the AAA-rated asset-backed securities backed by dealer floorplan receivables serviced by GMAC, Ford Credit and DaimlerChrysler Services is approximately 9.0%.

- Instead of losses or delinquencies, rating agencies focus on "event risk" such as bankruptcy with respect to the vehicle manufacturer. Such an event could result in a loss of manufacturer support of the dealers and an interruption of product flow to the dealers, each of which could impair their ability to repay their floorplan loans. This point is recognized by rating agencies in their written analysis of floorplan securitizations. For example, an S&P presale report for a recent GMAC originated transaction[10] stated that, "Losses on the portfolio are virtually nonexistent, with net losses of negative 0.027% of average receivables balance for 2003. . . However, historical loss experience of [dealers financed by] GMAC[11] and other manufacturers are affected because GMAC offers significant forms of assistance to its dealer base, mitigating losses."

- In general, we support a policy that encourages the disclosure of static pool data. However, we believe that issuers must have the ability and flexibility to present static pool data in SEC disclosure documents based on their good faith assessment of the relevance and availability of data, free from the concern that they may be second guessed by someone with the benefit of hindsight, as to whether they included everything that may have been material. We believe that the most effective static pool data disclosure will result from a policy statement of the SEC in the form of instructions and from the development and refinement of disclosure standards by asset class over, which will then become prevailing market practice. We believe the SEC can effectively guide this development through the registration comment process.

We recommend that proposed Section 1104(e) be revised to provide a general directive along the following lines:

> Make available to investors via the internet static pool disclosure that, in the issuer's good faith assessment (i) effectively provides information that a

10 Superior Wholesale Inventory Financing Trust VIII, (report dated March 29, 2004).

11 Please note that the S&P report incorrectly references "GMAC" in this paragraph. The references should be to GMAC's parent, General Motors Corporation, which is the manufacturer and the entity that provides financial support to dealers.

reasonable investor would consider important in deciding whether to invest in the asset-backed security, (ii) can reasonably be obtained, and (iii) the relevance and limitations of which as a basis for comparison with the current securitized pool can be effectively explained through accompanying text. The period to be covered should depend, to a large extent, on the particular history of the issuer, frequency of issuance, asset type and availability of information. Where static pool data is disclosed, investors should be cautioned against attributing undue correlation between past performance of the static pool and future performance of the current securitized pool. On the other hand, to the extent that no, or only limited, static pool data is presented, a thorough explanation should be given for that decision.

B. Disclosure Regarding Servicers

We believe that Item 1107's detailed disclosure requirements for the servicer's business practices goes beyond what would be considered material disclosure in some instances. This is especially true given that most of us have been servicing vehicle finance receivables for a number of decades and the disclosure of our servicing practices is well-known and accepted in the securitization marketplace.

We urge that Item 1107(a)(2) that would require the disclosure of “computer systems and back-up systems” be deleted. We fail to see how a description of these complex systems is helpful to investors making their investment decisions. We note that this requirement could also become quite burdensome as these systems are routinely enhanced and upgraded to leverage the latest technologies and to support changes in our financing products and servicing practices.

Also, Item 1107(a)(3) requires disclosure of “any material changes to the servicer's policies or procedures in servicing assets of the same type as the pool assets” during the most recent three-year period. This requirement would create a burdensome level of internal monitoring and tracking of changes without a corresponding benefit to the securitization investor and would not provide investors with information typically required to make an investment decision. Our companies are constantly reviewing servicing policies and procedures, identifying new and better ways of servicing, and challenging and testing new procedures to confirm enhanced asset performance and efficiency. In addition, in contrast to the servicers for other asset classes, our servicing personnel and management do not know whether an individual installment sale contract is owned by us or has been sold into a securitization trust or otherwise. Therefore, servicing policy changes cannot be effected on only sold assets. Furthermore, we only securitize a portion of our entire installment sale contract portfolio and, therefore, there is an alignment of our business interests in strong asset performance with the interests of investors. Any changes to servicing practices that adversely impact asset performance will be absorbed by the subordinated “first loss” pieces that are retained by us from our ABS offerings and our owned portfolio generally. We believe that our servicing personnel and management should focus their attention on servicing the assets and maximizing asset performance and not be diverted by the need to document and monitor changes where the only business purpose is securitization disclosure. For these reasons, this provision should be eliminated or, at the very least, limited to changes that materially and adversely impact the investors.

C. Disclosure of Financial Information Regarding Swap Counterparties

In the retail installment sale contract ABS market, floating rate notes have, in recent years, become an increasingly important part of the financing mix, largely driven by investor demand. Both the sponsors and the investors have benefited from the increased liquidity provided by the ability to issue floating rate notes. When we combine fixed and floating rate ABS, it allows us to bring larger size transactions to market and achieve greater efficiencies. When we issue floating rate notes, the issuing trust enters into an interest rate swap to hedge the mismatch between the fixed rates paid on the underlying retail installment sale contracts and the floating rate paid on the ABS.

As noted in the following chart, over the past three years we have issued a substantial amount of floating rate ABS backed by pools of fixed rate assets.

Issuance of Floating Rate ABS Backed by Fixed Rate Retail Installment Sale Contracts, 2001-2003			
Sponsor	**Total Retail Vehicle ABS ($Millions)**	**Floating Rate Vehicle ABS ($Millions)**	**% Floating Rate Vehicle ABS**
Ford Motor Credit	$28,500	$13,700	48%
GMAC	$23,000	$13,000	57%
Navistar Financial[12]	$2,900	$554	19%

We believe that the requirement in Item 1113(a) of proposed Regulation AB of disclosure, to the extent material, of the manner in which external credit enhancement, liquidity facilities, interests rate swaps or currency swaps and internal structural credit enhancement are designed to affect or ensure timely payment of the ABS, which is consistent with current market practice, appropriately provides investors with important information regarding the ABS.

We believe that Item 1113(b), requiring disclosure of selected financial data meeting the requirements of Item 301 of Regulation S-K for an entity or group of affiliated entities liable or "contingently liable" to provide payments representing from 10% up to 20% of the cash flow supporting any class of ABS and audited financials meeting the requirements of Regulation S-X. for an entity or group of affiliated entities liable or "contingently liable" to provide payments representing from 20% or more of the cash flow supporting any class of ABS, should be refined and curtailed.

It is only appropriate to measure an exposure against a precise threshold (*e.g.*, 10% or 20%) when the exposure itself is capable of precise measurement or at least has a clear methodology defined for its calculation. Also, the cash flows being compared must be in

[12] Navistar Financial data for fiscal years 2002 and 2003, which represents the period from November 1, 2001 through October 31, 2003.

temporal alignment. Often this results from presenting all cash flows on a present value basis. So, when Item 1113(b)(1) and (2) impose requirements based on liability or contingent liability of an entity or group of affiliated entities for 10% or more or 20% or more of the cash flows supporting any offered class of asset-backed securities, one must first ask, 10% or 20% calculated by what methodology and pursuant to what assumptions, and over what period of time? Under the rule as proposed, this is not clear.

We believe the SEC can not ignore the complexity inherent in assessing the magnitude of contingent liabilities, and must allow issuers to distinguish among different types of contingent liabilities. We believe contingent liabilities should be distinguished based on the types of circumstances under which they can mature into actual liabilities, the likelihood of those circumstances, and the timing and magnitude of the resulting actual liability. This approach properly places bond insurance, letters of credit, liquidity facilities, guarantees and other credit products that are called upon when the receivables cash flows fall short in a different category from interest rate and currency swaps and similar instruments that entitle the ABS issuer to payments from a counterparty if indices independent of receivables performance move in a manner adverse to the ABS issuer.

The key distinction is that, in the case of insurance or a guarantee, the rating of the ABS generally assumes that the provider of the insurance or guarantee is called upon to satisfy its payment obligations; in other words, the contingent liability materializes. Where monoline insurance is provided for the timely payment of interest and ultimate repayment of principal, the ABS typically earns its rating based on the perceived creditworthiness of the guarantor or insurer rather than the quality of the receivables. And, since the cash flow from the insurance or guarantee, if called upon, is a dollar for dollar replacement for the cash flow from receivables, it is straightforward to measure exposure against a threshold.

However, interest rate swaps represent a very different type of contingent liability. First, as noted above, they are intended to protect the ABS against adverse conditions independent of the performance of the receivables. Second, the rating of the counterparty for these types of contingent liabilities has a much different impact on the rating of the ABS. The rating of the ABS may be higher or lower than the rating of the swap counterparty. A swap counterparty with a rating higher than the ABS will not serve to lift the rating of the ABS the way the higher rating of an insurer or guarantor often does with respect to the insured classes. Similarly, a swap counterparty with a rating somewhat lower than the highest rated classes of the ABS will generally be satisfactory. A decline in a counterparty's rating will not necessarily cause a downgrade of the ABS. In fact, based on long-standing rating agency criteria, the swap terms generally require cash collateralization by or replacement of the swap counterparty before its rating would have declined to a level that would have a negative impact on the rating of the ABS. There is, of course, some chance that there will be a precipitous and simultaneous adverse movement in both the index with respect to which protection is being provided and the financial health of the swap counterparty; however, the rating agencies and investors consistently express their views of the remoteness of that circumstance through their ratings and pricing of ABS, respectively. Furthermore, disclosure of the financials of the swap counterparty at the time of the ABS issuance is unlikely to forewarn of such a circumstance. It is also important for us to note that, to date, in our significant collective experience of ABS issuance, we are not aware of any third party swap provider that has been downgraded to a level that required collateralization or replacement, or has defaulted on its obligations.

On the other hand, the costs of imposing financial information disclosure requirements on interest rate and currency swap counterparties based on ill-defined thresholds are very real. The number of swap providers participating in public ABS transactions will shrink because the market will effectively be limited to reporting companies with audited financials available that can be incorporated by reference. Sometimes, swap counterparties in ABS transactions are "derivatives product companies," which are highly rated subsidiaries of diversified financial institutions. In addition, ABS sponsors and underwriters will need to conduct due diligence and possibly obtain comfort from the counterparty's accountants on the financial information provided or incorporated by reference, which will increase the issuance costs of the ABS transaction.

Perhaps most significantly, increases in funding costs for institutions such as the vehicle finance companies that fund consumer lending through securitization will inevitably be passed on in the form of higher consumer financing costs. Alternatively, issuers may simply decide not to issue floating rate notes. The size of retail vehicle ABS offerings would almost certainly be reduced if the offering of floating rate notes became excessively costly and burdensome.

Based on the foregoing analysis, we believe that contingent liabilities, such as derivatives linked to the performance of indices, which can reasonably be viewed as independent of the performance of the receivables, should not give rise to financial disclosure requirements with respect to the contingently liable party or group of affiliated parties where (i) at least one class of securities issued by the ABS issuer have an investment grade rating and (ii) the contract between the ABS issuer and the contingently liable party or group of affiliated parties has provisions that call for collateralization or replacement at or before its ratings drop below investment grade. This category of contingent liabilities represents the overwhelming majority of the third party contingent liabilities in the ABS that we issue.

For contingent liabilities of the type described in the preceding paragraph, but for which the criteria set forth in clauses (i) and (ii) are not met, we believe a widely accepted option pricing model should be used to quantify, in present value terms, the exposure of the ABS issuer to its counterparty. That exposure could then be measured against thresholds for the purpose of determining the required cross-reference to or disclosure of counterparty financial information. The thresholds corresponding to a requirement for each level of reference or disclosure could also vary based on counterparty ratings. Thus, less information would be required about a triple-A counterparty than a triple-B counterparty with the same exposure threshold.

III. Transition Rules and Grandfathering

As noted in the ASF Letter and the ABA Letter, the Proposed Rules require substantial changes in almost every aspect of securitization. The Proposed Rules do not just require the effort of our legal counsel, as was predominantly the case in the plain English initiative. Here, the effect is multi-disciplinary, also involving our accountants, systems, analysts and auditors. Because the failure to comply is severe — loss of the ability to utilize the public markets — we believe that it is essential that the SEC provide a reasonable transition period.

The SEC has recently provided reasonable transition periods in two instances. The first was in connection with the "plain English" initiative. Here, the SEC provided substantial guidance through the publication "A Plain English Handbook: How to Create Clear SEC Documents" and long compliance and transition periods during, before and after the effectiveness of the plain English principles.

The second was the SEC's recent actions with respect to Section 404 of the Sarbanes-Oxley Act ("SOX"). The SEC provided guidance through various releases and extended the transition period with respect to Section 404 of SOX to permit the implementation of the new reporting and auditing requirements.[13]

With respect to periodic reporting, we also note that most existing offerings are subject to the Exchange Act reporting rules just for the balance of the fiscal year in which the offering is made. Following the conclusion of that fiscal year, the issuer is permitted to suspend its periodic reporting obligations under the federal securities laws so long as there are less than 300 holders of each class of securities. Indeed, many of us do suspend those requirements on our ABS at the conclusion of the fiscal year in which the offering is effected.

Also, we believe that the imposition of substantial new reporting requirements on outstanding securities is inappropriate. It would require, in most cases, amendments to the existing operative documents to specify the types of additional information to be reported and the party responsible for the reporting. For sponsors who are simultaneously seeking to prepare and reformat disclosure documents for their next shelf filing, it is asking a great deal of them to also reformat their periodic reports. It is imperative that we preserve our access to the capital markets, and a rapid phase-in of the new ABS rules could preclude them from issuing the balance of the securities they have registered.

An additional consideration affecting almost all of us is that we each have at least two effective registration statements — one for retail installment sale contract receivables and one for dealer floorplan loans. As there is little commonality between retail installment sale contract and floorplan programs, the work of updating these registration statements will be double that of a sponsor with a single program.

In light of the foregoing and the complexity and sweeping nature of the Proposed Rules, the effective date of the new rules should be at least 12 months after publication of the final rules. In addition, all securities (a) issued prior to the effective date of the final rules or (b) issued under a shelf registration statement that was filed and effective prior to the effective date of the final rules and not amended after the effective date of the final rules, regardless of when

---

[13] We also note the recent implementations by securities regulators across Canada of a bifurcated set of transition rules with respect to rules requiring CEOs and CFOs to certify as to certain filings. Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings ("MI52-109"), Form 52-109F1, Form 52-109FT1, Form 52-109F2 and Form 52-109FT2 (collectively, the "Instrument") and Companion Policy 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings (the "Companion Policy"). The Instrument and the Companion Policy came into force in all Canadian jurisdictions except British Columbia, effective March 30, 2004.

issued, should not be subject to Regulation AB in respect of either disclosure requirements or periodic reporting requirements under the federal securities laws.[14,15]

* * * * * * * * * *

14 The maximum amount of securities that a registrant may register under Form S-3 is the amount of securities that the registrant reasonably expects to sell within the two-year period following effectiveness. While a sponsor's circumstances may change, it will be the case that most sponsors with effective shelf registrations will use up the capacity of those registration statements within 24 months after the effectiveness of the new rules.

15 The Proposal did not indicate whether the SEC expects that registrants will be required to file post-effective amendments to existing shelf registration statements in order to effect the additional disclosures and procedures that would be required as a result of the Proposed Rules. The standard for whether a post-effective amendment must be filed is whether the new information contained in the registration statement would constitute a "fundamental change" from the existing information. We are not aware of any particular guidance that interprets the meaning of "fundamental change" in the context of ABS. Our belief is that the additional disclosure and reporting obligations, while undoubtedly material and significant, taken by themselves do not amount to a "fundamental change" that would require registrants to file post-effective amendments. However, we would appreciate guidance from the SEC in the adopting release on this topic.

We very much appreciate the hard work that the SEC and its staff have put into this Proposal, and we appreciate the opportunity to comment on it. We also believe that, given the complexity of the Proposal and the significant long-term effects it will have on the ABS market, it would be desirable for the SEC to issue amended releases taking account of the comments provided and allow a further, although perhaps curtailed, comment period on the amended releases before promulgating final rules. Having the many no-action letters and other interpretations of how ABS fits into the securities laws codified will be a benefit to us and to the ABS market generally. If the SEC or the staff so desires, we would be happy to discuss further any of the points addressed in this letter.

Sincerely,

AMERICAN HONDA FINANCE CORPORATION

By: /s/ Jon Nomura
Jon Nomura
Director of Securitization

DAIMLERCHRYSLER SERVICES NORTH AMERICA LLC

By: /s/ Timothy P. Dykstra
Timothy P. Dykstra
Vice President and Treasurer NAFTA,
DaimlerChrysler Corporation

By: /s/ Paul E. Knauss
Paul E. Knauss
Vice President and Chief Financial Officer,
DaimlerChrysler Services North America LLC

FORD MOTOR CREDIT COMPANY

By: /s/ Malcolm S. Macdonald
Malcolm S. Macdonald
Treasurer, Ford Motor Company

By: /s/ David P. Cosper
David P. Cosper
Vice Chairman and Chief Financial Officer,
Ford Motor Credit Company

GENERAL MOTORS ACCEPTANCE CORPORATION

By: /s/ Paul D. Bull
Paul D. Bull
Vice President, Global Borrowings

NAVISTAR FINANCIAL CORPORATION

By: /s/ Andrew J. Cederoth
Andrew J. Cederoth
Vice President and Treasurer