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Defendant Fabrice Tourre respectfully submits this memorandum of law in support of his motion for (1) the issuance of a letter of request to obtain documents from IKB Deutsche Industriebank AG (“IKB”) from Germany through use of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, opened for signature March 18, 1970, 23 U.S.T. 2555 (the “Hague Convention”); and (2) an order requiring the SEC to seek the assistance of its counterpart in Germany, the German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, or “BaFin”) to obtain documents from IKB pursuant to the SEC’s international agreements.

Mr. Tourre has submitted his proposed letter of request, together with the required translation into German, as Ex. 1 to his notice of motion. Mr. Tourre has also submitted a proposed order that describes the documents that he requests the SEC be ordered to seek from BaFin.

I. BACKGROUND

A. The Amended Complaint

The SEC brings this action under the antifraud provisions of the federal securities laws, alleging that, in early 2007, Goldman, Sachs & Co. (“Goldman”) structured and marketed a synthetic collateralized debt obligation (“CDO”) known as ABACUS 2007-AC1, whose reference portfolio consisted of subprime residential mortgage-backed securities. *See* Am. Compl. ¶ 1. According to the SEC, Goldman’s ABACUS 2007-AC1 offering materials were false and misleading because they identified ACA Management LLC as “Portfolio Selection Agent,” without specifying that another entity, Paulson & Co. Inc., also had involvement in selecting the reference portfolio. *See* Am. Compl. ¶ 2. The Amended Complaint alleges that IKB, a German bank based in Düsseldorf, Germany, invested in ABAUS 2007-AC1 notes. *See* Am. Compl. ¶¶ 53-55. IKB is not a party to this action and is outside the subpoena power of this Court.

On September 29, 2010, Mr. Tourre moved for judgment on the pleadings on the ground that the original Complaint failed to allege that any securities transactions related to ABACUS 2007-AC1 occurred in the United States, as required by the Supreme Court's decision in *Morrison v. National Australia Bank Ltd.*, 130 S.Ct. 2869 (2010). In particular, Mr. Tourre demonstrated that IKB's purchase of ABACUS 2007-AC1 notes was an overseas transaction, conducted under SEC Regulation S. *See* Memorandum of Law of Fabrice Tourre in Support of His Motion for Judgment on the Pleadings dated September 29, 2010 at 7. On November 1, 2010, Judge Jones ordered the SEC to amend its complaint no later than November 22, 2010, and permitted Mr. Tourre to renew his motion against the Amended Complaint. *See* Order dated November 1, 2010. On November 22, 2010, the SEC filed its Amended Complaint, which again identifies IKB as a purchaser of ABACUS 2007-AC1 notes. *See* Am. Compl. ¶ 61. Pursuant to this Court's Order dated November 3, 2010, discovery was stayed until November 22, 2010, but going forward there is no stay of discovery pending adjudication of Mr. Tourre's renewed motion to dismiss. Pursuant to this Court's Amended Order dated October 4, 2010, document discovery is to be completed by January 31, 2011. *See* Amended Order dated October 4, 2010.

B. IKB is at the Core of the SEC's Amended Complaint

As noted above, IKB is alleged in the Amended Complaint to have purchased ABACUS 2007-AC1 notes. In addition, the SEC awarded IKB \$150 million out of the sum that Goldman paid as settlement of this lawsuit under the victim "Fair Funds" provision of the Sarbanes-Oxley Act. *See* Final Judgment as to Defendant Goldman, Sachs & Co. dated July 20, 2010 at 2-3. Thus, events surrounding IKB and its decision to purchase ABACUS 2007-AC1 notes are key to the SEC's case. Consistent with that, the SEC stated in its Rule 26(a) disclosures that five IKB "Personnel" are among those "likely to have discoverable information ... that the Commission may use to support its claims[.]" *See* Plaintiff's Initial Disclosures Pursuant to Rule 26(a)(1) dated August 9, 2010 ¶ 1 ("SEC Disclosures"),

Declaration of Pamela Rogers Chepiga dated November 24, 2010 ¶¶ 2-11 (“Chepiga Decl.”), Ex. A.

The SEC also revealed in a letter on September 17, 2010 to Mr. Tourre’s counsel that it had interviewed three additional individuals from IKB who were not listed on the SEC Disclosures. *See* Letter from David J. Gottesman to Pamela Rogers Chepiga dated September 17, 2010 (Chepiga Decl., Ex. B). Yet the SEC apparently took no investigative testimony from any IKB witnesses during its investigation, despite having taken sworn testimony from twenty non- IKB witnesses. Additionally, there apparently are no transcripts of any interviews or discussions that the SEC may have conducted with the eight IKB employees that the SEC has identified.

At the same time the SEC made its initial disclosures, it produced to Mr. Tourre an affidavit dated March 18, 2010 from one of those identified IKB personnel, Jörg Zimmerman. The Staff apparently was required to travel to Germany to obtain this affidavit before the Commission would authorize the filing of this lawsuit, which it ultimately did in a divided 3-2 vote in April 2010.¹ Moreover, the SEC apparently attempted to obtain another affidavit, from someone else affiliated with IKB, and transmitted a proposed affidavit to IKB at some time before February 9, 2010. *See* Email from Frank Gärtner to Reid Muoio dated February 9, 2010 (Chepiga Decl., Ex. D).

Notwithstanding the centrality of IKB to the SEC’s case against Mr. Tourre, the IKB documents that the SEC has produced to Mr. Tourre from its investigative file wholly fail to reflect IKB’s key role in the Amended Complaint. The SEC informed Mr. Tourre by letter on September 24, 2010 that it believed its production of documents was “substantially complete.” *See* Letter from David J. Gottesman to Pamela Rogers Chepiga dated September 24, 2010 (Chepiga Decl., Ex. E). Yet of the more than 1 million documents the SEC has produced to Mr. Tourre, a total of only approximately 830 had been produced to the SEC by IKB. Approximately

¹ *See* United States Securities and Exchange Commission Office of Inspector General, Report of Investigation, Case No. OIG-534, “Allegations of Improper Coordination Between the SEC and Other Governmental Entities Concerning the SEC’s Enforcement Action Against Goldman Sachs & Co.” at 35, 43-46, 48 (Sept. 30, 2010) (redactions in original) (Chepiga Decl., Ex. C).

400 of those directly concern ABACUS 2007-AC1, and that number includes many duplicates. Addresses, names of individuals, and names of committees or groups within IKB are frequently redacted in these documents, *see, e.g.*, Chepiga Decl., Ex. F, and what few emails there are from IKB that the SEC in turn produced to Mr. Tourre have the participants' names redacted. Thus, Mr. Tourre is left without documentary evidence sufficient to defend himself against the serious charges involving IKB that the SEC has brought against him, necessitating this motion.

II. ARGUMENT

A. The Court Should Issue a Letter of Request to the Relevant Central Authority in Germany Seeking Production of Documents from IKB

The Hague Convention authorizes the issuance of a letter of request from a judicial tribunal in the United States to the designated authority in Germany, as Germany and the United States both have signed the Hague Convention and are bound by its provisions. *See* Hague Convention, Ch. I, Art. 1, reprinted at 28 U.S.C. § 1781; *Société Nationale Industrielle Aerospatiale v. United States District Court for the Southern District of Iowa*, 482 U.S. 522, 533 (1987).

The Hague Convention and 28 U.S.C. § 1781(b) (2) permit this Court to send a letter of request seeking foreign judicial assistance in civil or commercial matters to the designated authority in Germany “to obtain evidence, or to perform some other judicial act.” Hague Convention, Ch. I, Art. 1. The German central authority designated to receive Mr. Tourre’s letter of request is the Präsidentin des Oberlandesgerichts Düsseldorf, Cecilienallee 3, 40474 Düsseldorf, Germany. Letters of request to Germany must be in German or accompanied by a German translation. *See* Hague Convention, Ch. I, Art. 4; Germany: Declarations Reservations, at http://www.hcch.net/index_en.php?act=conventions.statusprint&cid=82 (accessed Nov. 22, 2010) (“German Reservations”) (Chepiga Decl., Ex. G).

Mr. Tourre seeks evidence from IKB that is relevant and/or calculated to lead to the discovery of admissible evidence and that is and will continue to be critical to his defense. This evidence is crucial both during discovery, including in depositions of IKB employees that

the SEC has already interviewed and in some cases designated as people likely to have discoverable information, and at trial. Without access to the documents described in the letter of request, Mr. Tourre cannot bring a complete defense against the serious charges filed against him by the SEC, and cannot meaningfully take the depositions or participate in the depositions of the IKB witnesses whom the SEC has identified and on which the SEC intends to rely at trial.

B. The Court Should Also Order the SEC to Seek the Assistance of BaFin in Obtaining Documents from IKB

While the Hague Convention is a proper channel for seeking evidence located in other countries, the Supreme Court has held that it is a “permissive supplement, not a pre-emptive replacement, for other means of obtaining evidence located abroad.” *Aerospatiale*, 482 U.S. at 536. The Supreme Court has also held that there is no requirement that the Hague Convention be used as a first resort. *Id.* at 541-42. It appears in this case that the Hague Convention letter of request is unlikely to yield responsive documents in light of Germany’s reservation under Article 23, stating: “The Federal Republic of Germany declares in pursuance of Article 23 of the Convention that it will not, in its territory, execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in common law countries.” *See* German Reservations, B (5) (Chepiga Decl., Ex. G).

Because of the anticipated limitations of the Hague Convention process, the SEC should be required seek documents from IKB by using the power it has pursuant to at least two memoranda of understanding with BaFin. Both a bilateral Memorandum of Understanding between the SEC and BaFin (formerly the Federal Supervisory Office for Securities Trading, or Bundesaufsichtsamt für den Wertpapierhandel) dated October 17, 1997, and a multilateral Memorandum of Understanding dated May 2002, whose parties include the SEC and BaFin, provide for the “fullest assistance” between the two regulators, including but not limited to obtaining information and documents from persons to be used in the context of investigations, litigation, prosecution or civil enforcement. *See* Memorandum of Understanding Concerning Consultation and Cooperation in the Administration and Enforcement of Securities Laws,

October 17, 1997, § 1 (Chepiga Decl., Ex. H); Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, International Organization of Securities Commissions, May 2002, §§ 7, 10 (Chepiga Decl., Ex. I) (together, the “MOUs”).

Through the MOUs, the SEC has the legal and practical ability to obtain the documents Mr. Tourre seeks, putting the documents within the SEC’s control. Under the Federal Rules of Civil Procedure, a party must produce documents within its “possession, custody or control.” Fed. R. Civ. P. 34. Control is the legal right or the practical ability to obtain documents requested on demand, and a party is considered in control of documents “that it has the right, authority or ability to obtain upon demand.” See *In re NASDAQ Market-Makers Antitrust Litigation*, 169 F.R.D 493, 530 (S.D.N.Y. 1996) (internal citations omitted). In addition, production of documents may be required “if a party has access and the practical ability to possess documents not available to the party seeking them.” *Shcherbakovskiy v. Da Capo Al Fine Ltd.*, 490 F.3d 130, 138 (2d Cir. 2007).

In a letter dated September 2, 2010, the SEC disclosed that it had not obtained any documents “via any overseas authority pursuant to an MLAT request or similar process.” See Letter from David J. Gottesman to Pamela Rogers Chepiga dated September 2, 2010 (Chepiga Decl., Ex. J). The SEC’s failure so far to exercise its powers under the MOUs to obtain and produce to Mr. Tourre a significant number of documents from IKB is fundamentally inequitable. Mr. Tourre obviously lacks the authority and power of the SEC and must rely on the Hague Convention, yet Germany’s stated policy not to produce documents under the Hague Convention as part of common law pre-trial discovery makes it very likely that Mr. Tourre’s letter of request will not be executed.

The documents Mr. Tourre seeks from IKB are highly relevant to the SEC’s case against him, likely to lead to additional discoverable evidence and are necessary for his defense, as IKB’s purchases of the notes in ABACUS 2007-AC1 are central to the SEC’s charges against him. Without the IKB documents he seeks, Mr. Tourre will be denied a full and fair opportunity

to defend himself against the most serious of charges and will have no meaningful ability to examine IKB witnesses at deposition or at trial. Thus, the SEC should be ordered to exercise its powers under the MOUs to take steps to request that BaFin obtain the documents sought from IKB.

CONCLUSION

Mr. Tourre therefore respectfully requests that the Court sign and have the Clerk affix the seal of the Court to the letter of request seeking documents from IKB via the Präsidentin des Oberlandesgerichts Düsseldorf, Cecilienallee 3, 40474 Düsseldorf, Germany. Mr. Tourre further requests that the Court notify the undersigned counsel when the letter of request is ready for collection, and counsel will arrange for its transmission to Germany.

Mr. Tourre also requests that the Court order the SEC to seek, through its MOUs with BaFin, production of the documents described in Mr. Tourre's letter of request by entering the proposed Order submitted herewith.

Dated: November 24, 2010
New York, New York

Respectfully submitted,

/s/ Pamela Rogers Chepiga

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SEC and BaFin are parties, to seek the assistance of BaFin to obtain the documents described by Mr. Toure in his letter of request.

Accordingly, it is ORDERED that Mr. Toure's Motion for the Issuance of a Letter of Request and an Order Requiring the SEC to Seek Documents Pursuant to its International Agreements is GRANTED, and that the SEC is ORDERED to seek the documents described in the Schedule to this Order from BaFin pursuant to the above-referenced memoranda of understanding, or under any other available agreements.

DATED: _____

THE HONORABLE MICHAEL H. DOLINGER
UNITED STATES MAGISTRATE JUDGE

SCHEDULE

DEFINITIONS AND INSTRUTIONS

1. “ABACUS” means the platform of collateralized debt obligation (“CDO”) transactions structured and marketed by Goldman, including but not limited to, ABACUS 2004-1, ABACUS 2005-3, ABACUS 2006-11, ABACUS 2006-15, ABACUS 2006-8, and ABACUS 2007-AC1, as well as any credit default swap (“CDS”) referencing the portfolio of any such transaction. This definition includes any contemplated ABACUS transaction involving either securities or CDS, whether or not consummated.

2. “ABACUS 2007-AC1” means the various securities issued by ABACUS 2007-AC1, Ltd. and ABACUS 2007-AC1, Inc. and any CDS referencing the reference portfolio of those securities.

3. “ABN” means ABN AMRO Bank N.V. and any of its current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest (including RFS Holdings B.V. and Royal Bank of Scotland), or any person or entity over which ABN AMRO Bank N.V. exercises or formerly exercised control, or who exercises or formerly exercised control over, or is or was in common control with, them.

4. “ACA” means ACA Management, LLC; ACA Capital Holdings, Inc.; and ACA Financial Guaranty Corporation and any of their current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest (including Manifold Capital), or any person or entity over which they exercise or formerly exercised control, or who exercises or formerly exercised control over, or is or was in common control with, them.

5. “Aquarius 2006-1” means the various securities issued by ACA Aquarius 2006-1 Ltd. and ACA Aquarius 2006-1 LLC and any credit default swaps referencing the reference portfolio of those various securities.

6. “Aquarius II” means (i) the CDO transaction contemplated by Magnetar, ACA and Mizuho in January 2007 in which ACA would serve as investment advisor or in a similar role, Mizuho would serve as underwriter and Magnetar would take some long and/or short positions with respect to the reference portfolio; or (ii) any transaction that was ultimately executed with any party but was at any point styled as Aquarius II or for which it was contemplated by any person that ACA might serve any role, including as investment advisor, portfolio selection agent or portfolio manager.

7. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

8. “Concerning” mean relating to, referring to, describing, evidencing or constituting.

9. “Document” means documents or electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained either directly or following translation into a reasonably usable form.

10. “Goldman” means Goldman, Sachs & Co. and any of its current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest, or any person or entity over which Goldman, Sachs & Co. exercises or formerly exercised control, or who exercises control or formerly exercised control over, or is or was in common control with, them.

11. “Magnetar” means Magnetar Capital LLC and any of its current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest, or any person or entity over which Magnetar exercises or formerly exercised control, or who exercises control or formerly exercised control over, or is or was in common control with, them.

12. “Mizuho” means Mizuho Securities USA Inc. and any of its current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest, or any person or entity over which Mizuho Securities USA Inc. exercises or formerly exercised control, or who exercises control or formerly exercised control over, or is or was in common control with, them.

13. “Paulson” means Paulson & Co. Inc. and any of its current and former parents, subsidiaries, divisions, affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, assigns, or any predecessors or successors in interest, or any person or entity over which Paulson & Co., Inc. exercises or formerly exercised control, or who exercises control or formerly exercised control over, or is or was in common control with, them.

14. “Person” means any natural person or any business, legal or government entity or association.

15. “SEC” means the United States Securities and Exchange Commission, and its current and former employees, Commissioners, attorneys, accountants, economists, staff, consultants, experts, agents, and representatives and specifically includes any third party representative or agent, wherever located, acting or purporting to act on behalf of the SEC.

16. “You,” “yours,” or “IKB” means IKB Deutsche Industriebank AG, IKB Credit Asset Management GmbH and any of their current or former parents, subsidiaries, divisions,

affiliates, partners, joint ventures, directors, shareholders, officers, employees, agents, or any predecessors or successors in interest, or any person or entity over which IKB Deutsche Industriebank AG exercises or formerly exercised control, or who exercises or formerly exercised control over, or is or was in common control with, them.

17. In construing these requests, the definitions and rules of construction set forth in Local Civil Rule 26.3 shall apply. In addition: (i) masculine, feminine, or neuter pronouns shall not exclude other genders; and (ii) the word “any” shall include “each and every.”

18. These requests do not require IKB to produce documents previously produced to the SEC in its investigation entitled In the Matter of ABACUS 2007-AC1, File No. HO-10911-A. Please provide the Bates numbers of any documents that you withhold pursuant to this instruction.

19. For each request, IKB is to produce entire documents including all attachments, enclosures, cover letters, memoranda, and appendices. All drafts of responsive documents, as well as non-identical copies, should be produced. Copies that differ in any respect from an original (because, by way of example only, handwritten or printed notations have been added) are treated as separate documents and should be produced separately. A request for a document shall be deemed to include a request for any and all transmittal sheets, cover letters, exhibits, enclosures, or attachments to the document, in addition to the document itself.

20. Documents should be produced as they are kept in the ordinary course of business or organized and labeled to correspond with the requests below. If documents are produced as they are kept in the ordinary course of business, sufficient information should be provided to permit identification of the source of particular document(s).

21. Documents stored in electronic form or format of any kind are to be produced as a TIFF images of the email and the attachment(s) with a copy of the native attachment file(s). The text and metadata of the email and the attachment(s) should be extracted and provided as an ASCII delimited text file.

22. If any document or thing requested was at one time in existence, but has been lost, discarded, or destroyed, identify each such document or thing by date, type, and subject matter, describe the circumstances under which the document was lost, discarded, or destroyed, and identify each person with knowledge of its subject matter and of the circumstances under which it was lost, discarded, or destroyed and, if the documents are destroyed, state the reason for such destruction.

23. If a portion of an otherwise responsive document contains information subject to a claim of privilege, those portions of the document subject to the claim of privilege shall be redacted from the document and the rest of the document shall be produced. Information regarding that portion that is redacted must be included in the privilege log.

24. These requests cover all documents in IKB's possession, custody, or control, wherever located.

25. These requests are continuing in nature, and we respectfully request that IKB supplement its responses to the extent it learns subsequently that its response was incomplete, or if it obtains additional responsive documents.

DOCUMENTS REQUESTED

1. All documents concerning any ABACUS transaction, including but not limited to ABACUS 2007-AC1, that IKB has provided to, or received from, any regulatory or government agency, federal or state law enforcement agency, or legislative body or representative, no matter where located, including the Securities and Exchange Commission, the United States Federal Bureau of Investigation, the United States Department of Justice, the German Federal Financial Supervisory Authority, and the United States Congress since January 1, 2004.

2. All recordings, transcripts, notes, summaries, statements, or other documents concerning any testimony, interviews, or other communications concerning any ABACUS transaction, including but not limited to ABACUS 2007-AC1, to, with, or before any regulatory or government agency, federal or state law enforcement agency, or legislative body or representative, no matter where located, including the Securities and Exchange Commission, the United States Federal Bureau of Investigation, the United States Department of Justice, the German Federal Financial Supervisory Authority, and the United States Congress since January 1, 2004.

3. All documents concerning communications between IKB and the SEC or any other government agency concerning ABACUS 2007-AC1, including all documents and/or communications concerning the preparation, content or any other aspect of (i) the Declaration of Jörg Zimmerman dated March 18, 2010, and (ii) the draft affidavit that was provided to a former member of IKB's advisory board.

4. All documents and communications between IKB and Jörg Zimmerman concerning ABACUS 2007-AC1, including all documents or communications concerning the

preparation, content or any other aspect of the Declaration of Jörg Zimmerman dated March 18, 2010.

5. All documents concerning the ABACUS 2007-AC1 transaction, including documents concerning (i) IKB's internal communications about the transaction; (ii) the initiation of the transaction; (iii) the structuring of the transaction; (iv) the process of selecting or identifying a Portfolio Selection Agent for the transaction; (v) ACA's role and responsibilities as Portfolio Selection Agent; (vi) the process of selecting securities for inclusion in the reference portfolio; (vii) the parties that were involved in or had input into the discussions regarding the selection of the reference portfolio, including but not limited to IKB, Goldman, ACA, and Paulson; (viii) the results of any analyses performed by IKB or any other person on any securities included in the reference portfolio; (ix) ratings of the reference portfolio by rating agencies (*e.g.*, Moody's Investors Services, Inc. and Standard & Poor's Ratings & Services); (x) how the transaction was marketed to IKB or any other person; and (xi) the regulatory provision under which the relevant securities were offered or sold, *e.g.*, SEC Regulation S, SEC Rule 144A, etc.

6. All documents concerning IKB's decision to invest in ABACUS 2007-AC1, including (i) internal analysis and due diligence IKB or anyone else performed to evaluate the transaction; (ii) models IKB or anyone else created concerning ABACUS 2007-AC1's potential investment performance; (iii) research and analyses IKB or anyone else performed to inform IKB's investment decision, including financial projections; (iv) all data reviewed, analyzed, or created in the process of IKB deciding whether to invest in ABACUS 2007-AC1; (v) all industry studies, research, memoranda, business plans, minutes, notes, reports, public disclosures, or other communications concerning IKB's decision to invest in ABACUS 2007-AC1; and (vi) all

documents regarding the decision to invest, including investment or other committee presentations, briefings, summaries, analyses and approvals.

7. All documents concerning any ABACUS transaction in which IKB made or considered making any investment, whether through securities purchases, swap agreements or otherwise, including (i) IKB's internal communications about the transaction; (ii) the initiation of the transaction; and (iii) the structuring of the transaction. The date range applicable to this request is January 1, 2004 to December 31, 2007.

8. All documents concerning communications with Goldman and/or Mr. Fabrice Tourre between January 1, 2004 and December 31, 2007, about any residential mortgage backed security ("RMBS"), CDO, other mortgage-related financial instrument or transaction, or CDS, including but not limited to ABACUS 2007-AC1.

9. All documents concerning the role of Goldman and/or Mr. Fabrice Tourre in ABACUS 2007-AC1, including documents concerning (i) the initiation of the transaction; (ii) the structuring of the transaction; (iii) the process of selecting or identifying a Portfolio Selection Agent for the transaction; and (iv) the process of selecting securities for inclusion in the reference portfolio.

10. All documents concerning communications with ACA between January 1, 2006 and December 31, 2007, about any RMBS, CDO, other mortgage-related financial instrument or transaction, or CDS, including but not limited to ABACUS 2007-AC1.

11. All documents concerning ACA's role in ABACUS 2007-AC1, including its investment in the transaction and its role (i) in the selection of the reference portfolio; (ii) serving as Portfolio Selection Agent; and (iii) in entering into any CDS.

12. All documents concerning communications with Paulson between January 1, 2006 and December 31, 2007, about any RMBS, CDO, other mortgage-related financial instrument or transaction, or CDS, including but not limited to ABACUS 2007-AC1.

13. All documents concerning Paulson, including all documents concerning Paulson's (i) outlook on the residential housing, residential mortgage, subprime mortgage, or mortgage-related products markets; (ii) strategy for investing in those markets; (iii) role in suggesting securities for actual or contemplated inclusion the reference portfolio for ABACUS 2007-AC1; and (iv) investment position in or concerning ABACUS 2007-AC1.

14. All documents concerning communications with ABN between January 1, 2006 and December 31, 2007, about any RMBS, CDO, other mortgage-related financial instrument or transaction, or CDS, including but not limited to ABACUS 2007-AC1.

15. All documents concerning ABN's role in ABACUS 2007-AC1, including ABN's role in the CDS between ABN and Goldman and in the CDS between ABN and ACA.

16. All documents concerning any transaction in which Magnetar had any role or investment of any kind, including but not limited to Aquarius 2006-1 and Aquarius II, including (i) Magnetar's positions or investments in such transaction(s); (ii) the process of suggesting, selecting, or otherwise considering securities for actual or contemplated inclusion in the underlying or reference portfolio; (iii) Magnetar's role in the process of suggesting, selecting or otherwise considering securities for actual or contemplated inclusion in the underlying or reference portfolio; (iv) any CDS or other transactions undertaken that reference the underlying or reference portfolio; and (v) all offering documents, including termsheets, flipbooks and offering memoranda.

17. All documents concerning Rhinebridge PLC, including its (i) corporate structure and organizational chart; (ii) communications to any of its investors or potential investors; and (iii) strategy for investing in the housing, residential mortgage, subprime mortgage, or mortgage-related products markets.

18. All documents concerning Rhineland Funding Capital Corporation and the Rhineland Funding Conduit, including without limitation (i) corporate structures and organizational charts; (ii) communications to any of their investors or potential investors; (iii) strategies for investing in the housing, residential mortgage, subprime mortgage, or mortgage-related products markets; (iv) lists of RMBS, CDO or other assets owned by them; (v) capital structures including any agreements related to liquidity guarantees or facilities, loans or similar financing; and (vi) documents sufficient to show IKB's role and economic interest.

19. All documents concerning the Jersey corporate entities that held or purchased the Class A-1 and/or Class A-2 Notes of ABACUS 2007-AC1, including (i) approvals of the Directors of the relevant entities; and (ii) documents reflecting their respective corporate structures and organizational charts.

20. All documents concerning the payment to IKB by Goldman pursuant to the Final Judgment as to Defendant Goldman, Sachs & Co., entered in the United States District Court, Southern District of New York, in Case No. 10-cv-3229 (BSJ), on July 20, 2010, including (i) all communications between IKB and Goldman; (ii) all communications between IKB and the German Federal Financial Supervisory Authority; (iii) all communications between IKB and the SEC; (iv) all communications between IKB and any of its affiliates; (v) all documents concerning the calculation of the payment made to IKB; and (vi) all communications concerning Goldman's settlement with the SEC.

21. For all cash or synthetic CDO transactions that IKB engaged in or considered engaging in between January 1, 2004 and December 31, 2007, whether in a management or investment capacity, all documents concerning: (i) the parties involved in the transaction in any capacity; (ii) IKB's proposed or actual position in the transaction; (iii) the size and nature of IKB's position; (iv) the reasons for IKB's decision to take such a position; (v) the nature and results of any analyses of the securities performed by IKB or any other person; (vi) the presentation of the securities, proposed position, or transaction to any committee(s) for approval (including all credit, risk, or investment committees); (vii) any criteria for and process of selecting any portfolio or collateral manager, selection agent, or similar party; (viii) the process of selecting the portfolio of securities underlying or referenced by the transaction; (ix) the parties that were involved in such processes; (x) the results of any analyses IKB or anyone else performed on any securities considered for inclusion in such portfolio; (xi) the ratings of the reference portfolio by rating agencies (*e.g.*, Moody's Investors Services and Standard & Poor's Ratings Services); (xii) how the transaction was marketed to IKB or any other person; (xiii) the process at IKB by which such transactions are evaluated and approved; (xiv) any policy or procedure concerning investments in such transactions; and (xv) the names and addresses of the IKB employees involved in the transaction.

22. For all cash or synthetic CDO transactions that IKB engaged in or considered engaging in between January 1, 2004 and December 31, 2007, whether in a management or investment capacity: (i) all agreements between IKB and any party involved in these transactions; and (ii) all term sheets, marketing books, offering memoranda, prospectuses, and similar documents circulated in connection with these transactions.

23. All documents concerning any cash or synthetic CDOs, RMBS, any other mortgage-related products, or CDS IKB invested in between January 1, 2004 and December 31, 2007, including (i) the CUSIP number of each such product or security, if applicable; (ii) trade confirmations or other documents that show the notional size and quantity of all such transactions, as well as the parties to all transactions; (iii) trustee reports, (iv) prospectuses, offering memoranda, offering circulars or similar offering-related materials; (v) rating agency reports; and (vi) documents sufficient to show, for each such investment, the regulatory provision under which the investment was offered or sold, *e.g.*, SEC Regulation S, SEC Rule 144A, etc.

24. All documents concerning all cash or synthetic CDOs, RMBS, any other mortgage-related products where IKB were engaged in a management capacity (such as portfolio or collateral manager, selection agent, or similar role), for the period January 1, 2004 to December 31, 2007.

25. All documents concerning IKB's ranking, valuation or other assessment of portfolio or collateral managers, selection agents, or similar parties, including the factors used to make such ranking decisions.

26. All documents concerning IKB's analysis of the past, present, or future performance of the United States residential housing, residential mortgage, subprime mortgage, or mortgage-related products markets for the time period January 1, 2006, to December 31, 2007.

27. All documents concerning IKB's analysis of the past, present, or future performance of any RMBS, CDO, other mortgage-related financial instrument, or CDS between January 1, 2006, and December 31, 2007.

28. All documents concerning the process or methodology by which you identified or analyzed potential investments in the residential housing, residential mortgage, subprime mortgage, or mortgage-related products markets between January 1, 2006, and December 31, 2007. This includes documents sufficient to explain or demonstrate any models used to calculate or analyze expected cash flows, delinquencies, or credit events associated with any RMBS, CDO, other mortgage-related financial instrument, or CDS, including (i) any inputs or assumptions that informed any such models or analyses; (ii) programming models in Microsoft Excel or any other format used to analyze credit; (iii) assumptions regarding home price appreciation; (iv) assumptions regarding prepayment of mortgages; (v) assumptions regarding default of mortgages; and (vi) if any software or products of Intex Solutions, Inc. were employed, the inputs used in such software or products.

29. All documents concerning any restrictions or limitations concerning the types of potential investments that IKB or any of its affiliates were able to undertake between January 1, 2006 and December 31, 2007.

30. All documents concerning any communications between IKB and any of IKB's actual or potential shareholders, lenders, noteholders, bondholders, or investors between January 1, 2006 and December 31, 2007, concerning: (i) IKB's outlook on the United States residential housing, residential mortgage, subprime mortgage, or mortgage-related products markets; (ii) IKB's strategy for investing in those markets; or (iii) any specific investment opportunities IKB identified in those markets.

31. All documents concerning IKB's exposure to the United States residential housing, residential mortgage, subprime mortgage, or mortgage-related products markets or its investments or positions in mortgage-related financial instruments between January 1, 2006 and

December 31, 2007, including any documents or communications concerning the amount at risk or any profits or losses that resulted from such exposures, investments, or positions.

32. All documents concerning research or other analytical reports IKB received regarding RMBS, CDO or other mortgage-related products from any source, whether affiliated with IKB or not, between January 1, 2006 and December 31, 2007.

33. All documents concerning using CDS as a means to hedge financial risk in IKB's investments in any RMBS, CDO, or other mortgage-related financial instrument.

34. All documents concerning IKB's organizational structure in 2007, including parents, subsidiaries, joint ventures, affiliates, sub-units, divisions, departments, units, or subdivisions concerning investments in cash or synthetic CDOs and including, where applicable, the percentage of any stock or other interests owned by each such entity, as well as common management and/or boards of directors.

35. As to each of IKB's divisions, subdivisions, departments, units, subsidiaries, parents, affiliates, and joint ventures, documents sufficient to identify each employee having any responsibilities or duties concerning cash or synthetic CDOs, including ABACUS 2007-AC1, as well as documents sufficient to show the responsibilities, duties and/or function of each such employee.

36. All documents concerning the voluntary or involuntary termination, retirement, discipline, discharge, reassignment, transfer, or suspension of any director, officer, or employee who was terminated, disciplined, discharged, or suspended, or who retired as a result of his or her participation in or involvement in cash or synthetic CDOs, including ABACUS 2007-AC1.

37. For each present or former officer, director, sales personnel, or other employee or agent who had any involvement in ABACUS 2007-AC1, produce:

- (a) all of his electronic and manual diaries, calendars, appointment books, to-do lists, Day Timers, day planners, or appointment notes in 2007 concerning ABACUS 2007-AC1;
- (b) all of his trip and travel logs or other travel records for 2007 concerning ABACUS 2007-AC1;
- (c) all of his meal and travel receipts, invoices, and expense reports for 2007 concerning ABACUS 2007-AC1;
- (d) all of his telephone number logs, directories, notebooks, Rolodex cards, and related memoranda in 2007 concerning ABACUS 2007-AC1;
- (e) all bills, statements, and records reflecting his local, long distance, or cellular telephone calls in 2007 concerning ABACUS 2007-AC1;
- (f) his complete personnel file, including all performance reviews; and
- (g) documents sufficient to show his last known address and telephone number(s).

38. All public or private statements, announcements, disclosures, or press releases issued by IKB concerning cash or synthetic CDOs, including but not limited to ABACUS 2007-AC1, between January 1, 2006 and December 31, 2007.

39. For each of IKB's business segments, all audited or un-audited financial statements, profit and loss statements, and balance sheets and/or other documents reflecting IKB's investments in cash or synthetic CDOs, including cash flow, profits, losses, margins, and costs.

40. All business plans, planning analyses, budgets, forecasts, or sales or profit projections concerning cash or synthetic CDOs, including annual budgets, annual reports, annual plans, or multi-year plans or reports.

41. All preliminary and final reports or analyses prepared by PricewaterhouseCoopers or any of its affiliates, including PricewaterhouseCoopers Aktiengesellschaft Wirtschaftsprüfungsgesellschaft, concerning IKB's 2007 liquidity crises or other business events and any proposals or recommendations for changes to IKB's business practices.

42. Any IKB internal reports, analyses or summaries, whether prepared or drafted by IKB or anyone else, concerning IKB's liquidity crises or other business failures in 2007 and 2008, including descriptions of the causes of those failures.

43. All documents concerning IKB's disposition of its investment in any ABACUS transaction, including without limitation ABACUS 2007-AC1, including documents concerning the placement or transfer of such investments or note purchases into the Rhineland Funding Conduit, or any other conduit, structured investment vehicle or similar entity.

44. All documents concerning IKB's compensation policies, including documents sufficient to show (i) how compensation was paid to any person who was involved in any ABACUS transaction, and (ii) how compensation was paid to any person involved in the Rhineland Funding Capital Corporation or Rhineland Funding Conduit.

45. All documents and communications concerning ABACUS 2007-AC1 between IKB and the former member of IKB's advisory board that received a draft affidavit from the SEC, including all documents or communications concerning the preparation, content or any other aspect of that draft affidavit.