

ASSET BACKED SECURITIES CHECKLIST

I. DOCUMENTS IN SUPPORT OF APPLICATION

Regulation 26 (1) & (3) of the Capital Markets (Asset Backed Securities) Regulations, 2007

Item	Document required	Y/N	Comments
(a)	a term sheet/information memorandum setting out the salient terms and conditions of the proposed structure of the proposed securitization transaction including		
	(i) name, date and place of incorporation, names and professions of directors, names and interests of shareholders and proposed structure of the Issuer ;		
	(ii) name, date and place of incorporation, names and professions of directors, names and interests of shareholders the of originator		
	(iii) names and addresses of the transaction advisers;		
	(iv) securitization transaction overview;		
	(v) proposed arrangements for the transfer of eligible assets and nature of the eligible assets;		
	(vi) currency and principal amount of proposed issue;		
	(vii) tenor of proposed issue		
	(viii) details of proposed credit enhancement and provision of liquidity by the liquidity provider (where applicable);		
	(ix) details of utilization of proceeds;		
	(x) indicative credit rating		
	(xi) confirmation on whether the offer is to be listed and structure of issue; and		
(xii) conditions precedent;			
(b)	The following documents relating to the originator		
	(i) resolution of the board of directors approving the transfer of eligible assets to the issuer; and		
	(ii) written consent from any existing secured creditor enjoying any security interest of any nature over the proposed eligible assets agreeing to wholly		

Item	Document required	Y/N	Comments
	discharge their security in respect of the eligible assets to be transferred;		
(c)	Where the originator is a company incorporated under the Companies Act it shall submit a certified copy of its certificate of incorporation including any certificate of change of name and the memorandum and articles of association ;		
(d)	The constitution documents relating to the issuer together with a written undertaking to comply with the requirements of these Regulations.		
(e)	declarations from the originator, issuer and adviser confirming that they have taken all reasonable care in structuring the issue, preparing the information memorandum and developing all projections on performance;		
(f)	a legal opinion confirming that the transferred eligible assets would not be available to the creditors, liquidators or receiver managers of the originator in the event of the bankruptcy, winding up, insolvency or receivership of the originator;		
(g)	all reports by any expert included or referred to in the information memorandum;		
(h)	draft copies of material contracts (where applicable) including the credit-enhancement agreement, proposed servicing agreement between the issuer and servicing agent and guarantee agreement where applicable;		
(i)	duly executed declarations by the directors of the issuer in the form prescribed in the First Schedule of the Regulations;		
(j)	where applicable, a letter of no objection from the relevant primary regulator of the originator;		
(k)	a credit rating report of the proposed issue from an independent credit rating agency; and		
(l)	Evidence of payment of the prescribed application fee		

II. DISCLOSURE REQUIREMENTS CHECKLIST

Schedule I (Information Memorandum Disclosure Requirements for Public Issue of Asset Backed Securities) of the Capital Markets (Asset Backed Securities) Regulations, 2007			
REQUIREMENT	CRITERIA	Met: Y, N or N/A	COMMENTS
1.0	Cover page Disclosure and Declaration		
1.1	Disclaimer Statement	The information memorandum shall contain on its front page the following prominent and legible disclaimer statements:	
		<i>“As a matter of policy, the Capital Markets Authority assumes no responsibility for the correctness of any statements or opinions made or reports contained in this prospectus or information memorandums. Approval of the issue or listing by the Authority is not to be taken as an indication of the merits of the issuer, the originator or the asset backed securities”</i>	
		<i>“The originator does not underwrite the issue of asset backed securities by the issuer and shall not make good any losses or otherwise guarantee the credit risk of the issuer”.</i>	
1.2	Declaration by Directors		
	Declaration by Directors of Issuer	1. We being the directors of the issuer namely: accept responsibility for the information contained in this prospectus/information	

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		<p>memorandum. To the best of our knowledge and belief we have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with facts and does not omit anything likely to affect the import of such information.</p> <p>2. In their opinion the issuer does not have any debts, liabilities or other such claims as may increase the likelihood of the issuer being subjected to voluntary or involuntary winding-up or liquidation proceedings</p> <p>3. They have taken all reasonable care as would be expected of competent professionals in structuring the transaction, preparing the information memorandum and developing all projections</p>	
	Declaration by Directors of Originator	In their opinion the originator is a going concern.	
1.3	Resolutions Statement	<p>A statement of the originator's board resolutions, shareholders approval where required and approval by existing debt holders where required.</p> <p>A statement of the issuer's board resolutions and shareholder approval of the issuer acknowledging and accepting the liabilities arising in accordance with</p>	

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REQUIREMENT	CRITERIA	Met: Y, N or N/A	COMMENTS
	the securitization transaction.		
2.0	Offering and Listing Summery		
	A statement that the originator is incorporated or established in Kenya under the laws of Kenya together with the particulars of incorporation or establishment as the case may be.		
	The name, registered or principal office of the issuer and a statement that it is set up for the sole purpose to issuing asset backed securities.		
	A statement that the issuer is incorporated or otherwise established in Kenya and is subject to Kenyan laws.		
	A summary description of the public offering or listing and of particulars dealt with in the document.		
	A statement that the Authority has approved the public offering and listing of the securities at the fixed income securities market segment of a securities exchange.		
	A statement that a copy of the prospectus or information memorandum has been delivered to the Registrar of Companies.		
3.0	Identity of Directors, Advisors and Auditors of the Issuer		
3.1	(i) Directors and Shareholders of the Issuer	The full name, age, home or business address, nationality, professional experience and academic qualifications of the directors and other directorships;	
		The names of the shareholders and the number of shares owned by each of them as of the most recent practicable date;	
	(ii) In cases where the issuer is constituted other than as a	The full name, age , home or business address, nationality, professional experience and academic qualifications of the members of the governing body;	

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	limited liability company			
3.2	Advisers	The names and addresses of the issuer's bankers, legal and financial advisers, auditors, reporting accountants and any other expert to whom a statement or report included in the information memorandum has been attributed.		
		The names and addresses of all the parties involved in the issue.		
		Where a statement or report attributed to a person as an expert is included in the information memorandum, a statement that it is included, in the form and context in which it is included, with the written consent of that person, who has authorised the contents of that part of the information memorandum, and has not withdrawn his consent.		
4.0	Financial Information and Procedure for Subscription and Allotment			
	(i)	The amount to be raised through the issue and the tenure of the security.		
	(ii)	A statement that the application forms shall be submitted to the selling agent together with the subscription amount		
	(iii)	A statement that the receipt signed and issued by the selling agent shall contain the name of the subscriber, the address, nationality, date of subscription, the number of securities subscribed and amount paid by the subscriber.		
	(iv)	The nominal amount of the securities together with the issue and redemption		

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	prices and nominal interest rate.		
(v)	The historic cash flows (for the preceding five years, where applicable) and projected cash flows in respect of the eligible assets.		
(vi)	An indication as to, where potential material liquidity shortfalls may occur, the availability and details of any liquidity support and plans to cover potential shortfalls.		
(vii)	Information regarding the accumulation of surpluses in the Issuer and an indication of the investment criteria for the investment of any liquidity surpluses.		
(viii)	The order of priority of payments made by the issuer.		
(ix)	Details of any other arrangements upon which payments of interest and principal to asset backed securities holders are dependent.		
(x)	The nature, number and numbering of the debt securities and the denominations.		
(xi)	The procedures for the allocation and the procedure to be applied in case of over subscription.		
(xii)	Arrangements for the amortisation of any substantial loan that may impact repayment, including detailed repayment schedule of both the principal and interest.		
(xiii)	The date from which interest becomes payable and the due dates for interest as well as the final repayment date and any earlier repayment dates.		
(xiv)	The allotment policy		
(xv)	The subscription procedure and process of facilitating subscription and payment.		
(xvi)	The time limit on the validity of claims to interest and repayment of principal		
(xvii)	The period during which the offer will remain open.		

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	(xviii)	State the method and time limits for delivery of securities (including provisional certificates, if applicable) to subscribers or purchases.		
	(xix)	Where applicable, a statement that the debt securities are dematerialised.		
	(xx)	State the manner in which results of the distribution of securities will be made public and when appropriate, the manner for refunding excess amounts paid by applicants.		
	(xxi)	A statement that the securities will be freely transferable.		
	(xxii)	A summary of the rights conferred upon the asset backed securities holders and particulars of the security (if any) thereof.		
5.0	Details of the Eligible Assets			
	The originator shall disclose the following information regarding eligible assets and explanatory notes where applicable:			
	i.	the legal jurisdiction where the eligible assets are located;		
	ii.	the nature of and title of the eligible assets;		
	iii.	the criteria for the selection of the eligible assets;		
	iv.	the number and value of the eligible assets in the pool;		
	v.	rights of recourse against the originator to the extent allowed in law, including a list of material representations and warranties given to the Issuer relating to the eligible assets;		
	vi.	rights to substitute the eligible assets and the qualifying criteria;		
	vii.	the treatment of early amortization of the eligible assets;		
	viii.	level of concentration of the obligors in the asset pool, identifying obligors that account for twenty five percent or more		

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	of the eligible asset value;		
	ix. where there is no concentration of obligors above twenty five percent, the general characteristics and descriptions of the obligors;		
	x. the payment methods and cash flows in respect of the eligible assets;		
	xi. the outstanding principal balance or anticipated collections over a definite period from the eligible assets;		
	xii. the outstanding principal balance or anticipated collections over a definite period from the eligible assets as a percentage of the total amount of asset backed securities being offered;		
	xiii. the amount of eligible assets in default;		
	xiv. the amount of eligible assets in default as a percentage of the total amount of asset backed securities being offered and the amount of eligible assets in default as a percentage of the credit enhancement;		
	xv. explanatory notes where there is expected material difference between historic and projected cash flows and any actions being taken to correct the situation; and		
	xvi. a description of what constitutes a default.		
6.0	Credit Enhancement		
	(i) A statement that the issue is credit enhanced.		
	(ii) A description of the nature and scope of the guarantees, sureties and commitments intended to ensure that the asset backed securities will be duly serviced as regards both the repayment of the debt securities and the payment of interest.		

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	(iii) An explicit statement on and procedure for recourse by the asset backed securities holders or their duly appointed trustee to the credit enhancer.		
7.0	Expenses of the Issue		
	(i) An itemized statement of the major categories of allowable expenses incurred in connection with the issue and to whom expenses are payable. If the amounts of any items are not known, estimates shall be given.		
	(ii) Where estimates are used in (i) above the rationale for the estimates should be disclosed and the final schedule provided to the Authority once available.		
8.0	Details of Servicing Agent		
	The name, address, description and significant business activities of the servicing agent or equivalent, (if any), together with a summary of the servicing agent's responsibilities and a summary of the provisions relating to the appointment or removal of the servicing agent and alternative servicing agent and their details.		
9.0	Legal Opinion		
	A legal opinion confirming that the transferred eligible assets will not be available to the liquidator or receiver and manager of the originator in the event of liquidation or winding up of the originator.		
10.0	Reasons for the Securitization Transactions and use of proceeds		
	(i) The directors of the originator shall state the purpose for which the securitization transaction is intended.		
	(ii) The minimum amount which, in the opinion of the directors of the originator,		

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	<p>must be raised by securitizing the eligible assets in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided, in respect of each of the following matters:</p>		
	<p>a) the purchase price for the eligible assets, purchased or to be purchased, which is to be defrayed in whole or in part out of the proceeds of the issue;</p>		
	<p>b) any preliminary expenses payable by the Issuer, and any commission payable to any person in consideration for his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for or of his underwriting or guaranteeing any asset backed securities of the issuer;</p>		
	<p>c) the repayment of any moneys borrowed in respect of any of the forgoing matters;</p>		
	<p>d) any other material expenditure, stating the nature and purposes thereof and the estimated amount in each case; and</p>		
	<p>e) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue, and the sources from which those amounts are to be provided.</p>		
<p>11.0</p>	<p>Risk Factors</p>		
	<p>Provide information on the risk factors headed "Risk factors" including financial, economic and sectoral risk factors as well as risks associated with or affecting the underlying eligible assets, the securitization transaction, the issuer, the asset backed securities to be issued and the credit enhancer.</p>		
<p>12.0</p>	<p>Information Available for Inspection</p>		
	<p>A statement that for a period of not less than five</p>		

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	working days beginning on the date of the information memorandum until the final repayment date of the asset backed securities, the following documents shall be available for inspection at the registered office of the issuer or at the trustee's office.		
	a) the memorandum and articles of association of the originator and of the issuer or relevant documents of establishment where issuer is not a company limited by shares;		
	b) copies of the agreement between the issuer and the servicing agent and liquidity provider where relevant;		
	c) copies of the agreement the with credit enhancer		
	d) the trust deed which is referred to in the information memorandum;		
	e) documents of conveyance of the eligible assets under the securitisation transaction;		
	f) a statement of the originator's and issuer's board resolutions, shareholders approval and approval by existing debt holders where applicable;		
	g) all reports, letters, and other documents, valuations and statements by any expert any part of which is included or referred to in the information memorandum;		
	h) each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group within the two years immediately preceding the publication of the prospectus, including particulars of dates, parties, terms and conditions, that may or may be deemed to have an impact on the eligible assets;		
	i) any contractual arrangement with a controlling shareholder required to ensure that the issuer is capable at all times of		

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	<p>carrying on its business independently of any controlling shareholder, including particulars of dates, terms and conditions and any consideration passing to or from the originator or any other member of the group; and</p>		
	<p>j) a copy of any contractual arrangement with a controlling shareholder.</p>		
	<p>Where any of the documents listed above are not in the English language, translations into English must also be available for inspection.</p>		
13.0	Interest of Experts		
	<p>If any of the named experts owns an amount of shares in the originator or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the originator or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.</p>		
	<p>Shareholding of one percent or more in the originator shall be considered material.</p>		
14.0	Trustee		
	<p>Details of trustees or of any other representation for the asset backed securities holders.</p>		
	<p>a) The name, function, description and head office of the trustee or other representative of the asset backed securities holders; and</p>		
	<p>b) The main terms of the document governing such trust arrangement and in particular the conditions under which a trustee or may be replaced.</p>		
15.0	Credit Enhancer		
	<p>The names, addresses and descriptions of the</p>		

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	persons underwriting the issue and		
	where the credit enhancer is a company, the description must include -		
	(i) the place and date of incorporation and registration		
	(ii) number of the credit enhancer;		
	(iii) the names of the directors of the credit enhancer;		
	(iv) the name of the secretary of the credit enhancer;		
	(v) the bankers to the credit enhancer where applicable;		
	(vi) the authorised and issued share capital of the credit enhancer; and		
	(vii) the credit rating of the credit enhancer		
	Where not all of the issue is underwritten or guaranteed, a statement of the portion not covered shall be made.		