The Legal 500 Country Comparative Guides

Canada: Securitisation

This country-specific Q&A provides an overview to securitisation laws and regulations that may occur in Canada.

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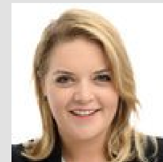
Contributing Firm

Norton Rose Fulbright Canada LLP

Authors

Elana Hahn
Partner
The Legal 500

elana.hahn@nortonrosefulbright.com



Abigail Court
Associate

abigail.court@nortonrosefulbright.com

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1. **How active is the securitisation market in your jurisdiction? What types of securitisations are typical?**

According to the DBRS Limited (DBRS) September 2019 Canadian Securitisation Market Overview, as of September 30, 2019, the Canadian securitisation market, including private placements, had a total of $93.4 billion outstanding. Term asset-backed securities and commercial mortgage-backed securities represented 58.4% of the total securitisation market, followed by asset-backed commercial paper at 34.0% and private placements at 7.6%.

By product (excluding private placements), the breakdown of the securitisation market in Canada is as follows: credit cards (38.4%); auto-related transactions (26.2%); residential mortgages (13.5%) and commercial mortgages (5.8%).

2. **What assets can be securitised (and are there assets which are prohibited from being securitised)?**

Canada does not have any general restrictions on what assets can be securitised. There are however practical, commercial, and marketing considerations that will determine the feasibility of any securitised asset. Credit score will play a role in determining whether parties invest in the product. In addition, investors often look to predictable payment and default behaviour in assessing whether the product provides sufficient collateralisation and can maintain a steady cash flow.

3. **What legislation governs securitisation in your jurisdiction? What transactions fall within the scope of this legislation?**

Canada has no specific legislation that governs securitisations. However, common law and federal and provincial statutes govern some aspects of a securitisation's legal structure, documentary requirements, and consumer contract requirements. General requirements to perfect security interests or assignments of assets varies from province to province, but generally requires registration on a province's relevant property-type registry (see our response to Question 17). Further, some entities involved in securitisation transactions are themselves regulated entities (e.g., financial institutions).

4. **Give a brief overview of the typical legal structures used in your jurisdiction for securitisations and key parties involved.**

A true sale into a common-law trust (or other legal entity, such as a corporation or partnership) is the typical structure used in Canada. There are a number of variations on true sale structures and there are other legal structures that achieve the asset segregation and bankruptcy remoteness required to securitise assets.

In the typical Canadian true sale structure, the originator typically assigns the assets/ accounts receivable into a common-law trust (or other legal entity, such as a corporation or

partnership) which serves as a segregated, bankruptcy-remote Special-Purpose Vehicle (**SPV**). The common law trust issues to investors various classes of co-ownership certificates representing an undivided co-ownership interest in, or notes secured by, the underlying asset portfolio. A professional trustee acts as the indenture trustee, paying agent and registrar in respect of any securitisation certificates/notes that are issued. In the case of SPVs that are common law trusts, a separate professional trustee acts as the issuer trustee of the common law trust. An administrator manages the SPV and a servicer takes care of the day-to-day administration of the assets/accounts receivable that are held by the SPV – these roles are typically performed by the originator of the assets in the securitisation portfolio and the transaction documents contain certain servicer replacement event triggers. Additional parties, such as guarantors and liquidity providers, can be introduced to the transaction for credit enhancement or liquidity. Swap providers may be involved to address currency and interest rate risk by hedging the interest rate risk or currency risk arising from any mismatches between the securities issued and the assets in the securitisation portfolio.

5. **Which body is responsible for regulating securitisation in your jurisdiction?**

Canada has no specific body that is responsible for regulating securitisation, but there are a number of federal and provincial government bodies that administer statutes and regulations that are relevant to securitisation legal structures, documentation, and consumer contracts underlying securitisations. Federally-regulated financial institutions (such as banks, insurance companies and trust companies) are regulated entities and their activities (including any involvement in securitisation transactions) are supervised by the Office of the Superintendent of Financial Institutions (**OSFI**). Public-sector securitisation programmes can be quasi-regulated through requirements of their controlling bodies (e.g., the *National Housing Act* Mortgage-Backed Securities programme (**NHA MBS**) and Canada Mortgage Bonds (**CMB**s) programme regulated through the requirements of Canada's Housing Agency, the Canada Mortgage and Housing Corporation (**CMHC**)).

6. **Are there regulatory or other limitations on the nature of entities that may participate in a securitisation (either on the sell side or the buy side)?**

In Canada, there are no specific regulatory or other limitations on the nature of entities that may participate in securitisations, whether on the buy side or the sell side. However, most originators of securitisations and institutional investors (such as banks, insurance companies and trust companies) are regulated entities and their activities (including any involvement in securitisation transactions) are supervised by the OSFI. The regulatory rules surrounding consolidation of SPVs and liquidity facilities, swap accounting and the regulatory capital rules relative risk-weighting for securitisation/ structured finance products within OSFI's prudential regulation has an impact on federally-regulated financial institutions' decisions to issue or invest in securitisations.

7. **Does your jurisdiction have a concept of "simple, transparent and comparable" securitisations, following the BCBS recommendations?**

Canada has no concept analogous to ‘simple, transparent and comparable’ securitisations. Canadian securitisations have generally generated high-quality investment opportunities. The Canadian Securities Administrators (**CSA**) have taken the position that the Canadian market is relatively free from the incentive misalignment that created the financial crisis and inspired the ‘simple, transparent and comparable’ concept. Based on this, compliance with a ‘simple, transparent and comparable’ scheme has not gained traction in Canada as it introduces added costs to the securitisation transactions, but is not believed that it would necessarily enhance investor confidence.

8. **Does your jurisdiction distinguish between private and public securitisations?**

Securitisation transactions in Canada are typically offered by way of private offerings to institutional investors rather than to the general public. In contrast, securities offered to the general public are required to comply with prospectus and ongoing disclosure requirements relevant to any public securities offering (see our response to Question 10).

With respect to residential mortgage securitisation, Canada has two securitisation programmes that are supported by Canada’s housing agency, CMHC – namely, the NHA MBS and CMBs under Canada’s *National Housing Act*. These public programmes are administered and guaranteed by the Canadian government, acting through CMHC, and therefore are exempt from prospectus requirements and are regarded by market participants as government of Canada securities. The issuers and mortgage pools underlying the NHA MBS and CMB have to comply with CMHC standards to be included in these programmes (i.e. ‘approved issuer’ standards; ‘approved lender’ standards; originated and insured in accordance with the NHA insurance regulation requirements for ‘approved private mortgage insurers’ and ‘qualified mortgage lenders’ and CMHC’s Insurance Master Policy Terms and Handbook; the NHA MBS Guide and related CMHC Advices and Guidelines).

9. **Are there registration, authorisation or other filing requirements in relation to securitisations in your jurisdiction (either in relation to participants or transactions themselves)?**

There are no registrations, authorizations, or filings required in relation to participants or securitisation transactions themselves that are specific to securitisations in Canada *per se*. However, some elements of the transactions involve filings – for example, the sale of receivables to an SPV and any security granted by an SPV are typically perfected by registration under a province’s relevant property-type registry, and the offering documents associated with the securitisation may be required by law to be filed with the relevant securities regulator(s).

10. **What are the disclosure requirements for public securitisations?**

Canada does not have any general asset-backed securities-specific disclosure requirements similar to the US ‘Regulation AB II’. As discussed in our response to Questions 11 and 12, the

Canadian regulators have taken the view that the Canadian market does not suffer from the same incentive misalignments that gave rise to such regulations in other jurisdictions. Therefore, Canadian securitisations are issued within the general legal framework for securities offerings.

Issuers can issue securities either by way of public offering using a prospectus, or pursuant to a private placement exemption under the applicable provincial securities legislation within Canada. In either case, issuers must comply with the registration and prospectus requirements of applicable securities legislation or statutory exemptions therefrom. As noted in our response to Question 8, securitisation transactions in Canada are typically offered by way of private offerings to institutional investors (in reliance on prospectus exemptions) rather than to the general public.

Each province of Canada has enacted its own securities legislation. A securities commission or equivalent regulatory body in each province enforces compliance. The provincial bodies coordinate regulatory initiatives through the CSA. A national passport system, implemented in every province other than Ontario, allows issuers and registrants to deal only with the regulator in their principal jurisdiction, and exempts such issuers and registrants from certain legal requirements in other provinces and territories.

The Securities Acts in BC, Alberta, Ontario, and Quebec contain detailed rules governing the information that must be made available to investors in order to ensure that they have adequate information on which to base their investment decisions. Securities distributed by way of a prospectus are freely tradeable, unless they form part of a control block.

The securities regimes in BC, Alberta, Ontario, and Quebec contain specific exemptions from the prospectus requirements. National Instrument 45-106 – *Prospectus Exemptions* creates a national set of prospectus public disclosure rule exemptions, with minor provincial variations. Securitisation securities issuers typically rely on the ‘accredited investor’ exemption, which includes institutional investors (e.g., financial institutions, insurance companies, and pension funds). Issuers can also distribute securitisation securities under an exemption where the security is a highly rated short-term debt security (e.g., asset-backed commercial paper).

Resale restrictions apply to any securities issued using an exemption. Under this *closed system*, the first trade in securities issued in reliance on a prospectus exemption must generally be made either under a prospectus, pursuant to a further prospectus exemption, or in compliance with the relevant resale restrictions (including hold-period requirements), of the relevant provincial securities regime.

As noted in our response to Question 8, the two residential mortgage securitisation programmes that are supported by Canada’s housing agency, CMHC – namely, the NHA MBS and CMBs under Canada’s *National Housing Act* – are exempt from prospectus requirements and are treated as government of Canada securities. As such, the offering document for NHA

MBS and CMBs is limited to the prescribed form of NHA MBS Information Circular and CMB Information Circular promulgated by CMHC, in which the disclosure is very light.

11. **Does your jurisdiction require securitising entities to retain risk? How is this done?**

Canada does not have regulations that require securitising entities to retain risk. The CSA considered implementing a risk retention regime in Canada at the time when risk retention regulations were implemented in the US and Europe. However, after a period of consultation, the CSA took the view that the Canadian securitisation market is largely free from incentive misalignment, owing to a number of factors:

- many Canadian securitisations are comprised of government-guaranteed securitised products (such as the NHA MBS);
- Canadian securitisers are generally subject to prudential oversight;
- there was no proliferation of the 'originate-to-distribute' model in Canada; and
- Canadian securitisations also control risk retention through forms of credit-enhancement common in Canada, such as over-collateralisation; excess spread; and reserve accounts.

As a result, the CSA has specifically stated that Canadian securities regulators will not mandate credit-risk retention.

Some Canadian securitisations have been designed to satisfy US and/or EU risk-retention rules in situations when the securities are offered to US or EU-member investors.

12. **Do investors have regulatory obligations to conduct due diligence before investing?**

Canada imposes no regulatory due diligence requirements on investors specific to securitisations. As discussed in our response to Questions 10 and 11, the Canadian regulators have taken the view that the Canadian market does not suffer from the same incentive misalignments that gave rise to such regulations in other jurisdictions.

13. **What penalties are securitisation participants subject to for breaching regulatory obligations?**

As there are no securitisation specific regulations in Canada, there are no associated penalties (please see our responses to Questions 9 to 12).

14. **Are there regulatory or practical restrictions on the nature of securitisation SPVs?**

Canada does not have specific laws pertaining to securitisation SPVs. As discussed in our response to Question 4, SPVs can take many forms (including corporations or limited partnerships), but the most common SPV form in the Canadian market is a common-law trust. Common-law trusts can be formed quickly, easily, and inexpensively using a Declaration of Trust document wherein a settlor creates the trust and the SPV trustee is appointed. In order

to support ratings of the securitisation notes, credit rating agencies require that the trustee must meet minimum independence and credit-quality requirements. Corporations and limited partnerships can also be formed quickly, easily, and inexpensively. The decision as to the corporate form of the SPV is typically driven by the sponsor's accounting and tax considerations and is impacted by other marketing and/or structure factors.

15. **How are securitisation SPVs made bankruptcy remote?**

The SPV is typically established as an orphan trust under the control of an arm's-length trustee to reduce the risk of consolidation in the event of bankruptcy. Corporate or partnership entities (if used) will typically have at least one independent director. The SPV is typically structured to ensure that it is operationally distinct from the originator, for example, by:

- holding its own bank accounts;
- following corporate formalities in interacting with the originator, and transferring and separating its assets from the originator's assets in a manner that satisfies the indicia of true sale, such that the assets of the originator and the SPV are not co-mingled;
- preparing its own financial statements; and
- establishing no originator guarantees.

In addition, SPVs ensure that they have no creditors aside from the securitisation creditors by setting up systems through their constitutional documents and contractual obligations that ensure they have no premises or employees, and only engage in the business of holding the receivables, issuing the bonds, and related ancillary activities.

16. **What are the key forms of credit support in your jurisdiction?**

In Canada, credit support is achieved through a number of different mechanisms including:

- reserve accounts;
- letters of credit or insurance policies;
- over-collateralisation;
- excess spread;
- subordination; and
- guarantees.

Reserve accounts are preferred as they carry a known value and are not subject to credit risk. Letters of credit and insurance policies provide a useful way to enhance the credit of a securitisation transaction. Over-collateralisation refers to issuing fewer rated securities than the assets in the SPV, which provides some maneuverability in the event that assets are liquidated. Excess spread manipulates the spread of risk between the different securities classes by allowing the interest paid to the rated securities to be less than the total interest accumulated by the SPV. The accumulation gathers in the collections account and is paid to the security holders through the waterfall provisions. Contractual subordination creates

payment priority subordination through the documents of the securities themselves. Structural subordination creates payment priority subordination by using different security types with different payment priorities (e.g., equity being paid after notes). Lastly, non-monetary performance guarantees and/or limited monetary are common by a parent entity where the seller/servicer is unrated; however, these need to be structured carefully so as to be consistent with the true sale structure.

17. **How may the transfer of assets be effected, in particular to achieve a 'true sale'? Must the obligors be notified?**

Generally speaking, Canadian courts should respect the intent of the parties for a transaction to be considered to be a sale, to the extent that this is supported by the documents, communications and conduct of the parties. In Canada's leading case on the re-characterisation of a sale as a secured loan (*Metropolitan Toronto Police Widows and Orphan Funds v Telus Communications Inc*, [2003] OJ No 128 (available on CanLII)(Ont Sup Ct), rev'd on other grounds (2005), 75 OR (3d) 784 (Ont CA)), the court noted a number of factors including:

- the transfer of risk;
- the ability to identify the sold assets;
- the level of recourse to the seller;
- any right of redemption by the seller or right to retain collections;
- responsibility for collections; and
- the arm's length nature of the sale and the ability to calculate the purchase price.

The most important indicator for the sale not being recognized as such is the seller retaining a right of redemption in the assets or for the receivables to be sold back to it and/or any other recourse to the seller for credit loss.

There is no general Canadian legal requirement for obligors to be informed of a securitisation. In terms of effecting the transfer of assets, Canadian law recognizes a difference between (a) the assignment of a beneficial/ equitable economic interest in assets (which may occur contractually and as a true sale, without perfecting the assignment) and (b) the transfer of the legal title/ ownership of an asset (which is perfected by public property registry filing or notice to the underlying obligors, as outlined below):

- Notice to the obligors is not required in order for the sale to be effective against the seller and its creditors, provided that perfection requirements under relevant provincial law are satisfied. Outside Québec, perfection is achieved by registration under the province's PPSA (that deems an absolute assignment of receivables to be a security interest), by registering a financing statement in the PPSA registry. In Quebec, an assignment of a 'universality of claims' may also be perfected by registration. However, in cases of sales of receivables in Quebec that are not sales of a 'universality of claims', the transfer must be perfected by notice to the obligors. There is no clear statutory guidance or case law on whether or not the subject matter of a sale is considered to be a

'universality of claims' (e.g., a sale of all receivables of a particular type generated by a seller between two specified dates) and consequently this is the subject of a Quebec legal counsel opinion on a case-by-case basis.

- In order for the sale to be effective against an obligor located in Canada, the obligor must be notified of the sale. Nonetheless, subject to Quebec law requirements for perfecting sales of Quebec receivables (outlined above), this is not typically required for Canadian securitisations –typically the transaction documents provide only that the SPV (as directed by the bond trustee) may notify the obligors following the occurrence of certain trigger events associated with the seller and/or the securitisation portfolio. To the extent that obligors are notified, there is no specific legal form or delivery method required by law.

It should be noted that if the obligors of the underlying receivables are located outside Canada, the effectiveness of the assignment against the foreign obligor would be governed by the law of the jurisdiction where the obligor was located.

As a special consideration, receivables due from the federal government and from certain provincial governments are generally not assignable unless certain procedural steps are taken under the *Financial Administration Act* or analogous provincial legislation.

The perfection of the assignment of a mortgage is perfected by filing in the relevant land registries. However, in the mortgage securitisation context, re-titling or any transaction/credit risk-specific issues relating to the mortgages remaining titled in the name of the originator are addressed by the mortgages being held in the name of a title custodian on behalf of the investors.

18. **In what circumstances might the transfer of assets be challenged by a court in your jurisdiction?**

There is a possibility that a competing creditor/ interested party could challenge the characterization of the assignment of assets in a securitisation and seek the re-characterization of the transaction as a secured loan. For example, this could arise in a bankruptcy scenario if it is in the interest of the other party to bring the assets back into the insolvency proceedings. However, see our response to Question 17 above as to the indicia of 'true sale' and how transfers are structured in securitisation transactions to satisfy these indicia in order to mitigate the risk of re-characterization. There is also a theoretical legal risk of consolidation in the case of insolvency. However, substantive consolidation is not found in the Canadian insolvency statutes. Although it does, in theory, fall within a Canadian court's equitable jurisdiction, it is very rarely exercised by a court. The limited Canadian case law indicates that Canadian courts weigh the prejudice that the creditors will suffer if there is no consolidation against the prejudice that the debtors will suffer from its imposition. The courts will look at the facts and circumstances and a number of factors, including the extent to which the SPV is operationally distinct from the originator or seller (see our response to Question 15). This is akin to the balancing of prejudice test that US courts use.

19. Are there data protection or confidentiality measures protecting obligors in a securitisation?

There are no Canadian data protection laws that are specific to securitisation *per se*, but Canada's *Personal Information Protection and Electronic Documents Act* applies to the use, collection, and disclosure of 'personal information' (as defined in the statutes) in Canada. Some provinces have enacted their own legislation in addition to the federal requirements for data protection. These laws pertain to an individual's 'personal information' and 'personal information' is very broadly defined as including 'any factual or subjective information, recorded or not, about an identifiable individual'. Consents are usually required to collect, use, and disclose an individual's 'personal information'.

In practice, entities should be cautious in transferring, handling, and storing consumer data that may contain 'personal information'. Securitisation transaction documents typically contain representations and covenants as to compliance with data protection laws. Securitisation sponsors/originators may need to anonymize the obligors' 'personal information' to disclose sufficient information to rating agencies, dealers and investors.

20. Is the conduct of credit rating agencies regulated?

Credit rating agencies are regulated under National Instrument 25-101 – *Designated Rating Organizations* (**NI 25-101**). NI 25-101 requires credit rating agencies to become 'Designated Rating Organizations' (**DROs**) if their ratings are to be included in a Canadian offering document. DROs must:

- adopt and publish a code of conduct;
- incorporate procedures to ensure ratings are based on a thorough analysis of all available information;
- establish managerial oversight committees; and
- have various ratings of integrity, transparency, governance, and independence mechanisms.

DROs must not recommend corporate or legal structures, assets, liabilities, or activities to an issuer. DROs must disclose the compensation arrangements they have with issuers.

The factors that rating agencies focus on in Canadian securitisations are outlined in their global or North American rating methodologies for the relevant asset class (subject to adjustment for any Canadian law and market practice particularities). The Canadian rating agency, DBRS, publishes some specific Canadian securitisation ratings methodologies based on the global and North American ratings methodologies.

Many credit rating agencies are US-headquartered and therefore must also comply with US regulations in their operations in Canada.

21. **Are there taxation considerations in your jurisdiction for originators, securitisation SPVs and investors?**

Canadian originators pay income tax in Canada in accordance with income calculated in a manner conforming to Canadian generally accepted accounting principles. Non-public companies may adopt International Financial Reporting Standards (**IFRS**) or the Accounting Standards for Private Companies from the handbook of the Canadian Institute of Chartered Accountants, while public companies are required to comply with IFRS. Specific provisions under Canada's Income Tax Act apply to certain types of originators (e.g., there are rules for financial institutions holding and disposing of specified debt obligations).

Federal goods and services tax and provincial sales tax are applicable to servicing fees and to the transfer of certain tangible assets in Canada. Canadian securitisations commonly structure the assignment and servicing of receivables so that the receivables are sold to the issuer on a fully-serviced basis, without paying a separate servicing fee.

With respect to cross-border transactions, there are additional considerations. There is no withholding tax on interest paid to cross-border transactions involving non-Canadian issuers and arm's length lenders other than participating debt interest. However, a withholding tax of 25% applies to cross-border lease, royalty, and dividend payments, subject to certain exceptions and to reduction under specific bilateral treaties. Non-Canadian issuers may establish an intermediate Canadian SPV to purchase the receivables so that the non-Canadian issuer can reduce the risk that income will be taxed for 'doing business in Canada' through the ownership and servicing of Canadian receivables.

22. **To what extent does the legal and regulatory framework for securitisations in your jurisdiction allow for global or cross-border transactions?**

There are no specific regulations that impede cross-border transactions.

In cases where some of the transaction documents are governed by non-Canadian law, a Canadian court should recognise the choice of a foreign law, provided that the choice of law is bona fide and there are no public policy grounds for avoiding it. However, there are a number of limitations as to how foreign law would be applied in a Canadian court, including, but not limited to, the following:

- the court will apply Canadian provincial law to any procedural aspects of a matter;
- the court may only give effect to foreign law if it is pleaded and proven by expert testimony; and
- the court will apply Canadian provincial laws that have overriding effect (eg, certain provisions of the PPSA in each province relating to enforcement).

Aside from recognising a choice of law, a Canadian court should recognise that a sale under foreign law is effective against the seller and other third parties in Canada as a true sale,

provided that the Canadian law requirements for a true sale are satisfied (see our response to Question 17). However, while choice of law and true sale may be recognised by a Canadian court, as a practical matter, a true sale opinion is typically required for securitisations, and Canadian lawyers are only able to opine on the enforceability of a receivables purchase agreement governed by Canadian law for these purposes. For these reasons, the parties will often choose Canadian provincial law as the governing law for the receivables purchase agreement when the securitisation involves a seller located in Canada and a true sale opinion is required. Also, regardless of choice of law governing the sale, see our response to Question 17 as to the perfection requirements for a sale of receivables located in Canada to be effective.

There may be additional tax considerations for cross-border transactions – see our response to Question 21.

23. **To what extent has the securitisation market in your jurisdiction transitioned from IBORs to near risk-free interest rates?**

The Canadian debt finance market is Canadian Dollar Offered Rate (**CDOR**)-based and no particular issues have been raised with CDOR. CDOR, which is still used today, is based on committed lending rates rather than borrowing rates and the general view is that it has not suffered from the same market vulnerabilities that other reference rates have suffered from.

Nonetheless, Canada has developed a risk-free alternative interest rate to CDOR: the Canadian Oversight Repo Rate Average (**CORRA**). The Canadian Alternative Reference Rate Working Group has recently made recommendations to enhance the calculation of CORRA and improve its adherence to IOSCO's Principles for Financial Benchmarks. The Bank of Canada will take over responsibility for publishing CORRA effective June 15, 2020 and expects CORRA to be implemented in a wider range of financial products.

24. **How could the legal and regulatory framework for securitisations be improved in your jurisdiction?**

There have been significant developments in the Canadian residential mortgage securitisation market in recent years as a result of over 18 significant changes from 2015 to 2020 by Canada's Finance Department and Canada's housing agency, CMHC, in the way mortgage loans may be originated, insured and financed. Various non-CMHC so-called 'private-label' residential mortgage securitisation structures have been introduced into the market in the last few years. The general view of market participants is that there will continue to be developments with respect to this securitisation asset class. There have been two proposals for improving the legal and regulatory framework of particular note, in this regard:

- Some market participants would like to encourage the development of a Canadian residential mortgage whole loan repo market in a similar style to the U.S. tri-party

residential mortgage repo model, as a means of enhancing the liquidity and transparency of the Canadian market and enabling securitisation warehouse financing for residential mortgage originators. In March 2016, the Bank of Canada published a '*Canadian Repo Market Ecology*' Paper, which concluded that risks in the Canadian repo market are relatively smaller than in other jurisdictions. Developing such a whole loan repo market in Canada would likely require some regulatory changes, including whole loan repo being accorded with 'eligible financial contract' (**EFC**) bankruptcy safe harbour status under Canadian bankruptcy regulations.

- Canadian 'private-label' residential mortgage securitisations in the last 5 years have successfully introduced new structure features to address the so-called 'balloon payment risk' present in Canadian mortgages due to the fact that Canadian mortgages come up for renewal on maximum contractual terms of five years (notwithstanding a longer term 25 to 30 amortization schedule). However, some commentators still note that Canadian residential mortgages renewal risk has been an impediment to the development of a private label RMBS market in Canada. At least one published market commentator has suggested in an article that the only way to truly address this refinancing risk would be to amend the relevant archaic provision of the Canadian *Interest Act* to facilitate the introduction of a product that does not mature every five years but provides for an interest rate reset and penalty free right of redemption at least every five years and/or lengthening the five year redemption right to a ten year redemption right (as this would make it easier for lenders to offer longer term fixed rate mortgages to borrowers who would prefer a longer interest rate lock-in period).

Though Canada's securitisation market did not suffer from the same vulnerabilities as other international markets during the financial crisis, Canada needs to remain consistent with international standards. By keeping Canadian securitisation transactions consistent with international standards, investors will be able to better understand Canadian investment products. Consistency will ensure that Canadian asset-backed securities remain highly tradable on open markets.