

Markit ABX.HE Index Rules

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Introduction

The Markit ABX Home Equity Index (ABX.HE Index) references the sub-prime home equity sector. The ABX.HE Index shall be constituted from reference obligations issued by twenty issuers of residential mortgage-backed securities that meet the criteria specified in these ABX.HE Index Rules.

I. Administration of the Index

- 1.1. There shall be six sub-indexes of the ABX.HE Index, each consisting of one security of each such issuer having a specified Applicable Rating (as defined below) and satisfying the criteria in Section 3.2 below. CDS and/or the Administrator for the ABX.HE Index (the "Administrator") shall from time to time publish an updated list of Eligible Members participating in the determination of the ABX.HE Index (the "ABX.HE Participants"). A new ABX.HE Index, and each sub-index thereof, will be launched on January 19 (or the next Business Day in the event that such day is not a Business Day) and July 19 (or the next Business Day in the event that such day is not a Business Day) of each calendar year (each such date, a "Roll Date"); provided that if a Member Majority votes to change the Roll Date, the Roll Date shall be the date designated by such Member Majority.
- 1.2. The determination of the ABX.HE Index will be administered by the Administrator based upon the rules and procedures provided herein. All information submitted by ABX.HE Participants to the Administrator shall be received by the Administrator in confidence.
- 1.3. Except as otherwise provided herein, these ABX.HE Index Rules will be subject to the General Rules of the Index Methodology for CDX Indices (other than Section 1.3 thereof).
- 1.4. With respect to any vote pursuant to these ABX.HE Index Rules, the outcome shall be determined by the votes of a majority of all ABX.HE Participants (a "Member Majority").
- 1.5. All times referred to in these ABX.HE Index Rules refer to local time in New York, New York.

II. Eligibility Rules

- 2.1. (a) It is the obligation of each ABX.HE Participant to provide within the time frame specified by the ABX.HE Pricing Rules end of day prices, and other periodic prices, that are duly solicited by the Administrator on each day other than Saturday, Sunday, and federal holidays of the United States of America ("United States Federal Holidays").

(b) The Administrator shall monitor and maintain a record of such participation by the ABX.HE Participants. At the end of each day that the Administrator has solicited prices from an ABX.HE Participant, the Administrator will send a written notice to such ABX.HE Participant informing such ABX.HE Participant whether it has met its obligation to provide prices for such day, and if it has not met such obligation, briefly stating how it has failed to meet such obligation. If during the period from and including a Review Date to but excluding the next Review Date (a "Determination Period"), an ABX.HE Participant has failed to provide prices for any sub-index of the most recent ABX.HE Index by the applicable deadline more than ten percent (10%) of the time, the Administrator shall send such ABX.HE Participant a written warning notifying such ABX.HE Participant of its failure to perform its obligations. If, during any Determination Period, (i) an ABX.HE Participant has failed to provide prices for any sub-index of the most recent ABX.HE Index by the applicable deadline more than fifteen percent (15%) of the time or (ii) an ABX.HE Participant has failed to provide prices by the applicable deadline for more than 15% of the required submissions for all Prior ABX.HE Sub-Index in the aggregate, the Administrator shall send such ABX.HE Participant a written notice advising that such

ABX.HE Participant has been “Suspended” for purposes of these ABX.HE Index Rules and informing it of the reason(s) it has been Suspended. Such ABX.HE Participant shall remain Suspended until the Review Date at the end of a Determination Period during which the ABX.HE Participant (i) has provided relevant prices for each sub-index of the most recent ABX.HE Index by the applicable deadline at least eighty five percent (85%) of the time during such Determination Period and (y) has provided prices by the applicable deadline for at least 85% of the required submissions for all Prior ABX.HE Sub-Indexes in the aggregate. “Prior ABX.HE Sub-Index” means a sub-index for an ABX.HE Index that (i) was launched on a Roll Date prior to the most recent Roll Date and (ii) is determined by the Administrator or CDS to be the subject of outstanding credit derivative transactions.

- 2.2 At any time, an ABX.HE Participant shall be deemed not “Eligible” with respect to any vote under these ABX.HE Index Rules or any polling or submission with respect to the Roll Date of an ABX.HE Index pursuant to Section 3.3, if at such time the ABX.HE Participant remains Suspended pursuant to Section 2.1 above. Notwithstanding the foregoing, CDS shall at all times have the right to waive any or all of the foregoing criteria and to deem an ABX.HE Participant to be Eligible.

III. Polling Process for Roll Dates

- 3.1. (a) No later than the tenth Business Day prior to each Roll Date (the “Review Date”), the Administrator shall conduct a review of all shelf issuances (each, a “Shelf Issuance” and the program issuer thereof, the “Issuer”) of mortgage-backed securities issued within six months prior to such Review Date that, in the determination of the Administrator, are backed primarily by sub-prime, first lien residential mortgage loans (which determination may be made by reference to Shelf Issuances classified as “Residential B/C” or “ABS-Home Equity” on Bloomberg Financial Markets (“Bloomberg”)). The Administrator shall determine, with respect to each such Shelf Issuance, the aggregate face amount of the securities issued therein (the “Deal Size”) and, with respect to each Issuer thereof, the sum of the Deal Sizes of the Shelf Issuances of such Issuer (the “Total Issuance Amount”). Based on such review, the Administrator shall create a list (the “Initial List”) consisting of the twenty-five largest Issuers, ranked in decreasing order by Total Issuance Amount, each of which has at least one Shelf Issuance that meets the criteria in Section 3.2 below (each such Shelf Issuance, an “RMBS Transaction”). The Initial List shall include, with respect to each such Issuer, a sub-list, ordered by decreasing Deal Size, of the largest two of such Issuer’s RMBS Transactions (by Deal Size) (or, if there is only one RMBS Transaction, such RMBS Transaction).

- 3.2. Each RMBS Transaction must meet the following criteria as of the Review Date:

- (i) The RMBS Transaction must include tranches of securities with Applicable Ratings of AAA, AA, A, BBB and BBB- (such securities, the “Required Tranches”). “Applicable Rating” means, for a tranche of securities, the ratings thereof as provided below:

“AAA” means a rating of AAA by Standard& Poor’s Rating Services (“S&P”) and Aaa by Moody’s Investor Service, Inc. (“Moody’s”).

“AA” means a rating of (x) AA or higher by S&P and Aa2 by Moody’s or (y) AA by S&P and Aa2 or higher by Moody’s. “A” means a rating of (x) A or higher by S&P and A2 by Moody’s or (y)

A by S&P and A2 or higher by Moody’s. “BBB” means a rating of (x) BBB or higher by S&P and Baa2 by Moody’s or (y) BBB by S&P and Baa2 or higher by Moody’s.

“BBB-” means a rating of (x) BBB- or higher by S&P and Baa3 by Moody’s or (y) BBB- by S&P and Baa3 or higher by Moody’s

- (ii) Each Required Tranche must be (a) a note or other debt security or (b) a pass-through certificate or similar security, in each case, entitling the holders thereof to receive payments that depend (except for rights or other assets designed to assure the servicing or timely distribution of proceeds to the holders) on the cash flow from a discrete pool of assets that substantially consists of loans, either fixed or revolving, secured by a lien on one-to-four family residences or by security interests on proprietary leases on residential cooperative apartment units and the related stock of the cooperative apartment corporation.
- (iii) Each Required Tranche must have been issued within the six months prior to the applicable Roll Date.
- (iv) The Deal Size of the RMBS Transaction must have been at least U.S.\$500 million as of its issuance date.
- (v) At least 90% of the residential mortgage loan assets backing the securities issued in the RMBS Transaction must have a first priority lien in favor of the holder thereof; provided that if the information required to make such determination is not readily available to the Administrator then this clause (v) will be satisfied if the prospectus with respect to such RMBS Transaction states that such RMBS Transaction is backed primarily by first lien mortgage loan assets.
- (vi) The weighted average FICO credit score of the obligors on the assets backing the Securities issued in the RMBS Transaction must not exceed 660 as of its issuance date.
- (vii) At least four of the Required Tranches must be registered pursuant to the U.S. Securities Act of 1933.
- (viii) The scheduled payment dates for the payment of interest under each Required Tranche must be the 25th calendar day of each month.
- (ix) The Required Tranche referenced in the ABX.HE.AAA Sub-index must have an expected weighted average life of greater than five years as of its issuance date (based on the applicable deal pricing speed as of such date) and must have the longest expected weighted average life of all tranches in the RMBS Transaction with the same priority. Each other Required Tranche (other than the Required Tranche referenced in the Penultimate AAA Sub-index) must have an expected weighted average life of greater than four years (based on the applicable deal pricing speed as of its issuance date).
- (x) Any Required Tranche with an Applicable Rating of AAA (or its equivalent) must have had a principal amount at issuance of at least U.S.\$15 million.
- (xi) Each Required Tranche must bear interest at a floating rate, with the base rate being one-month LIBOR.
- (xii) Each Required Tranche must bear publicly disclosed ratings from both Moody’s and S&P.
- (xiii) The identity and principal economic terms of each Required Tranche must be listed on Bloomberg (provided that information as to cashflows under such Required Tranche need not be published on Bloomberg).
- (xiv) No Required Tranche may be insured or guaranteed pursuant to a financial guarantee insurance policy, guarantee or similar instrument issued by a third party.
- (xv) The business day convention for each Required Tranche is based on New York business days only.

- (xvi) The RMBS Transaction must include at least two tranches with an Applicable Rating of AAA (or its equivalent) that reference the same underlying pool of assets.
- 3.3 No later than the seventh Business Day prior to the Roll Date, the Administrator shall simultaneously provide to the ABX.HE Participants and publicly disseminate (through its website or as otherwise agreed between CDS and the Administrator) the Initial List and request that each ABX.HE Participant rank its preference between each of the two largest RMBS Transactions (by Deal Size), if there are two such RMBS Transactions, for each of the twenty-five largest Issuers (by Total Issuance Amount) by assigning a rank of “1” or “2” (with “1” being the higher preference) to each such RMBS Transaction. Each ABX.HE Participant shall notify the Administrator of its list of preferences no later than 5:00 p.m. on the first Business Day following receipt of the Initial List (the “First Submission Deadline”). If an ABX.HE Participant submits the preference list prior to the First Submission Deadline but fails to properly or completely prioritize the RMBS Transactions pursuant to this Section 3.3, the Administrator shall promptly notify the ABX.HE Participant and request that the ABX.HE Participant submit a revised list of preferences that remedies its errors and/or omissions no later than 11:00 a.m. on the second Business Day following receipt of the Initial List (the “Second Submission Deadline”). If an ABX.HE Participant fails to provide a list of preferences by the First Submission Deadline or fails to properly or completely prioritize the RMBS Transactions pursuant to this Section 3.3 by the Second Submission Deadline, the Administrator may disregard such ABX.HE Participant’s list of preferences. Upon receipt of the lists of preferences timely and properly submitted by the ABX.HE Participants, the Administrator shall sum the rank point values assigned to each RMBS Transaction and create a master list (the “Master List”) of twenty RMBS Transactions, which will consist of the RMBS Transaction that received the lower number of points for each of the twenty largest Issuers (by Total Issuance Amount) on the Initial List. The RMBS Transactions in the Master List shall be ranked in decreasing order by Total Issuance Amount of the related Issuer. If two RMBS Transactions with respect to an Issuer receive the same number of points, the RMBS Transaction with the larger Deal Size shall be included in the Master List. If such RMBS Transactions have the same Deal Size, the RMBS Transaction with the later issuance date shall be included in the Master List. If there is only one RMBS Transaction with respect to an Issuer in the Initial List, such RMBS Transaction shall be included in the Master List.
- 3.4 (a) The Master List may not contain more than five RMBS Transactions with the same Originator (the “Originator Limit”) or more than six RMBS Transactions with the same Servicer (the “Servicer Limit”). If the Master List does not satisfy the Originator Limit or the Servicer Limit, the Administrator shall substitute the RMBS Transactions in the Master List pursuant to Sections 3.4(b) and 3.4(c), respectively, until the Master List meets such criteria (and if the Master List satisfies neither the Servicer Limit nor the Originator Limit, the Administrator shall conduct the substitutions required to satisfy the Originator Limit prior to conducting the substitutions required to satisfy the Servicer Limit). “Originator” means, with respect to an RMBS Transaction, the entity, if any, that originated more than 60% of the aggregate principal amount of the underlying mortgage loans backing such RMBS Transaction. “Servicer” means, with respect to an RMBS Transaction, the entity, if any, that is the master servicer of the underlying mortgage loans backing the RMBS Transaction or, if no master servicer is identified in the underlying instruments of such RMBS Transaction, the entity that is deemed to be the servicer of more than 60% of the aggregate principal amount of the underlying mortgage loans backing such RMBS Transaction.
- (b) (i) From the group of Issuers with RMBS Transactions with the same Originator (the “Originator Group”), the Administrator shall replace the RMBS Transaction of the lowest ranking Issuer (by Total Issuance Amount) with the largest other RMBS Transaction (by Deal Size) of such Issuer that does not have the same Originator; provided that if such substitution would result in the

Servicer Limit not being satisfied, or if such Servicer Limit is already not satisfied, would result in an increase in the number of RMBS Transactions with the same Servicer (a “Servicer Limit Event”), then the Administrator shall not make such substitution and shall continue the substitution process pursuant to this Section 3.4(b)(i) with the next largest other RMBS Transaction (by Deal Size) of such Issuer.

(ii) If, with respect to an Issuer in an Originator Group, either (A) the Originator Limit has not been satisfied by a substitution pursuant to Section 3.4(b)(i) or (B) there is no other RMBS Transaction of such Issuer that may be substituted pursuant to Section 3.4(b)(i), then the Administrator shall continue the substitution process pursuant to Section 3.4(b)(i) with the next lowest ranking Issuer (by Total Issuance Amount) from the Originator Group.

(iii) If the Originator Limit is still not satisfied after application of Sections 3.4(b)(i) and (ii) to each Issuer in the Originator Group, then the RMBS Transaction issued by the lowest ranking Issuer (by Total Issuance Amount) in the Originator Group shall be removed from the Master List (and the related Issuer shall be removed from the Initial List). In such case, the largest Qualifying RMBS Transaction (by Deal Size) of the largest Issuer (by Total Issuance Amount) (x) that has a Qualifying RMBS Transaction and (y) that was included in the Initial List but not included in the Master List shall be added to the Master List as the twentieth ranked RMBS Transaction. “Qualifying RMBS Transaction” means an RMBS Transaction that would not be in the Originator Group and would not cause a Servicer Limit Event. Upon such substitution, if the Originator Limit is still not satisfied, the Administrator shall apply this Section 3.4(b)(iii) successively to the other Issuers in the Originator Group, in increasing order by Total Issuance Amount, until the Originator Limit is satisfied.

(c) (i) From the group of Issuers with RMBS Transactions with the same Servicer (the “Servicer Group”), the Administrator shall replace the RMBS Transaction of the lowest ranking Issuer (by Total Issuance Amount) with the largest other RMBS Transaction (by Deal Size) of such Issuer that does not have the same Servicer; provided that if such substitution would result in the Originator Limit not being satisfied, or if such Originator Limit is already not satisfied, would result in an increase in the number of RMBS Transactions with the same Originator (an “Originator Limit Event”), then the Administrator shall not make such substitution and shall continue the substitution process pursuant to this Section 3.4(c)(i) with the next largest other RMBS Transaction (by Deal Size) of such Issuer.

(ii) If, with respect to an Issuer in a Servicer Group, either (A) the Servicer Limit has not been satisfied by a substitution pursuant to Section 3.4(c)(i) or (B) there is no other RMBS Transaction of such Issuer that may be substituted pursuant to Section 3.4(c)(i), then the Administrator shall continue the substitution process pursuant to Section 3.4(c)(i) with the next lowest ranking Issuer (by Total Issuance Amount) from the Servicer Group.

(iii) If the Servicer Limit is still not satisfied after application of Sections 3.4(c)(i) and (ii) to each Issuer in the Servicer Group, then the RMBS Transaction issued by the lowest ranking Issuer (by Total Issuance Amount) in the Servicer Group shall be removed from the Master List (and the related Issuer shall be removed from the Initial List). In such case, the largest Eligible RMBS Transaction (by Deal Size) of the largest Issuer (by Total Issuance Amount) (x) that has an Eligible RMBS Transaction and (y) that was included in the Initial List but not included in the Master List shall be added to the Master List as the twentieth ranked RMBS Transaction. “Eligible RMBS Transaction” means an RMBS Transaction that would not be in the Servicer Group and would not cause an Originator Limit Event. Upon such substitution, if the Servicer Limit is still not satisfied, the Administrator shall apply this Section 3.4(c)(iii) successively to the

other Issuers in the Servicer Group, in increasing order by Total Issuance Amount, until the Servicer Limit is satisfied.

- (d) If the Administrator is unable to create a Master List that satisfies the Originator Limit and the Servicer Limit in accordance with the foregoing provisions, the Administrator shall take such action with respect to the creation of the Master List as is directed by a Member Majority.

- 3.5 Upon determination of a Master List that satisfies the Originator Limit and the Servicer Limit or pursuant to Section 3.4(d), the Issuers of the RMBS Transactions in the Master List shall constitute the reference entities for the ABX.HE Index for the next six-month period. The six sub-indexes shall be constituted as follows:

The "Penultimate AAA Sub-index" (ABX.HE.PENAAA) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of AAA and referencing the same underlying pool of assets as the AAA Sub-index (and if there is more than one such tranche, the tranche with the second longest expected weighted average life, based on the applicable deal pricing speed as of its issuance date (and among tranches with equal expected weighted average lives, the tranche which had the largest principal amount at issuance)).

The "AAA Sub-index" (ABX.HE.AAA) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of AAA (and if there is more than one such tranche, the tranche with the longest expected weighted average life, based on the applicable deal pricing speed as of its issuance date (and among tranches with equal expected weighted average lives, the tranche which had the largest principal amount at issuance)).

The "AA Sub-index" (ABX.HE.AA) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of AA. The "A Sub-index" (ABX.HE.A) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of A. The "BBB Sub-index" (ABX.HE.BBB) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of BBB.

The "BBB- Sub-index" (ABX.HE.BBB-) shall consist of the Required Tranches of the RMBS Transactions in the Master List with an Applicable Rating of BBB-.

The securities included in each sub-index shall be the reference obligations for such sub-index. Where more than one tranche of an RMBS Transaction qualifies as a Required Tranche with the same Applicable Rating, the tranche that is junior in priority in accordance with the relevant definitive documents will be included in the relevant sub-index; provided that if the Applicable Rating is AAA, the tranche that is senior in priority in accordance with the relevant definitive documents will be included in the relevant sub-index.

- 3.6 Promptly following the determination thereof and, in any event, no later than 11:00 a.m. on the earlier of (i) the first Business Day following the date of such determination and (ii) four Business Days prior to the Roll Date, the Administrator will simultaneously provide to the ABX.HE Participants and publicly disseminate (through its website or as otherwise agreed between CDS and the Administrator) the composition of the new ABX.HE Index and each sub-index to be launched on that Roll Date. At such time, the Administrator will also publicly disseminate (through its website or as otherwise agreed between CDS and the Administrator) the current list of ABX.HE Participants for the new ABX.HE Index.
- 3.7 No later than two Business Days prior to the Roll Date, the Administrator will provide to the ABX.HE Participants a draft of the annex for the ABX.HE Index and its sub-indices.

3.8 At or about 9:00 a.m. on the Business Day immediately prior to the Roll Date (the “Fixed Rate Determination Date”), the fixed rate for each sub-index for the new ABX.HE Index for purposes of the ABX Transactions Standard Terms Supplement will be determined by the Administrator by soliciting each ABX.HE Participant to submit an average mid-market spread for each sub-index (in increments of 1 basis point). The Administrator will re-solicit ABX.HE Participants until at least two-thirds of the ABX.HE Participants (rounded down) have submitted such spreads. The Administrator shall rank such submissions for each sub-index from lowest to highest spread and discard the top and bottom quartiles thereof (the number of submissions q in each discarded quartile will be given by $q = \text{int}(N_s/4)$ where N_s is the total number of submissions). The fixed rate for each sub-index shall be the lesser of (i) the average of the remaining submissions for such sub-index (rounded up to the nearest basis point), as determined by the Administrator and (ii) 500 basis points. The Administrator will not notify any ABX.HE Participant of, or otherwise publicize, the fixed rates for the new ABX.HE Index until after 5:00 p.m. on the Fixed Rate Determination Date, at which time the Administrator will promptly notify the ABX.HE Participants and publicly disseminate (through its website or as otherwise agreed between CDS and the Administrator) such fixed rates. The final annex for each sub-index for the new ABX.HE Index will be publicly disseminated by the Administrator on its website (or as otherwise agreed between CDS and the Administrator) after 5:00 p.m. on the Fixed Rate Determination Date but not later than 8:00 a.m. on the next Business Day.

IV. ABX.HE Index Daily Fixing Process and Calculation Rules (the “ABX.HE Pricing Rules”)

For each sub-index for the current ABX.HE Index and for each of the most recent Prior ABX.HE Sub-Indexes, the Administrator will solicit closing mid-market prices for transactions under the ABX Standard Terms Supplement quoted as a positive or negative percentage to two decimal places (excluding any accrued fixed amount) from all ABX.HE Participants. In the case of the ABX.HE Index determined as of the most recent Roll Date, these prices will be submitted either by spreadsheet (or any other electronic delivery format designated as acceptable by the Administrator) or, later, via the Administrator’s automated mechanism between 3:00 p.m. and 4:00 p.m. (or such other times as may be specified by the Administrator) each day other than Saturday, Sunday, and United States Federal Holidays; provided that on any day that the Bond Market Association recommends closing the fixed income markets early, prices will be submitted within thirty (30) minutes after the time set by the Bond Market Association for the closing of the fixed income markets. In the case of any other Prior ABX.HE Sub-Index, prices will be submitted for the close of business on the last Business Day of each calendar month in the manner provided above no later than the close of business on the first Business Day following such day.

The Administrator will employ a filtering process which entails taking the received quotes, discarding the top and bottom quartiles and taking the arithmetic mean of what remains. The quoted fixing value will be a percentage reported to two decimal places. The number of points q in each discarded quartile will be given by $q = \text{int}(N_c/4)$ where N_c is the total number of contributors. Examples are shown in the table below:

Number of Contributors	Upper Quartile Discards	Lower Quartile Discards	Number of Quotes used in Fixing
1	0	0	No fixing calculated
3	0	0	3
4	1	1	2
5	1	1	3
7	1	1	5
8	2	2	4
11	2	2	7

12	3	3	6
15	3	3	9
16	4	4	8
19	4	4	11
20	5	5	10

V. Additional Pricing Considerations

Liquidity in the ABX.HE Index has declined over time, with trading no longer occurring on a regular basis for all Current and Prior ABX.HE Sub-Indexes. As a result, the closing mid-market prices submitted by ABX.HE Participants may be estimated values for transactions under the ABX Standard Terms Supplement, rather than actual transacted prices.

In order to calculate the official fixing value for a particular sub-index, the Administrator must receive closing mid prices from a minimum of three ABX.HE Participants. If, on any date, the Administrator receives fewer than three closing mid prices for a sub-index, the Administrator will not publish a fixing value for such sub-index on such date. The formula for determining the Minimum Fixing Number, the methodology for calculating an official fixing value and the list of sub-indexes for which an official fixing value will be determined will be subject to change by a vote of a Member Majority.

VI. Issuance of ABX.HE Sub-Indices for Prior Dates

- 6.1 CDS and/or the Administrator may publish ABX.HE Sub-indices corresponding to prior Roll Dates on which other ABX.HE Sub-indices were published and otherwise in accordance with these ABX.HE Index Rules; provided that approval of seventy-five percent (75%) of the ABX.HE Participants will be required for CDS and/or the Administrator to (i) republish or amend existing ABX.HE Sub-indices corresponding to prior Roll Dates or (ii) publish ABX.HE Sub-indices consisting of RMBS Transactions that were issued within six months of a prior date designated by the Administrator (other than a prior Roll Date) but otherwise in accordance with these ABX.HE Index Rules. For purposes of determining compliance with the criteria set forth in Section 3.2, the applicable Review Date shall be the tenth Business Day prior to the relevant prior Roll Date or date designated by the Administrator, as applicable.

Disclaimer

The Administrator does not undertake any duty of care and will not be liable to any party to a transaction referencing a ABX.HE Index, or related Sub-Index, for any form of damages, whether direct, indirect, special, consequential or otherwise, that might arise in connection with the Administrator's performance of its duties under the Rules, except in the case of the Administrator's gross negligence, fraud or wilful misconduct.