

The Uniform Single Attestation Program, commonly known as USAP, was developed by the Mortgage Bankers Association (MBA), and consisted of “Minimum Servicing Standards” regarding mortgage servicing compliance. As a result, USAP quickly became the de facto standard for evaluating compliance, with little or no other criteria being utilized. Even by the time the Securities and Exchange Commission’s (SEC) new Item 1122 of Regulation AB was adopted, the USAP was still the only true recognized servicing compliance audit tool.

The SEC, in many of their roundtable discussions and subsequent rules and regulations publications for Regulation AB, felt many of the USAP standards were “...only designed to be applicable only to servicing of residential mortgages and do not necessarily represent the full spectrum of servicing activities that may be material to an asset-backed securities transaction.” (1)

Furthermore, the USAP was created at a time when the vast majority of securitization activities consisted of simple pass-through or pay-through structures of residential-only mortgages. As the industry evolved, so did the complexities and activities of securitization. “As new-more complex ABS transactions were introduced... the USAP, in the absence of any other well-recognized criteria, continued to be used as the default criteria for assessment...” (2)

In its final ruling, *Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule*, the SEC comments on numerous occasions concerning the limits of USAP along with giving specific examples and concerns.

(1) *Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule*

(2) *Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule*

Some of the USAP criteria may not be applicable to other asset types, such as criteria regarding property tax escrow accounts.

Because it was written to address compliance criteria for residential mortgages, it does not adequately address other ABS areas, such as auto loans.

There is no consistency as to which USAP criteria are applied to a particular asset type outside of residential mortgages. Thus, the list of exceptions varies from issuer to issuer.

Rarely in the USAP is substituted criteria included that would be relevant to that asset class.

The USAP does not clearly address the totality of activities and parties involved in servicing an ABS transaction. (3)

The SEC has stated on numerous occasions that the performance of the servicing function is material to the performance of an ABS transaction. As a result of these findings and discussions, Item 1122 of Regulation was adopted to serve as “...a single uniform set of servicing criteria that covers all aspects of the servicing function and that could be used in the context of multiple asset classes.” (4)

So has the USAP reached the end of its life and will it be replaced by the more thorough compliance criteria of Item 1122? Based on its inherent limitations, coupled with the growing complexity of the ABS industry, its quite likely the USAP will be viewed more as an adjunct tool on how to leverage into Item 1122 servicing compliance. Its principal weakness is simply its lack of acceptable servicing criteria for today’s complex ABS arena. The USAP served its purpose, provided a standardized servicing criteria for many years, but it’s time has passed.

(3) *Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule*

(4) *Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule*



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