

CDO Newsletter

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Jireh Wong
Senior Vice President
+1 416 597 7527
jwong@dbrs.com

Jamie Feehely
Senior Vice President
– Canadian
Structured Finance
+1 416 597 7312
jfeehely@dbrs.com

Sean O'Connor
Senior Vice President
+1 212 806 3252
soconnor@dbrs.com

Andrew Fitzpatrick
Assistant Vice
President
+1 416 597 7377
afitzpatrick@dbrs.com

Toronto
DBRS Tower
181 University Avenue
Suite 700
Toronto, ON M5H 3M7
+1 416 593 5577

New York
140 Broadway, 35th
Floor
New York, NY 10005
+1 212 806 3277

Chicago
101 North Wacker Drive
Suite 100
Chicago, IL 60606
+1 312 332 3429

Nickey Edwards
Publisher
+1 416 597 7332
nedwards@dbrs.com

ONTARIO COURT OF APPEAL APPROVES MONTRÉAL ACCORD

On August 18, 2008, the Ontario Court of Appeal upheld the Ontario Superior Court's decision of June 5, 2008, to approve a Plan of Arrangement and Compromise (the Plan of Arrangement) that would restructure asset-backed commercial paper (ABCP) issued by a number of Canadian third-party issuers into long-term notes.

On August 13, 2007, a number of Canadian third-party ABCP issuers (the Affected Trusts) were unable to roll over their maturing ABCP. In an August 16, 2007, press release, DBRS placed the Affected Trusts Under Review with Developing Implications following an announcement that a consortium representing banks, asset providers and major investors in the Affected Trusts (the Pan-Canadian Investors Committee (the Investors Committee)) had agreed in principle to take steps to establish "normal operations in the Canadian third-party ABCP market." The agreement in principle (the Montréal Accord) called for all investors in the Affected Trusts to exchange their holdings for term notes matching the amortization and maturity of the transactions held within each series or trust, as applicable.

On March 17, 2008, the Investors Committee filed the Plan of Arrangement under the *Companies' Creditors Arrangement Act* (CCAA) on behalf of 20 of the Affected Trusts. As a result of this filing, the trusts were downgraded to D on March 17, 2008. On March 19, 2008, the ratings of the 20 Affected Trusts that had filed under the CCAA were withdrawn by DBRS upon the request of the Affected Trusts.

On April 23, 2008, DBRS issued provisional ratings on a number of the restructured notes proposed to be created under the Plan of Arrangement.¹

On June 5, 2008, the Ontario Superior Court of Justice issued a sanction order approving the Plan of Arrangement. An appeal of the sanction order was heard by the Ontario Court of Appeal on June 25 and 26, 2008. The Court of Appeal has now upheld the sanction order. The decision of the Ontario Court of Appeal can be appealed to the Supreme Court of Canada (SCC) upon the granting of leave to appeal by the SCC. Applications for leave to appeal to the SCC must be filed within 60 days of the date of the decision being appealed. However, the CCAA states that no appeal to the SCC shall operate as a stay of proceedings unless and to the extent ordered by the SCC.

DBRS views the decision by the Ontario Court of Appeal as a positive step toward the restructuring of the Canadian third-party ABCP market.

DBRS will continue to monitor the situation closely and will provide further information on www.dbrs.com as appropriate.

For more information, please contact Andrew Fitzpatrick at +1 416 597 7377 or afitzpatrick@dbrs.com or Jamie Feehely at +1 416 597 7312 or jfeehely@dbrs.com.

1. Provisional ratings are indicative credit opinions based on information received by DBRS at a point in time and may change when ratings are finalized or be withdrawn at any time.