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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2010

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number 001-34057

American Capital Agency

AMERICAN CAPITAL AGENCY CORP.
(Exact name of registrant as specified in its charter)

Delaware	**26-1701984**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**

2 Bethesda Metro Center, 14th Floor
Bethesda, Maryland 20814
(Address of principal executive offices)
(301) 968-9300
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter earlier period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐	Accelerated filer ☒
Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller Reporting Company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The number of shares of the issuer's common stock, $0.01 par value, outstanding as of October 31, 2010 was 52,191,805.

AMERICAN CAPITAL AGENCY CORP.

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ITEM 1. ***Financial Statements***

AMERICAN CAPITAL AGENCY CORP.
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	September 30, 2010 (Unaudited)	December 31, 2009
Assets:		
Agency securities, at fair value (including pledged assets of $8,321,498 and $4,136,596, respectively)	$ 9,736,463	$4,300,115
Cash and cash equivalents	115,266	202,803
Restricted cash	62,462	19,628
Interest receivable	42,034	22,872
Derivative assets, at fair value	11,344	11,960
Receivable for agency securities sold	350,056	47,076
Principal payments receivable	40,129	20,473
Other assets	1,052	757
Total assets	$10,358,806	$4,625,684
Liabilities:		
Repurchase agreements	$ 7,969,399	$3,841,834
Other debt	80,822	—
Payable for agency securities purchased	1,223,064	180,345
Derivative liabilities, at fair value	113,900	17,798
Dividend payable	54,554	34,050
Accounts payable and other accrued liabilities	4,022	4,835
Total liabilities	9,445,761	4,078,862
Stockholders' equity:		
Preferred stock, $0.01 par value; 10,000 shares authorized, 0 shares issued and outstanding, respectively	—	—
Common stock, $0.01 par value; 150,000 shares authorized, 38,967 and 24,322 shares issued and outstanding, respectively	390	243
Additional paid-in capital	880,571	507,465
Retained earnings	30,835	19,940
Accumulated other comprehensive income	1,249	19,174
Total stockholders' equity	913,045	546,822
Total liabilities and stockholders' equity	$10,358,806	$4,625,684

See accompanying notes to consolidated financial statements.

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AMERICAN CAPITAL AGENCY CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME
(unaudited)
(in thousands, except per share data)

	For the three months ended September 30, 2010	For the three months ended September 30, 2009	For the nine months ended September 30, 2010	For the nine months ended September 30, 2009
Interest income:				
Interest income	$ 62,600	$ 32,793	$151,986	$ 86,834
Interest expense	18,531	11,551	51,389	29,265
Net interest income	44,069	21,242	100,597	57,569
Other income, net:				
Gain from sale of agency securities, net	24,565	16,070	81,558	30,418
Loss on derivative instruments and trading securities, net	(3,733)	(3,435)	(19,680)	(2,567)
Total other income, net	20,832	12,635	61,878	27,851
Expenses:				
Management fees	2,697	1,166	6,795	3,008
General and administrative expenses	1,926	1,474	5,394	4,498
Total expenses	4,623	2,640	12,189	7,506
Income before tax	60,278	31,237	150,286	77,914
Excise tax	250	—	250	—
Net income	$ 60,028	$ 31,237	$150,036	$ 77,914
Net income per common share—basic and diluted	$ 1.69	$ 1.82	$ 4.97	$ 4.95
Weighted average number of common shares outstanding—basic and diluted	35,495	17,191	30,161	15,741
Dividends declared per common share	$ 1.40	$ 1.40	$ 4.20	$ 3.75
Comprehensive income:				
Net income	$ 60,028	$ 31,237	$150,036	$ 77,914
Other comprehensive (loss) income:				
Unrealized gain on available-for-sale securities, net	11,660	25,802	73,077	58,633
Unrealized (loss) gain on derivative instruments, net	(38,620)	(6,960)	(91,002)	2,070
Other comprehensive (loss) income	(26,960)	18,842	(17,925)	60,703
Comprehensive income	$ 33,068	$ 50,079	$132,111	$138,617

See accompanying notes to consolidated financial statements.

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AMERICAN CAPITAL AGENCY CORP.
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(in thousands)

	Preferred Stock		Common Stock					
	Shares	Amount	Shares	Amount	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total
Balance, December 31, 2009	—	$ —	24,322	$ 243	$507,465	$ 19,940	$ 19,174	$546,822
Net income	—	—	—	—	—	53,150	—	53,150
Other comprehensive income (loss):								
Unrealized gain on available- for-sale securities, net	—	—	—	—	—	—	1,933	1,933
Unrealized loss on derivative instruments, net	—	—	—	—	—	—	(13,476)	(13,476)
Issuance of common stock	—	—	2,434	24	62,114	—	—	62,138
Issuance of restricted common stock	—	—	4	1	—	—	—	1
Stock-based compensation	—	—	—		16	—	—	16
Common dividends declared	—	—	—	—	—	(37,465)	—	(37,465)
Balance, March 31, 2010 (Unaudited)	—	—	26,760	268	569,595	35,625	7,631	613,119
Net income	—	—	—	—	—	36,858	—	36,858
Other comprehensive income (loss):								
Unrealized gain on available- for-sale securities, net	—	—	—	—	—	—	59,484	59,484
Unrealized loss on derivative instruments, net	—	—	—	—	—	—	(38,906)	(38,906)
Issuance of common stock	—	—	6,900	69	168,904	—	—	168,973
Stock-based compensation	—	—	—		26	—	—	26
Common dividends declared	—	—	—	—	—	(47,124)	—	(47,124)
Balance, June 30, 2010 (Unaudited)	—	—	33,660	337	738,525	25,359	28,209	792,430
Net income	—	—	—	—	—	60,028	—	60,028
Other comprehensive income (loss):								
Unrealized gain on available- for-sale securities, net	—	—	—	—	—	—	11,660	11,660
Unrealized loss on derivative instruments, net	—	—	—	—	—	—	(38,620)	(38,620)
Issuance of common stock	—	—	5,307	53	142,020	—	—	142,073
Stock-based compensation	—	—	—		26	—	—	26
Common dividends declared	—	—	—	—	—	(54,552)	—	(54,552)
Balance, September 30, 2010 (Unaudited)	—	$ —	38,967	$ 390	$880,571	$ 30,835	$ 1,249	$913,045

See accompanying notes to consolidated financial statements.

AMERICAN CAPITAL AGENCY CORP.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	For the nine months ended September 30, 2010	For the nine months ended September 30, 2009
Operating activities:		
Net income	$ 150,036	$ 77,914
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization of agency securities premiums and discounts, net	65,953	15,898
Amortization of interest rate swap termination fee	6,278	6,671
Hedge ineffectiveness of derivative instruments	340	(496)
Stock-based compensation	68	29
Gain on sale of agency securities, net	(81,558)	(30,418)
Loss on derivative instruments, net	19,340	2,290
Purchases of trading securities	(465,149)	—
Proceeds from sale of trading securities	466,775	—
Increase in interest receivable	(19,162)	(10,142)
Increase in other assets	(295)	(418)
Decrease in accounts payable and other accrued liabilities	(812)	(1,905)
Net cash provided by operating activities	141,814	59,423
Investing activities:		
Purchases of agency securities	(12,301,251)	(6,124,679)
Proceeds from sale of agency securities	6,693,342	4,097,357
Net payments on derivative instruments not designated as qualifying hedges	(14,092)	(1,592)
Principal collections on agency securities	972,551	380,136
Net cash used in investing activities	(4,649,450)	(1,648,778)
Financing activities:		
Cash dividends paid	(118,638)	(53,267)
(Increase) decrease in restricted cash	(42,834)	9,036
Payments made on interest rate swap terminations	—	(16,586)
Proceeds from repurchase arrangements, net	4,127,565	1,602,745
Proceeds from other debt	80,822	—
Net proceeds from common stock issuances	373,184	95,041
Net cash provided by financing activities	4,420,099	1,636,969
Net change in cash and cash equivalents	(87,537)	47,614
Cash and cash equivalents at beginning of period	202,803	56,012
Cash and cash equivalents at end of period	$ 115,266	$ 103,626

See accompanying notes to consolidated financial statements.

AMERICAN CAPITAL AGENCY CORP.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

Note 1. Unaudited Interim Consolidated Financial Statements

The interim consolidated financial statements of American Capital Agency Corp. (together with its consolidated subsidiary, is referred throughout this report as the “Company”, “we”, “us” and “our”) are prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) for interim financial information and pursuant to the requirements for reporting on Form 10-Q and Article 10 of Regulation S-X. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of income and expenses during the reporting period. Actual results could differ from those estimates.

Our unaudited consolidated financial statements include the accounts of our wholly-owned subsidiary, American Capital Agency TRS, LLC. Significant intercompany accounts and transactions have been eliminated. In the opinion of management, all adjustments, consisting solely of normal recurring accruals, necessary for the fair presentation of financial statements for the interim period have been included. The current period’s results of operations are not necessarily indicative of results that ultimately may be achieved for the year. There has been no activity in American Capital Agency TRS, LLC during the nine months ended September 30, 2010 and 2009.

Note 2. Organization

We were organized in Delaware on January 7, 2008, and commenced operations on May 20, 2008 following the completion of our initial public offering (“IPO”). Our common stock is traded on The NASDAQ Global Select Market under the symbol “AGNC”.

We have elected to be taxed as a real estate investment trust (“REIT”) under the Internal Revenue Code of 1986, as amended (the “Code”). As such, we are required to distribute annually 90% of our taxable net income. As long as we qualify as a REIT, we will generally not be subject to U.S. federal or state corporate taxes on our taxable net income to the extent that we distribute all of our annual taxable net income to our stockholders. We are managed by American Capital Agency Management, LLC (our “Manager”), a subsidiary of a wholly-owned portfolio company of American Capital, Ltd. (“American Capital”).

We earn income primarily from investing in residential mortgage pass-through securities and collateralized mortgage obligations (“CMOs”) on a leveraged basis. These investments consist of securities for which the principal and interest payments are guaranteed by U.S. Government-sponsored entities (“GSEs”) such as the Federal National Mortgage Association, or Fannie Mae, and the Federal Home Loan Mortgage Corporation, or Freddie Mac, or by a U.S. Government agency such as the Government National Mortgage Association, or Ginnie Mae. We refer to these types of securities as agency securities and the specific agency securities in which we invest as our investment portfolio.

Our principal goal is to generate net income for distribution to our stockholders through regular quarterly dividends from our net interest income, which is the spread between the interest income earned on our interest earning assets and the interest costs of our borrowings and hedging activities, and realized gains on our investments. We fund our investments primarily through short-term borrowings structured as repurchase agreements.

Note 3. Summary of Significant Accounting Policies

Investments in Agency Securities

Accounting Standards Codification ("ASC") Topic 320, *Investments—Debt and Equity Securities* ("ASC 320"), requires that at the time of purchase, we designate a security as held-to-maturity, available-for-sale or trading, depending on our ability and intent to hold such security to maturity. Securities classified as trading and available-for-sale are reported at fair value, while securities classified as held-to-maturity are reported at amortized cost. We may, from time to time, sell any of our agency securities as part of our overall management of our investment portfolio. Accordingly, we typically designate our agency securities as available-for-sale. All securities classified as available-for-sale are reported at fair value, with unrealized gains and losses excluded from earnings and reported in other comprehensive income (loss) ("OCI"), a component of stockholders' equity. Upon the sale of a security, we determine the cost of the security and the amount to reclassify out of accumulated OCI into earnings based on the specific identification method.

Interest-only strips represent our right to receive a specified proportion of the contractual interest flows of specific agency and CMO securities. Interest-only strips are measured at fair value through earnings in gain (loss) on derivative instruments and trading securities, net in our consolidated statements of operations and comprehensive income. Our investments in interest-only strips are included in agency securities, at fair value on the accompanying consolidated balance sheets.

We evaluate securities for other-than-temporary impairment ("OTTI") on at least a quarterly basis, and more frequently when economic or market conditions warrant such evaluation. Based on the criteria in ASC 320, the determination of whether a security is other-than-temporarily impaired involves judgments and assumptions based on subjective and objective factors. When an agency security is impaired, an OTTI is considered to have occurred if (i) we intend to sell the agency security or (ii) it is more likely than not that we will be required to sell the agency security before recovery of its amortized cost basis. If we intend to sell the security or if it is more likely than not that we will be required to sell the agency security before recovery of its amortized cost basis, the entire amount of the impairment loss, if any, is recognized in earnings as an unrealized loss and the cost basis of the security is adjusted to its fair value.

We did not recognize any OTTI charges on any of our agency securities for the nine months ended September 30, 2010 and 2009.

Derivative Instruments

We maintain an interest rate risk management strategy under which we use derivative financial instruments to manage the adverse impact of interest rate changes on the value of our investment portfolio as well as our cash flows. In particular we attempt to mitigate the risk of the cost of our short-term variable rate liabilities increasing at a faster rate than the earnings of our long-term assets during a period of rising interest rates. The principal derivative instruments that we use are interest rate swaps, options to enter into interest rate swap agreements ("interest rate swaptions"), to-be-announced agency securities ("TBAs"), options and futures. We account for derivatives in accordance with ASC Topic 815, *Derivatives and Hedging* ("ASC 815"). ASC 815 requires an entity to recognize all derivatives as either assets or liabilities in the balance sheet and to measure those instruments at fair value.

The accounting for changes in the fair value of derivatives depends on the intended use of the derivative and the resulting designation. Derivatives that are intended to hedge exposure to variability in expected future cash flows are considered cash flow hedges. For derivatives designated in qualifying cash flow hedging relationships, the effective portion of the fair value adjustments is initially recorded in OCI (a component of stockholders' equity) and reclassified to income at the time that the hedged transactions affect earnings. The ineffective portion of the fair value adjustments is recognized in gain (loss) on derivative instruments and trading securities, net immediately. When the underlying hedged transaction ceases to exist any amounts that have been previously recorded in accumulated OCI would be reclassified to net income and all subsequent changes in the fair value of the instrument are included in gain (loss) on derivative instruments and trading securities, net for each period until the derivative instrument matures or is settled. For derivatives not designated in hedging relationships under ASC 815, the fair value adjustments are recorded in gain (loss) on derivative instruments and trading securities, net. Derivatives in a gain position are reported as derivative assets at fair value, and derivatives in a loss position are reported as derivative liabilities at fair value in our consolidated balance sheet. Cash receipts and payments related to derivative instruments are classified according to the underlying nature or purpose of the derivative transaction, generally in the operating section for derivatives designated in hedging relationships and the investing section for derivatives not designated in hedging relationships of our consolidated statement of cash flows.

We use interest rate swaps to hedge the variable cash flows associated with short-term borrowings made under our repurchase agreement facilities. We generally enter into such derivatives with the intention of qualifying for hedge accounting.

We may purchase interest rate swaptions to help mitigate the potential impact of large increases or decreases in interest rates on the performance of our investment portfolio (referred to as "convexity risk"). The interest rate swaptions provide us the option to enter into an interest rate swap agreement for a predetermined notional amount, stated term and pay and receive interest rates in the future. The premium paid for interest rate swaptions is reported as an asset in our consolidated balance sheets. The premium is valued at an amount equal to the fair value of the swaption that would have the effect of closing the position adjusted for nonperformance risk, if any. The difference between the premium and the fair value of the swaption is reported in gain (loss) on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income. If a swaption expires unexercised, the loss on the swaption would be equal to the premium paid. If we exercise a swaption, the realized gain or loss on the swaption would be equal to the difference between the fair value of the underlying interest rate swap and the premium paid.

A TBA security is a futures contract for the purchase or sale of agency securities at a predetermined price, face amount, issuer, coupon and stated maturity on an agreed-upon future date. The specific agency securities delivered into the contract upon the settlement date, published each month by the Securities Industry and Financial Markets Association, are not known at the time of the transaction. TBA securities are exempt from ASC 815 if there is no other way to purchase or sell that security, if delivery of that security and settlement will occur within the shortest period possible for that type of security and if it is probable at inception and throughout the term of the individual contract that physical delivery of the security will occur (referred to as the "regular-way" exception). Alternatively, we may designate the TBA security as a qualifying cash flow hedge under ASC 815 if the regular-way exception is not met and at the time of the purchase or sale of the security, and throughout the term of the individual contract, it is probable that the forecasted transaction will occur and the hedging relationship is expected to be highly effective. For TBA security contracts that we have entered into, we have generally not asserted that physical settlement is probable or that the forecasted transaction is probable of occurring and, therefore, did not designate these forward commitments as hedging instruments. Realized and unrealized gains and losses associated with TBA contracts not subject to the regular-way exception or not designated as hedging instruments are recognized in our consolidated statement of operations and comprehensive income in the line item gain (loss) on derivative instruments and trading securities, net.

We may purchase put and call options on TBA securities to hedge against short-term changes in interest rates. Under a purchased put option, we have the right to sell the counterparty a specified TBA security at a predetermined price on the option exercise date in exchange for a premium at execution. Under a purchased call option, we have the right to purchase from the counterparty a specified TBA security at a predetermined price on the option exercise date in exchange for a premium at execution. The premium paid for a put or call option is reported as an asset in our consolidated balance sheets. The premium is valued at an amount equal to the fair value of the option that would have the effect of closing the position adjusted for nonperformance risk, if any. The difference between the premium and the fair value of the option is reported in gain (loss) on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income. When a purchased put or call option expires unexercised, a realized loss is reported in our consolidated statement of operations equal to the premium paid. When a purchased put or call option is exercised, a realized gain or loss is reported in our consolidated statement of operations equal to the difference between the premium paid and the fair value of the exercised put or call option. In addition, a derivative asset is recorded in our consolidated balance sheet for the TBA security resulting from the put or call option exercise.

We may also write put and call options on TBA securities. Under a written put option, the counterparty has the right to sell us a specified TBA security at a predetermined price on the option exercise date in exchange for a premium at execution. Under a written call option, the counterparty has the right to purchase from us a specified TBA security at a predetermined price on the option exercise date in exchange for a premium at execution. The premium received from writing a put or call option is reported as a liability in our consolidated balance sheets. The premium is valued at an amount equal to the fair value of the option that would have the effect of closing the position adjusted for nonperformance risk, if any. The difference between the premium and the fair value of the option is reported in gain (loss) on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income. When a written put or call option expires unexercised, a realized gain is reported in our consolidated statement of operations equal to the premium received. When we terminate a written put or call option, a realized gain or loss is reported in our consolidated statement of operations equal to the difference between the termination payment and the premium received. When a written put or call option is exercised, a realized gain or loss is reported in our consolidated statement of operations equal to the difference between the premium received and the fair value of the exercised put or call option. In addition, a derivative asset or liability is recorded in our consolidated balance sheet for the TBA security resulting from the put or call option exercise.

We may enter into a forward commitment to purchase or sell specified agency securities as a means of acquiring assets or as a hedge against short-term changes in interest rates. Contracts for the purchase or sale of specified agency securities are accounted for as derivatives if the delivery of the specified agency security and settlement extends beyond the shortest period possible for that type of security. We may designate the forward commitment as a qualifying cash flow hedge if at the time of the purchase or sale of the security, and throughout the term of the individual contract, it is probable that physical delivery of the security will occur. Realized and unrealized gains and losses associated with forward commitments not designated as hedging instruments are recognized in our consolidated statement of operations and comprehensive income in the line item gain (loss) on derivative instruments and trading securities, net.

We estimate the fair value of interest rate swaps and interest rate swaptions based on the estimated net present value of the future cash flows using a forward interest rate yield curve in effect as of the measurement period, adjusted for non-performance risk based on our credit risk and our counterparty's credit risk and, in the case of interest rate swaptions, on the future interest rate swap that we have the option to enter into as well as the remaining length of time that we have to exercise the option. We consider the impact of any collateral requirements, credit enhancements or netting arrangements on credit risk. TBA securities and forward settling contracts to purchase or sell securities are valued using a combination of third-party pricing services and dealer quotes. These third-party pricing services use pricing models that incorporate such factors as coupons, prepayment speeds, spread to the Treasury and swap curves, convexity, duration, periodic and life caps and credit enhancement. The dealer quotes incorporate similar pricing models as well as other common market pricing methods.

The use of derivatives creates exposure to credit risk relating to potential losses that could be recognized in the event that the counterparties to these instruments fail to perform their obligations under the contracts. We attempt to minimize this risk by limiting our counterparties to major financial institutions with acceptable credit ratings and monitoring positions with individual counterparties.

Variable Interest Entities

In June 2009, the FASB issued SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)* ("SFAS No. 167"). In December 2009, the FASB issued Accounting Standards Update ("ASU") No. 2009-17, *Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities*, which codified SFAS No. 167 in FASB ASC Topic 810, *Consolidation* ("ASC 810"). ASC 810, as amended by ASU 2009-17, revises the evaluation of whether entities represent variable interest entities ("VIEs") and requires a qualitative assessment in determining the primary beneficiary of a VIE. Further, ASC 2009-17 requires ongoing assessments of control over such entities as well as additional disclosures for entities that have variable interests in VIEs. The amendments significantly affect the overall consolidation analysis under ASC 810 and change the way entities account for securitizations and special purpose entities as a result of the elimination of the qualifying special purpose entity ("QSPE") scope exemption from ASC 810. The requirements of ASC 810 as they relate to ASU 2009-17 were effective for us as of January 1, 2010 and did not have a material effect on our consolidated financial statements.

We will consolidate a CMO trust if we are its primary beneficiary, that is, if we have a variable interest (or combination of variable interests) that provides us with a controlling financial interest in the CMO trust. An entity is deemed to have a controlling financial interest if the entity has the power to direct the activities of a VIE that most significantly impacts the VIE's economic performance and the obligation to absorb losses of or right to receive benefits from the VIE that could potentially be significant to the VIE. In determining if we have a controlling financial interest, we evaluate whether we share the power to control the selection of financial assets transferred to the CMO trust with an unrelated party. We may share power in the selection of assets for certain CMO trusts (i.e. both we and the unrelated party must consent to the transfer of such assets to the CMO trust), however, if our economic interest in the CMO trust is disproportionate to the shared power, we may be deemed to be the primary beneficiary.

Recent Accounting Pronouncements

In June 2009, the FASB issued SFAS No. 166, *Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140* ("SFAS No. 166"). In December 2009, the FASB issued ASU No. 2009-16, *Accounting for Transfers of Financial Assets,* which codified SFAS No. 166 in FASB ASC Topic 860, *Transfers and Servicing* ("ASC 860"). SFAS No. 166 amends the derecognition guidance in SFAS No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities,* eliminates the concept of a QSPE and requires more information about transfers of financial assets, including securitization transactions as well as a company's continuing exposure to the risks related to transferred financial assets. We adopted the requirements of ASC 860, as they relate to SFAS No. 166, on January 1, 2010. The requirements were effective for financial asset transfers occurring after January 1, 2010 and for substantive subsequent changes to transfers of financial assets that occurred prior to January 1, 2010.

AMERICAN CAPITAL AGENCY CORP.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(unaudited)

In January 2010, the FASB issued ASU No. 2010-06, *Improving Disclosures about Fair Value Measurements* ("ASU 2010-06"), which amended FASB ASC Topic 820, *Fair Value Measurements and Disclosures* ("ASC 820"), to require a number of additional disclosures regarding fair value measurements, including the amount of transfers between Levels 1 and 2 of the fair value hierarchy, the reasons for transfers in or out of Level 3 of the fair value hierarchy and activity for recurring Level 3 measures. ASU 2010-06 also clarifies certain existing disclosure requirements related to the level at which fair value disclosures should be disaggregated and the requirement to provide disclosures about the valuation techniques and inputs used in determining the fair value of assets or liabilities classified as Levels 2 or 3. The ASU was effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures related to the activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010 and for interim periods within those fiscal years. Early adoption is permitted. We adopted the requirements of ASU 2010-06 in the first quarter of 2010 and the adoption did not have a material effect on our consolidated financial statements.

In February 2010, the FASB issued ASU No. 2010-09, *Amendments to Certain Recognition and Disclosure Requirements* ("ASU 2010-09"), which amends FASB ASC Topic 855, *Subsequent Events* ("ASC 855"). ASU No. 2010-09 removes the requirement for an SEC filer (as defined in ASU 2010-09) to disclose the date, in both issued and revised financial statements, through which it has evaluated subsequent events. This change alleviates potential conflicts with current SEC guidance. ASU No. 2010-09 is effective upon issuance for all entities other than conduit bond obligors. We adopted the requirements of ASU No. 2010-09 on the effective date. We do not have any material subsequent events that impact our consolidated financial statements.

Reclassifications

Certain prior period amounts in the consolidated financial statements and accompanying notes have been reclassified to conform to the current period presentation.

AMERICAN CAPITAL AGENCY CORP.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(unaudited)

Note 4. Agency Securities

The following tables summarize our investments in agency securities as of September 30, 2010 and December 31, 2009 (dollars in thousands):

	As of September 30, 2010			
	Fannie Mae	Freddie Mac	Ginnie Mae	Total
Available-for-sale securities:				
Agency securities, par	$5,707,082	$3,277,696	$180,555	$9,165,333
Unamortized discount	(178)	(5)	—	(183)
Unamortized premium	259,044	175,599	8,320	442,963
Amortized cost	5,965,948	3,453,290	188,875	9,608,113
Gross unrealized gains	82,413	30,426	1,482	114,321
Gross unrealized losses	(2,989)	(1,964)	(272)	(5,225)
Available-for-sale securities, at fair value	6,045,372	3,481,752	190,085	9,717,209
Agency securities remeasured at fair value through earnings:				
Interest-only strips, amortized cost(1)	8,335	13,469	—	21,804
Gross unrealized gains	17	—	—	17
Gross unrealized losses	(298)	(2,269)	—	(2,567)
Agency securities measured at fair value through earnings, at fair value	8,054	11,200	—	19,254
Total agency securities, at fair value	$6,053,426	$3,492,952	$190,085	$9,736,463
Weighted average coupon as of September 30, 2010(2)	4.89%	5.10%	4.08%	4.95%
Weighted average yield as of September 30, 2010(3)	3.25%	3.30%	2.14%	3.25%
Weighted average yield for the nine months ended September 30, 2010(3)	3.48%	3.36%	2.34%	3.42%

(1) Interest-only strips represent the right to receive a specified portion of the contractual interest flows of the underlying unamortized principal balance of specific CMO securities. The underlying unamortized principal balance of our Fannie Mae and Freddie Mac interest-only strips was $150.8 million and $126.3 million, respectively, or a total of $277.1 million, and the weighted average contractual interest we are entitled to receive was 3.91% of these amounts as of September 30, 2010.

(2) The weighted average coupon includes the interest cash flows from our interest-only strips taken together with the interest cash flows from our fixed-rate, adjustable-rate and CMO securities as a percentage of the par value of our agency securities (excluding the underlying unamortized principal balance of our interest-only strips) as of September 30, 2010.

(3) Incorporates an average future constant prepayment rate assumption of 18% based on forward rates as of September 30, 2010 and an average reset rate for adjustable rate securities of 2.83%, which is equal to the average underlying index rate of 1.03% based on the current spot rate in effect as of the date we acquired the securities and an average margin of 1.80%.

	As of September 30, 2010			
	Amortized Cost	Gross Unrealized Gain	Gross Unrealized Loss	Fair Value
Fixed-Rate	$5,582,057	$ 68,703	$ (3,367)	$5,647,393
Adjustable-Rate	3,594,670	37,657	(1,858)	3,630,469
CMO	431,386	7,961	—	439,347
Interest-only strips	21,804	17	(2,567)	19,254
Total agency securities	$9,629,917	$114,338	$ (7,792)	$9,736,463

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	As of December 31, 2009			
	Fannie Mae	Freddie Mac	Ginnie Mae	Total
Available-for-sale securities:				
Agency securities, par	$2,853,278	$1,248,698	$ 12,456	$4,114,432
Unamortized discount	(92)	—	—	(92)
Unamortized premium	99,709	49,662	386	149,757
Amortized cost	2,952,895	1,298,360	12,842	4,264,097
Gross unrealized gains	36,750	8,965	340	46,055
Gross unrealized losses	(6,335)	(3,702)	—	(10,037)
Agency securities, at fair value	$2,983,310	$1,303,623	$ 13,182	$4,300,115
Weighted average coupon as of December 31, 2009	5.26%	5.31%	6.00%	5.28%
Weighted average yield as of December 31, 2009(1)	4.20%	3.50%	5.33%	3.99%
Weighted average yield for the year ended December 31, 2009(1)	4.78%	4.27%	4.88%	4.64%

(1) Incorporates an average future constant prepayment rate assumption of 16% based on forward rates as of December 31, 2009 and an average reset rate for adjustable rate securities of 3.06%, which is equal to the average underlying index rate of 1.18% based on the current spot rate in effect as of the date we acquired the securities and an average margin of 1.88%.

	As of December 31, 2009			
	Amortized Cost	Gross Unrealized Gain	Gross Unrealized Loss	Fair Value
Fixed-Rate	$1,863,261	$28,210	$ (4,067)	$1,887,404
Adjustable-Rate	1,699,513	9,447	(3,473)	1,705,487
CMO	701,323	8,398	(2,497)	707,224
Total agency securities	$4,264,097	$46,055	$(10,037)	$4,300,115

Actual maturities of agency securities are generally shorter than the stated contractual maturities. Actual maturities are affected by the contractual lives of the underlying mortgages, periodic principal payments and principal prepayments. The following table summarizes our agency securities as of September 30, 2010 and December 31, 2009, according to their estimated weighted average life classifications (dollars in thousands):

	As of September 30, 2010			As of December 31, 2009		
Weighted Average Life	Fair Value	Amortized Cost	Weighted Average Coupon	Fair Value	Amortized Cost	Weighted Average Coupon
Less than one year	$ —	$ —	—	$ 432	$ 428	1.95%
Greater than one year and less than three years	1,099,889	1,094,322	5.83%	281,721	281,143	5.87%
Greater than three years and less than five years	6,687,443	6,600,341	4.95%	1,340,665	1,337,777	5.14%
Greater than or equal to five years	1,949,131	1,935,254	4.46%	2,677,297	2,644,749	5.25%
Total	$9,736,463	$9,629,917	4.95%	$4,300,115	$4,264,097	5.28%

The weighted average lives of the agency securities as of September 30, 2010 and December 31, 2009 in the table above incorporate anticipated future prepayment assumptions. As of September 30, 2010, our expected constant prepayment rate ("CPR") over the remaining life of our aggregate investment portfolio was 18%. Our

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estimates differ materially for different types of securities and thus individual holdings have a wide range of projected CPRs. We estimate long-term prepayment assumptions for different securities using third-party services, market data and internal estimates. These third-party services estimate prepayment speeds using models that incorporate the forward yield curve, current mortgage rates, mortgage rates of the outstanding loans, loan age, volatility and other factors. As market conditions are changing rapidly, we use our judgment in making adjustments to our models for different securities. Various market participants could use materially different assumptions.

The following table presents the gross unrealized loss and fair values of our available-for-sale agency securities by length of time that such securities have been in a continuous unrealized loss position as of September 30, 2010 and December 31, 2009 (in thousands):

	Unrealized Loss Position For					
	Less than 12 Months		12 Months or More		Total	
	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss	Estimated Fair Value	Unrealized Loss
September 30, 2010	$2,321,190	$ (5,225)	$ —	$ —	$2,321,190	$ (5,225)
December 31, 2009	$1,683,452	$(10,037)	$ —	$ —	$1,683,452	$(10,037)

As of September 30, 2010, we did not intend to sell any of these agency securities and we believe it is not more likely than not we will be required to sell the agency securities before recovery of their amortized cost basis. We do not believe the unrealized losses on these agency securities are due to credit losses given the GSE or government guarantees, but are rather due to changes in interest rates and prepayment expectations.

Our agency securities classified as available-for-sale are reported at fair value, with unrealized gains and losses excluded from earnings and reported in OCI, a component of stockholders' equity. The following table summarizes changes in accumulated OCI for available-for-sale agency securities for the three and nine months ended September 30, 2010 and 2009 (in thousands):

	Beginning Balance	Unrealized Gains and (Losses)	Reversal of Prior Period Unrealized (Gains) and Losses on Realization	Ending Balance
Three months ended September 30, 2010	$97,435	37,461	(25,800)	$109,096
Three months ended September 30, 2009	$36,138	41,870	(16,071)	$ 61,937
Nine months ended September 30, 2010	$36,018	155,349	(82,271)	$109,096
Nine months ended September 30, 2009	$ 3,304	89,051	(30,418)	$ 61,937

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Gains and Losses

The following table is a summary of our net gain from sale of agency securities for the three and nine months ended September 30, 2010 and 2009 (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2010	September 30, 2009	September 30, 2010	September 30, 2009
Agency securities sold, at cost	$(2,172,978)	$(1,679,557)	$(6,914,764)	$(4,151,797)
Proceeds from agency securities sold	2,197,543	1,695,627	6,996,322	4,182,215
Net gains on sale of agency securities	$ 24,565	$ 16,070	$ 81,558	$ 30,418
Gross gains on sale of agency securities	26,333	16,885	87,714	32,021
Gross losses on sale of agency securities	(1,768)	(815)	(6,156)	(1,603)
Net gains on sale of agency securities	$ 24,565	$ 16,070	$ 81,558	$ 30,418

For the three and nine months ended September 30, 2010, we recognized an unrealized loss of $0.9 million and $7.8 million, respectively, in loss on derivative instruments and trading securities, net in our consolidated statements of operations and comprehensive income for the change in value of investments in interest-only strips, net of prior period reversals. For the three and nine months ended September 30, 2010, we realized a loss of $1.2 million and $0.7 million, respectively, in gain from sale of agency securities, net on the sale of interest-only strips during the periods. We did not invest in interest-only strips during the nine months ended September 30, 2009.

Pledged Assets

The following tables summarize our agency securities pledged as collateral under repurchase, other debt, derivative and prime broker agreements by type as of September 30, 2010 and December 31, 2009 (in thousands):

	As of September 30, 2010			
Agency Securities Pledged(1)	Fannie Mae	Freddie Mac	Ginnie Mae	Total
Under Repurchase Agreements				
Fair value	$5,024,556	$3,195,791	$257,269	$8,477,616
Amortized cost	4,942,108	3,168,179	255,219	8,365,506
Accrued interest on pledged agency securities	18,444	12,149	686	31,279
Under Other Debt Agreements				
Fair value	85,953	—	—	85,953
Amortized cost	85,919	—	—	85,919
Accrued interest on pledged agency securities	—	—	—	—
Under Derivative Agreements				
Fair value	46,479	24,426	—	70,905
Amortized cost	45,549	24,295	—	69,844
Accrued interest on pledged agency securities	196	109	—	305
Under Prime Broker Agreements				
Fair value	17,357	10,566	—	27,923
Amortized cost	17,280	10,386	—	27,666
Accrued interest on pledged agency securities	56	36	—	92
Total Fair Value of Agency Securities Pledged and Accrued Interest	**$5,193,041**	**$3,243,077**	**$257,955**	**$8,694,073**

(1) Agency securities pledged include pledged amounts of $340.9 million related to agency securities sold but not yet settled as of September 30, 2010.

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	As of December 31, 2009			
Agency Securities Pledged	Fannie Mae	Freddie Mac	Ginnie Mae	Total
Under Repurchase Agreements				
Fair value	$2,851,735	$1,240,830	$ 13,182	$4,105,747
Amortized cost	2,821,792	1,207,952	12,843	4,042,587
Accrued interest on pledged agency securities	11,774	4,799	62	16,635
Under Derivative Agreements				
Fair value	12,719	2,651	—	15,370
Amortized cost	12,409	2,567	—	14,976
Accrued interest on pledged agency securities	57	12	—	69
Under Prime Broker Agreements				
Fair value	2,360	13,119	—	15,479
Amortized cost	2,270	13,270	—	15,540
Accrued interest on pledged agency securities	12	54	—	66
Total Fair Value of Agency Securities Pledged and Accrued Interest	**$2,878,657**	**$1,261,465**	**$ 13,244**	**$4,153,366**

The following table summarizes our agency securities pledged as collateral under repurchase agreements by remaining maturity as of September 30, 2010 and December 31, 2009 (in thousands):

	As of September 30, 2010(1)			As of December 31, 2009		
Remaining Maturity	Fair Value	Amortized Cost	Accrued Interest on Pledged Agency Securities	Fair Value	Amortized Cost	Accrued Interest on Pledged Agency Securities
30 days or less	$7,491,114	$7,396,130	$ 27,519	$3,216,242	$3,177,975	$ 12,815
31 - 59 days	968,570	951,467	3,683	889,505	864,612	3,820
60 - 90 days	17,932	17,911	65	—	—	—
Greater than 90 days	85,953	85,917	12	—	—	—
Total	$8,563,569	$8,451,425	$ 31,279	$4,105,747	$4,042,587	$ 16,635

(1) Agency securities pledged include pledged amounts of $340.9 million related to amounts for sold but not yet settled agency securities as of September 30, 2010.

Securitizations

During the three months ended September 30, 2010, we entered into a CMO transaction whereby we transferred agency securities with a cost basis of $85.9 million to an investment bank in exchange for cash proceeds of $80.8 million and at the same time entered into a commitment with the same investment bank to purchase a to-be-issued interest-only security collateralized by the agency securities transferred for $5.1 million. The investment bank contributed the transferred agency securities to a securitization trust held by Fannie Mae in exchange for CMO securities held in the trust. Once the transferred agency securities were transferred to the securitization trust, Fannie Mae may only remove such securities upon certain events. Pursuant to the pre-existing commitment, the investment bank transferred to us the interest-only security held in the trust. Our primary purpose for entering into this transaction was to eliminate the need to finance the principal class by transferring it to third parties while still retaining the underlying economics of a financed transaction for the transferred securities, which we viewed as favorable. We recorded the structured transaction as a financing transaction and, accordingly, we consolidated the CMO trust. The effect of consolidating the CMO trust was that the interest-only strip received was eliminated and we continued to recognize the assets transferred to the securitization trust in our total agency securities held and recorded a corresponding liability for the debt issued by the securitization trust classified as other debt in our accompanying consolidated balance sheets. As of September 30, 2010, the fair value of the agency securities collateralizing the debt issued by the securitization trust was $86.0 million. Such agency securities can only be used to settle this debt and the holder(s) of the debt issued by the securitization trust have no recourse to us. Further, there are no arrangements that could require us to provide financial support to this securitization trust. The consolidation did not materially impact our accompanying consolidated statements of operations and comprehensive income and consolidated statements of cash flows.

During 2009, we entered into CMO transactions whereby we transferred agency securities with a cost basis of $831.0 million to various investment banks in exchange for cash proceeds of $845.3 million and at the same time entered into a commitment with the same investment banks to purchase to-be-issued securities collateralized by the agency securities transferred for $601.3 million. In each case, the investment bank contributed the transferred agency securities to a securitization trust held by either Fannie Mae or Freddie Mac in exchange for CMO securities held in the trust. Pursuant to the pre-existing commitments, the investment banks transferred to us certain of the CMO securities and interest-only strips held in the trusts, typically representing the longer maturity classes, or 70 to 75 percent of the cash flows of the agency securities initially transferred by us. Our primary purpose for entering into these transactions was to reduce our exposure to short-term spikes in prepayments by holding the longer maturity classes. We did not begin to receive any repayments of principal on these CMO securities until holders of securities entitled to the shorter maturity classes were repaid in full. During the nine months ended September 30, 2010 we received cash proceeds of $348.3 million from these securities, including principal repayments, interest and proceeds from sales. The fair value of the remaining securities held as of September 30, 2010 was $320.7 million.

All of our CMO securities are backed by fixed or adjustable-rate agency securities and Fannie Mae or Freddie Mac guarantee the payment of interest and principal and act as the trustee and administrator of their respective securitization trusts. Our involvement with the trusts described above is limited to the agency securities transferred to them by the investment banks and the CMO securities subsequently held by us. Accordingly, we are not required to provide the beneficial interest holders of the CMO securities any financial or other support. As of September 30, 2010 and December 31, 2009, the fair value of all of our CMO securities and interest-only strips, including additional CMOs and interest-only strips purchased from third parties in separate transactions, was $458.6 million and $707.2 million, respectively.

Our maximum exposure to loss as a result of our involvement with the trusts relates to the additional liquidity risk of holding CMO securities and interest-only strips in a period of severe market dislocations as compared to the underlying collateral transferred to the trusts. The maximum exposure related to this risk is the fair value of the CMO securities and interest-only strips held by us.

Note 5. Repurchase Agreements and Other Debt

We pledge certain of our agency securities as collateral under repurchase arrangements with financial institutions, the terms and conditions of which are negotiated on a transaction-by-transaction basis. Interest rates on these borrowings are generally based on LIBOR plus or minus a margin and amounts available to be borrowed are dependent upon the fair value of the agency securities pledged as collateral, which fluctuates with changes in interest rates, type of security and liquidity conditions within the banking, mortgage finance and real estate industries. In response to declines in fair value of pledged agency securities, lenders may require us to post additional collateral or pay down borrowings to re-establish agreed upon collateral requirements, referred to as margin calls. As of September 30, 2010 and December 31, 2009, we have met all margin call requirements. Due to their short-term nature, repurchase agreements are carried at cost, which approximates fair value.

The following table summarizes our borrowings under repurchase arrangements and weighted average interest rates classified by original maturities as of September 30, 2010 and December 31, 2009 (dollars in thousands):

	As of September 30, 2010			As of December 31, 2009		
Original Maturity	Borrowings Outstanding	Average Interest Rate	Weighted Average Days to Maturity	Borrowings Outstanding	Average Interest Rate	Weighted Average Days to Maturity
30 days or less	$3,024,906	0.27%	17	$1,997,243	0.22%	15
31 - 60 days	3,460,555	0.28%	23	967,625	0.25%	20
61 - 90 days	886,205	0.29%	31	327,945	0.28%	42
Greater than 90 days	597,733	0.30%	22	549,021	0.27%	52
Total / Weighted Average	$7,969,399	0.28%	22	$3,841,834	0.24%	24

As of September 30, 2010, we did not have an amount at risk with any counterparty greater than 10% of our stockholders' equity. We do not anticipate any defaults by our repurchase agreement counterparties.

Other debt of $80.8 million as of September 30, 2010 consists of other variable rate debt outstanding at LIBOR plus 25 bps in connection with the consolidation of a structured transaction recognized as a financing transaction in our accompanying financial statements (see Note 4). We had no other debt outstanding as of December 31, 2009.

Note 6. Derivative Instruments

In connection with our risk management strategy, we hedge a portion of our interest rate risk by entering into derivative financial instrument contracts. We may enter into interest rate swap agreements, interest rate swaptions, TBA agency securities, caps, collars, floors, forward contracts, options or futures to attempt to manage the overall interest rate risk of the portfolio, reduce fluctuations in book value and generate additional income distributable to stockholders. For additional information regarding our derivative instruments and our overall risk management strategy, see discussion of derivative instruments in Note 3.

As of September 30, 2010 and December 31, 2009, our derivative instruments were comprised primarily of interest rate swaps, which have the effect of modifying the repricing characteristics of our repurchase agreements and cash flows on such liabilities. Our interest rate swaps are used to manage the interest rate risk created by our variable rate short-term repurchase agreements. Under our interest rate swaps, we typically pay a fixed-rate and receive a floating rate based on one month LIBOR with terms usually ranging up to 5 years. Our interest rate swaps are generally designated as cash flow hedges under ASC 815.

Derivative instruments entered into in addition to interest rate swap agreements are intended to supplement our use of interest rate swaps and we do not currently expect our use of these instruments to be the primary protection against interest rate risk for our portfolio. These instruments are accounted for as derivatives, but are not typically designated as hedges under ASC 815. Therefore, any changes in the fair values of the contracts prior to their settlement date are included in earnings. We do not use derivative instruments for speculative purposes.

Derivatives Designated as Hedging Instruments

As of September 30, 2010 and December 31, 2009, we had net interest rate swap liabilities of $109.9 million and $10.5 million, respectively. The tables below summarize information about our outstanding interest rate swaps as of September 30, 2010 and December 31, 2009 (dollars in thousands):

Derivatives Designated as Hedging Instruments	Balance Sheet Location	As of September 30, 2010	As of December 31, 2009
Interest rate swap assets	Derivative assets, at fair value	$ 17	$ 4,205
Interest rate swap liabilities	Derivative liabilities, at fair value	(109,958)	(14,719)
		$ (109,941)	$ (10,514)

Remaining Interest Rate Swap Term	As of September 30, 2010 Notional Amount	Average Fixed Pay Rate	Average Receive Rate	Net Estimated Fair Value	Average Maturity (Years)
1 year or less	$ 450,000	1.48%	0.26%	$ (4,363)	0.8
Greater than 1 year and less than 3 years	1,700,000	1.76%	0.26%	(42,109)	2.0
Greater than 3 years and less than 5 years	2,050,000	1.92%	0.26%	(63,469)	4.3
Greater than 5 years	—	—	—	—	—
Total	$4,200,000	1.81%	0.26%	$(109,941)	3.0

Remaining Interest Rate Swap Term	As of December 31, 2009 Notional Amount	Average Fixed Pay Rate	Average Receive Rate	Net Estimated Fair Value	Average Maturity (Years)
1 year or less	$ —	—	—	$ —	—
Greater than 1 year and less than 3 years	1,500,000	1.71%	0.23%	(9,681)	2.2
Greater than 3 years and less than 5 years	550,000	2.71%	0.23%	(833)	4.5
Greater than 5 years	—	—	—	—	—
Total	$2,050,000	1.98%	0.23%	$(10,514)	2.8

The following table summarizes information about our outstanding interest rate swaps designated as hedging instruments for the three and nine month periods ended September 30, 2010 and 2009 (in thousands):

Interest Rate Swaps Designated as Hedging Instruments	Beginning Notional Amount	Additions	Terminations	Ending Notional Amount	Termination Fee
Three months ended September 30, 2010	$3,000,000	1,200,000	—	$ 4,200,000	$ —
Three months ended September 30, 2009	$ 950,000	450,000	—	$ 1,400,000	$ —
Nine months ended September 30, 2010	$2,050,000	2,150,000	—	$ 4,200,000	$ —
Nine months ended September 30, 2009	$ 650,000	1,300,000	(550,000)	$ 1,400,000	$ 16,417

Net settlements for terminated interest rate swaps are amortized into earnings over the remaining life of the terminated interest rate swaps and included in interest expense on our consolidated statements of operations and

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comprehensive income. Amortization expense for terminated interest rate swaps was $— and $3.7 million for the three months ended September 30, 2010 and 2009, respectively, and $6.3 million and $6.7 million for the nine months ended September 30, 2010 and 2009, respectively. As of September 30, 2010, there was no remaining unamortized cost associated with terminated interest rate swaps.

During the three months ended September 30, 2010 and 2009, we recorded no losses as a result of the reclassification from OCI of hedged forecasted transactions becoming probable not to occur. During the nine months ended September 30, 2010, we recorded no losses and during the nine months ended September 30, 2009, we recorded losses of $1.0 million as a result of the reclassification from OCI of hedged forecasted transactions becoming probable not to occur.

The table below summarizes the effect of interest rate swaps designated as hedges under ASC 815 on our income statement for the three and nine months ended September 30, 2010 and 2009 (in thousands):

Interest Rate Swaps in Cash Flow Hedging Relationships	Amount of Gain or (Loss) Recognized in OCI (Effective Portion)	Location of Gain or (Loss) Reclassified from OCI into Earnings (Effective Portion)	Amount of Gain or (Loss) Reclassified from OCI into Earnings (Effective Portion)	Location of Gain or (Loss) Recognized in Earnings (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Amount of Gain or (Loss) Recognized in Earnings (Ineffective Portion and Amount Excluded from Effectiveness Testing)
Three months ended September 30, 2010	$ (39,823)	Interest Expense	$ (13,261)	Loss on derivative instruments and trading securities, net	$ (25)
Three months ended September 30, 2009	$ (10,854)	Interest Expense	$ (8,720)	Loss on derivative instruments and trading securities, net	$ (220)
Nine months ended September 30, 2010	$ (99,428)	Interest Expense	$ (40,332)	Loss on derivative instruments and trading securities, net	$ (340)
Nine months ended September 30, 2009(1)	$ (4,106)	Interest Expense	$ (19,175)	Loss on derivative instruments and trading securities, net	$ 496

(1) This amount excludes $1.0 million for the nine months ended September 30, 2009, recorded as a loss in loss on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income as a result of the reclassification from OCI of hedged forecasted transactions becoming probable not to occur.

The amount of net interest expense expected to flow through our statement of operations over the next twelve months due to expected net settlements on our interest rate swaps is $62.0 million.

Additionally, during the three and nine months ended September 30, 2010, we entered into forward contracts to purchase agency securities that were designated as cash flow hedges pursuant to ASC 815. The cash flow hedges had gross and net unrealized appreciation (or a net asset) of $1.8 million as of September 30, 2010. The effective portion of gains or losses is initially recognized in OCI for cash flow hedges and is subsequently reclassified to OCI for available-for-sale securities upon acquisition of the underlying hedged item. The

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ineffective portion of gains or losses is recognized in earnings in loss on derivative instruments and trading securities, net. The amount of net gains reclassified to OCI for available-for-sale securities (effective portion) for both the three and nine months ended September 30, 2010 was $1.3 million. There was no ineffective portion for the nine month periods ended September 30, 2010.

The following table summarizes information about our outstanding forward contracts designated as hedging instruments for the three and nine month periods ended September 30, 2010 (dollars in thousands):

Purchases of TBAs and Forward Settling Agency Securities Designated as Hedging Instruments	Beginning Notional Amount	Additions	Settlement / Expirations	Ending Notional Amount	Fair Value as of Period End	Average Maturity as of Period End (Months)
Three months ended September 30, 2010	$ 80,000	175,000	(80,000)	$ 175,000	$ 1,807	3
Nine months ended September 30, 2010	$ —	321,303	(146,303)	$ 175,000	$ 1,807	3

We did not enter into any forward commitments during the three and nine months ended September 30, 2009.

Derivatives Not Designated as Hedging Instruments

As of September 30, 2010, we had contracts to purchase and sell TBA agency securities and specified agency securities on a forward basis with notional amounts of $369.1 million for the purchase of securities and $923.2 million for the sale of securities. As of December 31, 2009, we had contracts to purchase and sell TBA agency securities and specified agency securities on a forward basis with notional amounts of $596.5 million for the purchase of securities and $616.7 million for the sale of securities.

As of September 30, 2010, we had interest rates swap agreements outstanding that were not designated as hedges under ASC 815 consisting of $50.0 million in notional amount of interest rate swap agreements where we pay a fixed rate ("payer interest rate swaps") and $200.0 million in notional amount of interest rate swap agreements where we receive a fixed rate ("receiver interest rate swaps"), summarized in the table below (dollars in thousands). As of December 31, 2009, all of our outstanding interest rate swaps agreements were designated as hedges under ASC 815.

	As of September 30, 2010				
Interest Rate Swaps Not Designated as Hedging Instruments	Notional Amount	Average Fixed Pay Rate	Average Receive Rate	Net Estimated Fair Value	Average Maturity (Years)
Payer interest rate swaps	$ 50,000	1.85%	0.26%	$ (1,168)	4.9
Receiver interest rate swaps	$200,000	-2.26%	-0.26%	$ 8,425	5.0

Additionally, as of September 30, 2010, we had interest rate swaption agreements outstanding consisted of $200.0 million in notional amount of options to enter into interest rate swaps in the future where we would pay a fixed rate ("Payer Swaptions"), as summarized in the table below (dollars in thousands):

	As of September 30, 2010						
	Option			Underlying Swap			
Swaption	Cost	Fair Value	Average Months to Expiration	Notional Amount	Pay Rate	Average Receive Rate	Average Term (Years)
Payer	$2,148	$—	1	$200,000	4.23%	1M Libor	5

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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As of December 31, 2009, our interest rate swaption agreements outstanding consisted of $200 million in notional amount of options to enter into Payer Swaptions and $100 million in notional amount of options to enter into interest rate swaps in the future where we would receive a fixed rate ("Receiver Swaptions") as summarized in the table below (dollars in thousands):

	As of December 31, 2009						
	Option			Underlying Swap			
Swaption	Cost	Fair Value	Months to Expiration	Notional Amount	Pay Rate	Receive Rate	Term (Years)
Payer	$2,148	$2,389	10	$200,000	4.23%	1M Libor	5
Receiver	243	169	2	100,000	1M Libor	2.54%	5
	$2,391	$2,558		$300,000			

The table below summarizes information about our derivatives outstanding that were not designated as hedging instruments as of September 30, 2010 and December 31, 2009 (in thousands):

		As of	
Derivatives Not Designated as Hedging Instruments	Balance Sheet Location	September 30, 2010	December 31, 2009
Purchase of TBA and forward settling agency securities	Derivative assets, at fair value	$ 573	$ 172
Sale of TBA and forward settling agency securities	Derivative assets, at fair value	522	5,025
Receiver interest rate swaps	Derivative assets, at fair value	8,425	—
Payer Swaptions	Derivative assets, at fair value	—	2,389
Receiver Swaptions	Derivative assets, at fair value	—	169
		$ 9,520	$ 7,755
Purchase of TBA and forward settling agency securities	Derivative liabilities, at fair value	$ (260)	$ (3,069)
Sale of TBA and forward settling agency securities	Derivative liabilities, at fair value	(2,514)	(10)
Payer interest rate swaps	Derivative liabilities, at fair value	(1,168)	—
		$ (3,942)	$ (3,079)

During the three and nine months ended September 30, 2010 we recorded a loss of $3.3 million and $13.4 million, respectively, in loss on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income for derivatives not designated as hedging instruments under ASC 815.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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The tables below summarize the effect of derivative instruments not designated as hedges under ASC 815 on our income statement for the three and nine months ended September 30, 2010 (in thousands):

	For the Three Months Ended September 30, 2010				
Derivatives Not Designated as Hedging Instruments	Notional Amount as of June 30, 2010	Additions	Settlement, Expiration or Exercise	Notional Amount as of September 30, 2010	Amount of Gain/(Loss) Recognized in Income on Derivatives(1)
Purchase of TBA and forward settling agency securities	$181,142	947,974	(760,018)	$ 369,098	$ 2,296
Sale of TBA and forward settling agency securities	$270,000	2,005,073	(1,351,912)	$ 923,161	(10,059)
Payer interest rate swaps	$ —	200,000	(150,000)	$ 50,000	(2,303)
Receiver interest rate swaps	$ —	200,000	—	$ 200,000	88
Payer swaptions	$200,000	—	—	$ 200,000	(7)
Receiver swaptions	$300,000	—	(300,000)	$ —	7,004
Short sales of U.S. government securities	$ —	150,000	(150,000)	$ —	(330)
					$ (3,311)

	For the Nine Months Ended September 30, 2010				
Derivatives Not Designated as Hedging Instruments	Notional Amount as of December 31, 2009	Additions	Settlement, Expiration or Exercise	Notional Amount as of September 30, 2010	Amount of Gain/(Loss) Recognized in Income on Derivatives(2)
Purchase of TBA and forward settling agency securities	$ 596,516	2,037,063	(2,264,481)	$ 369,098	$ 14,730
Sale of TBA and forward settling agency securities	$ 616,747	4,822,333	(4,515,919)	$ 923,161	(30,936)
Payer interest rate swaps	$ —	350,000	(300,000)	$ 50,000	(3,414)
Receiver interest rate swaps	$ —	200,000	—	$ 200,000	88
Payer Swaptions	$ 200,000	—		$ 200,000	(2,389)
Receiver Swaptions	$ 100,000	300,000	(400,000)	$ —	9,130
Put Options	$ —	75,000	(75,000)	$ —	(328)
Short sales of U.S. government securities	$ —	150,000	(150,000)	$ —	(330)
					$ (13,449)

(1) This amount excludes $0.9 million recorded as a loss for interest-only strips re-measured at fair value through earnings, a loss of $25 thousand for hedge ineffectiveness on our outstanding interest rate swaps and a gain of $0.5 million from trading securities in loss on derivative instruments and trading securities, net in our consolidated statements of operations and comprehensive for the three months ended September 30, 2010.

(2) This amount excludes $7.8 million recorded as a loss for interest-only strips re-measured at fair value through earnings, a loss of $0.3 million for hedge ineffectiveness on our outstanding interest rate swaps and a gain of $1.9 million from trading securities in loss on derivative instruments and trading securities, net in our consolidated statements of operations and comprehensive for the nine months ended September 30, 2010.

During the three and nine months ended September 30, 2009, we recorded a loss of $3.2 million and $2.1 million, respectively, in loss on derivative instruments and trading securities, net in our consolidated statement of operations and comprehensive income for derivatives not designated as hedging instruments under ASC 815.

The table below summarizes the effect of derivative instruments not designated as hedges under ASC 815 on our income statement for the three and nine months ended September 30, 2009 (in thousands):

	For the Three Months Ended September 30, 2009				
Derivatives Not Designated as Hedging Instruments	Notional Amount as of June 30, 2009	Additions	Settlement, Expiration or Exercise	Notional Amount as of September 30, 2009	Amount of Loss Recognized in Income on Derivatives(1)
Sale of TBA and forward settling agency securities	$ 75,000	605,000	(585,000)	$ 95,000	$ (3,215)

	For the Nine Months Ended September 30, 2009				
Derivatives Not Designated as Hedging Instruments	Notional Amount as of December 31, 2008	Additions	Settlement, Expiration or Exercise	Notional Amount as of September 30, 2009	Amount of Loss Recognized in Income on Derivatives(1)
Sale of TBA and forward settling agency securities	$ —	955,000	(860,000)	$ 95,000	$ (2,114)

(1) Amount excludes a net loss of $0.2 million and $0.5 for hedge ineffectiveness and missed forecasts on our outstanding interest rate swaps in loss on derivative instruments and trading securities, net in our consolidated statements of operations and comprehensive for the three and nine months ended September 30, 2009, respectively.

Credit Risk-Related Contingent Features

The use of derivatives creates exposure to credit risk relating to potential losses that could be recognized in the event that the counterparties to these instruments fail to perform their obligations under the contracts. We minimize this risk by limiting our counterparties to major financial institutions with acceptable credit ratings and monitoring positions with individual counterparties. In addition, we may be required to pledge assets as collateral for our derivatives whose amounts vary over time based on the market value, notional amount and remaining term of the derivative contract. In the event of a default by a counterparty we may not receive payments provided for under the terms of our derivative agreement, and may have difficulty obtaining our assets pledged as collateral for our derivatives. The cash and cash equivalents and agency securities pledged as collateral for our derivative instruments is included in restricted cash and agency securities, respectively, on our consolidated balance sheets.

Each of our ISDA Master Agreements contains provisions under which we are required to fully collateralize our obligations under the interest rate swap instrument if at any point the fair value of the interest rate swap represents a liability greater than the minimum transfer amount contained within our agreements. We were also required to post initial collateral upon execution of certain of our interest rate swap transactions. If we breach any of these provisions we will be required to settle our obligations under the agreements at their termination values.

Further, each of our ISDA Master Agreements also contains a cross default provision under which a default under certain of our other indebtedness in excess of a certain threshold causes an event of default under the agreement. Threshold amounts range from $10 million to $25 million. Following an event of default, we could be required to settle our obligations under the agreements at their termination values. Additionally, under certain of our ISDA Master Agreements, we could be required to settle our obligations under the agreements at their termination values if we fail to maintain certain minimum shareholders' equity thresholds or our REIT status or comply with limits on our leverage above certain specified levels.

As of September 30, 2010, the fair value of our interest rate swaps in a liability position related to these agreements was $111.1 million. We had agency securities with fair values of $70.9 million, and restricted cash of $61.7 million, or $132.6 million in total agency securities and restricted cash, pledged as collateral against our interest rate swaps as of September 30, 2010. Termination values of interest rate swaps in a liability position totaled $112.6 million as of September 30, 2010. The difference between the fair value liability and the termination liability represents accrued interest and an adjustment for nonperformance risk of our counterparties.

Note 7. Fair Value Measurements

FASB ASC Topic 820, *Fair Value Measurements and Disclosures* ("ASC 820") defines fair value, establishes a framework for measuring fair value and establishes a three-level valuation hierarchy for disclosure of fair value measurement. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. A financial instrument's categorization within the hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The three levels of hierarchy established by ASC 820 are defined as follows:

- Level 1 Inputs – Quoted prices (unadjusted) for identical unrestricted assets and liabilities in active markets that are accessible at the measurement date.
- Level 2 Inputs – Quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations whose inputs are observable or whose significant value drivers are observable.
- Level 3 Inputs – Instruments with primarily unobservable market data that cannot be corroborated.

There were no transfers between hierarchy levels during the nine months ended September 30, 2010 and 2009.

Repurchase Agreements

Due to their short-term nature, repurchase agreements are carried at cost, which approximates fair value.

Agency Securities

Agency securities are valued based on a market approach using Level 2 Inputs from third-party pricing services and dealer quotes. The third-party pricing services use pricing models that incorporate such factors as coupons, primary and secondary mortgage rates, prepayment speeds, spread to the Treasury and interest rate swap curves, convexity, duration, periodic and life caps and credit enhancements. The dealer quotes incorporate common market pricing methods, including a spread measurement to the Treasury or interest rate swap curve as well as underlying characteristics of the particular security including coupon, periodic and life caps, rate reset period, issuer, additional credit support and expected life of the security. Management reviews the fair values determined by the third-party pricing models and dealer quotes and compares the results, if available, to values from the repurchase agreement counterparties and internal pricing models on each investment to validate reasonableness.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
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Derivative Instruments

Interest rate swaps and swaptions are valued based on an income and market approach using Level 2 Inputs from a third-party pricing model. The third-party pricing model incorporates such factors as the Treasury curve, LIBOR rates, the pay rate on the interest rate swaps and, in the case of interest rate swaptions, on the future interest rate swap that we have the option to enter into as well as the remaining length of time we have to exercise the option. We also incorporate our counterparties' nonperformance risk in estimating the fair value of our interest rate swap and swaption agreements. In considering the effect of nonperformance risk, we considered the impact of netting and credit enhancements, such as collateral postings and guarantees, and have concluded that our own and our counterparty risk is not significant to the overall valuation of these agreements.

Contracts to purchase or sell TBA securities and specified agency securities on a forward basis and options to purchase or sell TBA securities are valued using Level 2 Inputs at September 30, 2010 and December 31, 2009 based on a market approach using the same methods to value agency securities described above.

Note 8. Stockholders' Equity

Equity Offerings

In May 2010, we completed a public offering in which 6.9 million shares of our common stock, including the over-allotment option, were sold at a public offering price of $25.75 per share. Upon completion of the offering we received proceeds, net of underwriters' discount and other offering costs, of approximately $169.0 million.

Dividend Reinvestment and Direct Stock Purchase Plan

We sponsor a dividend reinvestment and direct stock purchase plan through which stockholders may purchase additional shares of our common stock by reinvesting some or all of the cash dividends received on shares of our common stock. Stockholders may also make optional cash purchases of shares of our common stock subject to certain limitations detailed in the plan prospectus. During the three months ended September 30, 2010, we issued approximately 5.3 million shares under the plan for cash proceeds of $142.1 million and during the nine months then ended we issued 7.7 million shares under the plan for cash proceeds of $204.3 million. We did not issue any shares under the plan prior to December 31, 2009. As of September 30, 2010, there were approximately 5.3 million shares available for issuance under the plan.

Note 9. Subsequent Events

In October 2010, we completed a public offering in which 13.2 million shares of our common stock, including the over-allotment option, were sold at a public offering price of $26.00 per share. Upon completion of the offering we received proceeds, net of underwriters' discount and other offering costs, of approximately $328.1 million.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is designed to provide a reader of American Capital Agency Corp.'s consolidated financial statements with a narrative from the perspective of management. Our MD&A is presented in five sections:

- Executive Overview
- Financial Condition
- Results of Operations
- Liquidity and Capital Resources
- Forward-Looking Statements

EXECUTIVE OVERVIEW

American Capital Agency Corp. (together with its consolidated subsidiary, is referred throughout this report as the "Company", "we", "us" and "our") is a real estate investment trust ("REIT") that invests primarily in residential mortgage pass-through securities and collateralized mortgage obligations on a leveraged basis. These investments consist of securities for which principal and interest are guaranteed by government-sponsored entities such as the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), or by a U.S. Government agency such as the Government National Mortgage Association ("Ginnie Mae"). We refer to these types of securities as agency securities and the specific agency securities in which we invest as our investment portfolio.

We were organized on January 7, 2008, and commenced operations on May 20, 2008 following the completion of our IPO. Our common stock is traded on The NASDAQ Global Select Market under the symbol "AGNC".

We are externally managed by American Capital Agency Management, LLC (our "Manager"). Our Manager is a wholly-owned subsidiary of American Capital, LLC, which is a wholly-owned portfolio company of American Capital. We do not have any employees.

Our principal objective is to generate net income for distribution to our stockholders through regular quarterly dividends from our net interest income, which is the spread between the interest income earned on our investment portfolio and the interest costs of our borrowings and hedging activities, and realized gains on our investments. We fund our investments through short-term borrowings structured as repurchase agreements. Since our IPO, we have declared or paid dividends of $11.86 per share.

We have elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"). As long as we qualify as a REIT, we generally will not be subject to federal income taxes on our taxable income to the extent that we annually distribute all of our taxable income to stockholders.

Our Manager

We are externally managed and advised by our Manager pursuant to the terms of a management agreement. Because we have no employees or separate facilities, we rely on our Manager to administer our business activities and day-to-day operations, subject to the supervision and oversight of our Board of Directors. Our Manager is a subsidiary of a wholly-owned portfolio company of American Capital. American Capital is a publicly traded private equity firm and global asset manager. American Capital, both directly and through its asset management business, originates, underwrites and manages investments in middle market private equity, leveraged finance, real estate and structured products. Founded in 1986, American Capital has $18 billion in capital resources under management, as of September 30, 2010, and eight offices in the U.S., Europe and Asia. Gary Kain is the President of our Manager and also serves as our Senior Vice President and Chief Investment Officer.

Our Investment Strategy

Our investment strategy is to manage an investment portfolio consisting primarily of agency securities (other than for hedging purposes) that seeks to generate attractive, risk-adjusted returns. Our Manager has established an investment committee comprised of certain of its officers. The investment committee has established investment guidelines, certain of which have been approved by our Board of Directors. The investment committee can change those investment guidelines at any time with the approval of our Board of Directors. The following are our investment guidelines approved by our Board of Directors:

- no investment shall be made in any non-agency securities (other than for hedging purposes);
- no investment shall be made that would cause us to fail to qualify as a REIT for federal income tax purposes;
- no investment shall be made that would cause us to be regulated as an investment company under the Investment Company Act; and
- prior to entering into any proposed investment transaction with American Capital or any of its affiliates, a majority of our independent directors must approve the terms of the transaction.

Agency securities consist of residential pass-through certificates and collateralized mortgage obligations for which the principal and interest are guaranteed by a U.S. Government agency or a U.S. Government sponsored entity.

- ***Residential Pass-Through Certificates.*** Residential pass-through certificates are securities representing interests in “pools” of mortgage loans secured by residential real property where payments of both interest and principal, plus pre-paid principal, on the securities are made monthly to holders of the securities, in effect “passing through” monthly payments made by the individual borrowers on the mortgage loans that underlie the securities, net of fees paid to the issuer/guarantor and servicers of the securities. Holders of the securities also receive guarantor advances of principal and interest for delinquent loans in the mortgage pools.
- ***Collateralized Mortgage Obligations.*** CMOs are structured instruments representing interests in residential pass-through certificates. CMOs consist of multiple classes of securities, with each class having specified characteristics, including stated maturity dates, weighted average lives and rules governing principal and interest distribution. Monthly payments of interest and principal, including prepayments, are typically returned to different classes based on rules described in the trust documents. Principal and interest payments may also be divided between holders of different securities in the CMO and some securities may only receive interest payments while others receive only principal payments.

These securities are collateralized by pools of fixed-rate mortgage loans (“FRMs”), adjustable-rate mortgage loans (“ARMs”) or hybrid ARMs. Hybrid ARMs are mortgage loans that have interest rates that are fixed for an initial period (typically three, five, seven or 10 years) and, thereafter, reset at regular intervals subject to interest rate caps. Our allocation of investments among securities collateralized by FRMs, ARMs or hybrid ARMs will depend on our assessment of the relative value of the securities, which will be based on numerous factors including, but not limited to, expected future prepayment trends, supply and demand, costs of financing, costs of hedging, expected future interest rate volatility and the overall shape of the U.S. Treasury and interest rate swap yield curves.

As of September 30, 2010, our $9.7 billion investment portfolio was financed with $8.0 billion of repurchase agreements, $0.1 billion of other debt and $0.9 billion of equity capital, resulting in a leverage ratio of approximately 8.8 times our stockholders’ equity. When adjusted for net payables and receivables for unsettled agency securities, the leverage ratio was approximately 9.8 times our stockholders’ equity as of September 30, 2010. Financing spreads (the difference between yields on our investments and rates on related borrowings, including amortization expense related to terminated swaps) averaged 2.21% and 2.18%, respectively, for the three and nine months ended September 30, 2010.

The size and composition of our investment portfolio depends on investment strategies being implemented by our Manager, the availability of investment capital and overall market conditions, including the availability of attractively priced investments and suitable financing to appropriately leverage our investment portfolio. Market conditions are influenced by, among other things, current levels of and expectations for future levels of short-term interest rates, mortgage prepayments, market liquidity and government participation in the market.

Our Active Portfolio Management Strategy

Our Manager employs on our behalf an active management strategy to achieve our principal objectives of generating attractive risk-adjusted returns and preserving our net asset value. Our active management strategy involves buying and selling securities in all sectors of the agency securities market, including fixed-rate agency securities, adjustable-rate agency securities, options on agency securities, interest-only strips and agency CMOs, based on our Manager's continual assessment of the relative value and risk and return of these securities. Therefore, the composition of our portfolio will vary as our Manager believes changes to market conditions, risks and valuations warrant. Consequently, we may experience investment gains or losses when we sell securities that our Manager no longer believes provide attractive risk-adjusted returns or when our Manager believes more attractive alternatives are available in the agency security market. We may also experience fluctuations in leverage as we pursue our active management strategy, but we generally would expect our leverage to be within six to eleven times the amount of our stockholders' equity.

Our Financing Strategy

As part of our investment strategy, we leverage our investment portfolio pursuant to master repurchase agreements. A repurchase transaction acts as a financing arrangement under which we effectively pledge our agency securities as collateral to secure a short-term loan. Our borrowings pursuant to these repurchase transactions generally have maturities that range from 30 to 90 days, but may have maturities of less than 30 days or up to 364 days. Our leverage may vary periodically depending on market conditions and our assessment of risk and returns. We generally would expect our leverage to be within six to eleven times the amount of our stockholders' equity. However, under certain market conditions, we may operate at leverage levels outside of this range for extended periods of time. We also cannot assure you that we will continue to be successful in borrowing sufficient amounts to fund our intended acquisitions of agency securities.

Our Hedging Strategy

As part of our risk management strategy, we may hedge our exposure to interest rate and prepayment risk as our Manager determines is in our best interest given our investment strategy, the cost of the hedging transactions and our intention to qualify as a REIT. As a result, we may elect to bear a level of interest rate or prepayment risk that could otherwise be hedged when our Manager believes, based on all relevant facts, that bearing the risk enhances our risk/return profile. Our Manager designs an interest rate risk management program consistent with its outlook for the market to attempt to mitigate the impact of changes in interest rates on our investment portfolio and related borrowings. We may enter into interest rate swap agreements, interest rate swaptions, caps, collars, floors, forward contracts, options or futures to attempt to manage the overall interest rate risk of the portfolio, reduce fluctuations in book value and generate additional income distributable to stockholders.

Our Option Strategy

As part of our risk management strategy, we may purchase or sell TBA securities or purchase or write put or call options on TBA securities as a method of insulating our stockholders' equity and enhancing our risk/return profile. Our Manager implements this strategy based upon overall market conditions, the level of volatility in the mortgage market, size of our agency securities portfolio, notional value of our swap positions outstanding and our intention to qualify as a REIT.

Summary of Critical Accounting Policies

Our critical accounting policies relate to investment accounting, revenue recognition, securities valuation, derivative accounting and income taxes. Each of these items involves estimates that will require management to make judgments that are subjective in nature. We rely on our Manager's experience and analysis of historical and current market data in order to arrive at what we believe to be reasonable estimates. Under different conditions, we could report materially different amounts using these critical accounting policies. All of our critical accounting policies are fully described in "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K/A for the year ended December 31, 2009.

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FINANCIAL CONDITION

As of September 30, 2010 and December 31, 2009, our investment portfolio consisted of $9.7 billion and $4.3 billion, respectively, of agency securities. The following tables summarize certain characteristics of our investment portfolio as of September 30, 2010 (dollars in thousands):

	As of September 30, 2010					
					Weighted Average	
	Par Value	Amortized Cost	Amortized Cost Basis	Fair Value	Coupon	Yield(1)
Available-For-Sale Agency Securities:						
Fannie Mae	$5,707,082	$5,965,948	104.5%	$6,045,372	4.81%	3.24%
Freddie Mac	3,277,696	3,453,290	105.4%	3,481,752	4.91%	3.19%
Ginnie Mae	180,555	188,875	104.6%	190,085	4.08%	2.14%
Total / Weighted Average Available- For-Sale Agency Securities	$9,165,333	$9,608,113	104.8%	$9,717,209	4.83%	3.20%
Fixed-Rate	$5,318,889	$5,582,057	104.9%	$5,647,393	4.86%	3.51%
Adjustable-Rate	3,427,093	3,594,670	104.9%	3,630,469	4.85%	2.67%
CMO	419,351	431,386	102.9%	439,347	4.27%	3.47%
Total / Weighted Average Available- For-Sale Securities	$9,165,333	$9,608,113	104.8%	$9,717,209	4.83%	3.20%

	As of September 30, 2010				
				Weighted Average	
	Underlying Unamortized Principal Balance	Amortized Cost	Fair Value	Coupon	Yield(1)
Agency Securities Remeasured at Fair Value Through Earnings:					
Interest-Only Strips					
Fannie Mae	$ 126,272	$ 8,335	$ 8,054	2.87%	15.50%
Freddie Mac	150,781	13,469	11,200	5.16%	31.93%
Total / Weighted Average Agency Securities Remeasured at Fair Value Through Earnings	$ 277,053	$21,804	$19,254	3.91%	25.65%

(1) Incorporates an average future constant prepayment rate assumption of 18% based on forward rates as of September 30, 2010 and an average reset rate for adjustable rate securities of 2.83%, which is equal to the average underlying index rate of 1.03% based on the current spot rate in effect as of the date we acquired the securities and an average margin of 1.80%.

Interest-only strips represent the right to receive a specified portion of the contractual interest flows of the underlying unamortized principal balance of specific CMO securities. The interest cash flows from our interest-only strips taken together with interest cash flows from our fixed-rate, adjustable-rate and CMO securities, total 4.95% of the combined par value our agency securities (excluding the underlying unamortized principal balance of our interest-only strips) as of September 30, 2010. The combined weighted average yield of our agency portfolio was 3.25% as of September 30, 2010.

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The following table summarizes certain characteristics of our investment portfolio as of December 31, 2009 (dollars in thousands):

	As of December 31, 2009					
					Weighted Average	
	Par Value	Amortized Cost	Amortized Cost Basis	Fair Value	Coupon	Yield(2)
Available-For-Sale Securities:						
Fannie Mae	$2,853,278	$2,952,895	103.5%	$2,983,310	5.26%	4.20%
Freddie Mac	1,248,698	1,298,360	104.0%	1,303,623	5.31%	3.50%
Ginnie Mae	12,456	12,842	103.1%	13,182	6.00%	5.33%
Total / Weighted Average Available- For-Sale Securities	$4,114,432	$4,264,097	103.6%	$4,300,115	5.28%	3.99%
Available-For-Sale Securities:						
Fixed-Rate	$1,806,559	$1,863,261	103.1%	$1,887,404	5.40%	4.77%
Adjustable-Rate	1,625,477	1,699,513	104.6%	1,705,487	5.17%	3.18%
CMO	682,396	701,323	102.8%	707,224	5.23%	3.90%
Total / Weighted Average Available- For-Sale Securities	$4,114,432	$4,264,097	103.6%	$4,300,115	5.28%	3.99%

(2) Incorporates an average future constant prepayment rate assumption of 16% based on forward rates as of December 31, 2009 and an average reset rate for adjustable rate securities of 3.06%, which is equal to the average underlying index rate of 1.18% based on the current spot rate in effect as of the date we acquired the securities and an average margin of 1.88%.

As of September 30, 2010 and December 31, 2009, we held fixed-rate pass-through agency securities, pass-through agency securities collateralized by ARMs and hybrid ARMs, with coupons linked to various indices. The following tables detail the characteristics of our ARMs and hybrid ARMs portfolio by index as of September 30, 2010 and December 31, 2009 (dollars in thousands):

	As of September 30, 2010				As of December 31, 2009			
	Six-Month Libor	One-Year Libor	One-Year Treasury	Twelve-Month Treasury Average	Six-Month Libor	One-Year Libor	One-Year Treasury	Twelve-Month Treasury Average
Weighted average term to next reset (months)	41	84	59	36	56	69	54	41
Weighted average margin	1.53%	1.76%	2.01%	1.83%	1.60%	1.72%	2.24%	1.83%
Weighted average annual period cap	1.23%	2.00%	1.67%	1.00%	1.20%	2.00%	2.00%	1.00%
Weighted average lifetime cap	10.84%	9.79%	10.07%	10.13%	10.65%	10.28%	10.22%	10.12%
Principal amount	$138,216	$2,490,817	$531,531	$ 266,529	$123,088	$750,375	$467,996	$ 284,018
Percentage of investment portfolio at par value	2%	27%	6%	3%	3%	18%	11%	7%

The following tables detail the number of months to the next reset for our pass-through securities collateralized by ARMs and hybrid ARMs as of September 30, 2010 and December 31, 2009 (dollars in thousands):

	As of September 30, 2010			As of December 31, 2009		
	Fair Value	% Total	Average Reset	Fair Value	% Total	Average Reset
Less than one year	$ 6,441	0%	1	$ —	—	—
Greater than or equal to one year and less than two years	159,749	4%	25	23,802	1%	30
Greater than or equal to two years and less than three years	233,456	6%	25	253,275	15%	30
Greater than or equal to three years and less than five years	970,059	27%	45	648,093	38%	45
Greater than or equal to five years	2,260,764	63%	96	780,317	46%	81
Total / Weighted Average	$3,630,469	100%	74	$1,705,487	100%	59

Actual maturities of agency securities are generally shorter than stated contractual maturities primarily as a result of prepayments of principal of the underlying mortgages. The stated contractual final maturity of the mortgage loans underlying our portfolio of agency securities ranges up to 40 years, but the expected maturity is subject to change based on the actual and expected future prepayments of the underlying loans. As of September 30, 2010 and December 31, 2009, the average final contractual maturity of the agency securities in our investment portfolio was 25 and 27 years, respectively. The estimated weighted average months to maturity of the agency securities in the tables below are based upon our prepayment expectations, which are estimated based on assumptions for different securities using a combination of third-party services, market data and internal models. The third-party services estimate prepayment speeds using models that incorporate the forward yield curve, mortgage rates, current mortgage rates of the outstanding loans, loan age, volatility and other factors. As market conditions are changing rapidly, we use judgment in making adjustments to our models for some products. Various market participants could use materially different assumptions.

The following tables summarize our agency securities, at fair value, according to their estimated weighted average life classifications as of September 30, 2010 and December 31, 2009 (in thousands):

	September 30, 2010	December 31, 2009
Less than one year	$ —	$ 432
Greater than one year and less than three years	1,099,889	281,721
Greater than three years and less than five years	6,687,443	1,340,665
Greater than or equal to five years	1,949,131	2,677,297
Total	$9,736,463	$4,300,115

The constant prepayment rate ("CPR") reflects the percentage of principal that is prepaid over a period of time on an annualized basis. In general, while there are various factors that impact the rate of prepayments, as interest rates rise, the rate of refinancings typically declines, which may result in lower rates of prepayment and, as a result, a lower portfolio CPR. Conversely, as interest rates fall, the rate of refinancings typically increases, which we expect may result in higher rates of prepayment and, as a result, a higher portfolio CPR. As of September 30, 2010, our portfolio was purchased at a net premium. The actual CPR was approximately 15% and 19% for the three months ended September 30, 2010 and 2009, respectively. The actual CPR was approximately 20% and 19% for the nine months ended September 30, 2010 and 2009, respectively.

In determining the yield on our agency securities, we have assumed that the CPR over the remaining projected life of our aggregate investment portfolio is 18% as of September 30, 2010. We make different prepayment assumptions for the individual securities that comprise the investment portfolio and these individual assumptions can differ materially from the average. There is also considerable uncertainty around prepayment speeds in this environment and actual speeds could differ materially from our estimates. Furthermore, U.S. Government agency or U.S. Government entity buyouts of loans in imminent risk of default, loans that have been modified, or loans that have defaulted will generally be reflected as prepayments on agency securities and also increase the uncertainty around these estimates. In addition, securities were purchased with different amounts of premiums and therefore the yield on some securities is more sensitive to changes in prepayment speeds.

In addition, pursuant to FASB ASC Topic 310-20, *Receivables-Nonrefundable Fees and Other Costs*, the yield on our adjustable rate securities assumes that the securities reset at a rate equal to the underlying index rate in effect as of the date we acquired the security plus the stated margin. Consequently, future reset rate assumptions incorporated in our asset yields may differ materially from future reset rates implied by the forward yield curve and the actual reset rates ultimately achieved. Further, notwithstanding changes to our actual and projected CPR assumptions, the lower our reset rate assumption is pursuant to ASC 310 than the current fixed rate in effect, the greater the rate of premium amortization we will recognize over the initial fixed rate period.

Our adjustable rate portfolio was acquired for a premium above par value and most securities were acquired within the past four months, during a period of historically low index rates. Accordingly, the majority of the premium balance on our adjustable rate securities will be amortized prior to their first reset date, regardless of actual or forecasted prepayment speeds and changes in the underlying index rates prior to actual reset. Adjustable rate securities acquired during a different interest rate environment may experience a different premium amortization pattern even as current index rates remain near their historical lows. For securities held as of September 30, 2010, the weighted average coupon rate was 4.85%, the weighted average months to reset was 74 months and the weighted average reset rate assumption was 2.83%, which is based on a weighted average underlying index rate of 1.03% as of the date we acquired the securities and a weighted average margin of 1.80%.

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RESULTS OF OPERATIONS

The following analysis of our financial condition and results of operations should be read in conjunction with our interim consolidated financial statements and the notes thereto. The table below presents our condensed consolidated statements of operations and key statistics for the three and nine months ended September 30, 2010 and 2009 (in thousands, except per share amounts):

	For the three months ended September 30, 2010	For the three months ended September 30, 2009	For the nine months ended September 30, 2010	For the nine months ended September 30, 2009
Consolidated Statement of Operations Data:				
Interest income	$ 62,600	$ 32,793	$ 151,986	$ 86,834
Interest expense	18,531	11,551	51,389	29,265
Net interest income	44,069	21,242	100,597	57,569
Gain from sale of agency securities, net	24,565	16,070	81,558	30,418
Loss from derivative instruments and trading securities, net	(3,733)	(3,435)	(19,680)	(2,567)
Total other income, net	20,832	12,635	61,878	27,851
Management fees	2,697	1,166	6,795	3,008
General and administrative expenses	1,926	1,474	5,394	4,498
Total expenses	4,623	2,640	12,189	7,506
Net income before excise tax	60,278	31,237	150,286	77,914
Excise tax	250	—	250	—
Net income	$ 60,028	$ 31,237	$ 150,036	$ 77,914
Net income per common share—basic and diluted	$ 1.69	$ 1.82	$ 4.97	$ 4.95
Weighted average number of common shares outstanding— basic and diluted	35,495	17,191	30,161	15,741
Key Statistics*:				
Average agency securities, at cost	$7,751,068	$2,992,151	$5,912,577	$2,365,925
Average agency securities, at cost—percent of par value	104.6%	103.4%	104.2%	102.9%
Average total assets, at fair value	$8,454,760	$3,263,632	$6,515,662	$2,477,227
Average repurchase agreements and other debt	$7,241,783	$2,693,851	$5,536,394	$2,127,918
Average stockholders' equity	$ 853,250	$ 376,229	$ 713,925	$ 319,165
Fixed-rate agency securities at fair value—as of period end	$5,647,393	$1,272,407	$5,647,393	$1,272,407
Adjustable-rate agency securities at fair value—as of period end	$3,630,469	$1,904,184	$3,630,469	$1,904,184
CMO agency securities at fair value—as of period end	$ 439,347	$ 261,536	$ 439,347	$ 261,536
Interest-only strips agency securities, at fair value—as of period end	$ 19,254	$ —	$ 19,254	$ —
Average coupon(1)	5.03%	5.82%	5.12%	5.95%
Average asset yield(2)	3.23%	4.38%	3.42%	4.89%
Average cost of funds(3)	1.02%	1.16%	1.09%	1.42%
Average cost of funds—terminated swap amortization expense(4)	—	0.54%	0.15%	0.42%
Average net interest rate spread(5)	2.21%	2.68%	2.18%	3.05%
Average actual CPR for securities held during the period	15%	19%	20%	19%
Average forecasted CPR as of period end	18%	17%	18%	17%
Leverage (*average during the period*)(6)	8.5:1	7.2:1	7.8:1	6.7:1
Leverage (*as of period end*)(7)	9.8:1	7.3:1	9.8:1	7.3:1
Expenses % of average assets(8)	0.22%	0.32%	0.25%	0.41%
Expenses % of average stockholders' equity(9)	2.15%	2.78%	2.28%	3.14%
Net asset value per common share as of period end(10)	$ 23.43	$ 22.23	$ 23.43	$ 22.23
Dividends declared per common share	$ 1.40	$ 1.40	$ 4.20	$ 3.75
Annualized economic return(11)	21.7%	54.9%	30.6%	49.9%
Annualized net return on average stockholders' equity(12)	27.9%	32.9%	28.1%	32.6%

* Average numbers for each period are weighted based on days on our books and records, all percentages are annualized.

(1) Weighted average coupon for the period was calculated by dividing our total coupon (or cash) interest income on our agency securities by our weighted average agency securities.

(2) Weighted average asset yield for the period was calculated by dividing our total interest income on our agency securities, including amortization of premiums and discounts, by our weighted average agency securities.

(3) Weighted average cost of funds for the period was calculated by dividing our total interest expense by our weighted average repurchase agreements and other debt. Total interest expense excludes amortization expense related to the costs of the previously terminated interest rate swaps during the periods presented.
(4) Represents amortization expense associated with the termination of interest rate swaps of $— million and $3.7 million for the three months ended September 30, 2010 and 2009, respectively, and $6.3 million and $6.7 million for the nine months ended September 30, 2010 and 2009, respectively.
(5) Average net interest rate spread for the period was calculated by subtracting our weighted average cost of funds, net of interest rate swaps and terminated swap amortization expense, from our weighted average asset yield.
(6) Leverage during the period was calculated by dividing our average repurchase agreements and other debt outstanding by our average stockholders' equity.
(7) Leverage at period end was calculated by dividing the amount outstanding under our repurchase agreements, net receivables/liabilities for unsettled agency securities and other debt by our total stockholders' equity at period end.
(8) Expenses as a percentage of average total assets was calculated by dividing our total expenses by our average total assets on an annualized basis.
(9) Expenses as a percentage of average stockholders' equity was calculated by dividing our total expenses by our average stockholders' equity on an annualized basis.
(10) Net asset value per common share was calculated by dividing our total stockholders' equity by our number of shares outstanding.
(11) Annualized economic return represents the sum of the change in net asset value over the period and dividends declared during the period over the beginning net asset value on an annualized basis
(12) Annualized net return on average stockholders' equity for the period was calculated by dividing our net income by our average stockholders' equity on an annualized basis.

Interest Income and Asset Yield

Interest income increased 91% and 75% to $62.6 million and $152.0 million for the three and nine month periods ended September 30, 2010, respectively, compared to their respective prior periods. This was due to a 159% and 163% increase in our average investment portfolio, offset by a decline in our average asset yield over their respective comparative periods.

Our average asset yield declined over the comparative periods as a result acquiring lower yielding securities due to changes in our portfolio composition and increase in the size of our average investment portfolio. The average coupon of our investment portfolio declined to 5.03% from 5.82% for the three months ended September 30, 2010 and 2009, respectively, and declined to 5.12% from 5.95% for the nine months ended September 30, 2010 and 2009, respectively, over their comparative periods and the average amortized cost basis of our investment portfolio increased to 104.6% from 103.4% for the three months ended September 30, 2010 and 2009, respectively, and increased to 104.2% from 102.9% for the nine months ended September 30, 2010 and 2009, respectively, over their comparative periods.

We amortize premiums and discounts associated with agency securities into interest income over the life of such securities using the effective yield method. The effective yield (or asset yield) on our agency securities is based on actual CPRs realized for individual securities in our investment portfolio through the reporting date and assumes a CPR over the remaining projected life of our aggregate investment portfolio of 18% and 17% as of September 30, 2010 and 2009, respectively. In addition, pursuant to FASB ASC Topic 310-20, *Receivables-Nonrefundable Fees and Other Costs*, the yield on our adjustable rate securities assumes that the securities reset at a rate equal to the underlying index rate in effect as of the date we acquired the security plus the stated margin. Consequently, future reset rate assumptions incorporated in our asset yields may differ materially from future reset rates implied by the forward yield curve and the actual reset rates ultimately achieved. Further, notwithstanding changes to our actual and projected CPR assumptions, the lower our reset rate assumption is pursuant to ASC 310 than the current fixed rate in effect, the greater the rate of premium amortization we will recognize over the initial fixed rate period.

Our adjustable rate portfolio was acquired for a premium above par value and most securities were acquired within the past four months, during a period of historically low index rates. Accordingly, the majority of the premium balance on our adjustable rate securities will be amortized prior to their first reset date, regardless of actual or forecasted prepayment speeds and changes in the underlying index rates prior to actual reset. Adjustable rate securities acquired during a different interest rate environment may experience a different premium amortization pattern even as current index rates remain near their historical lows. For securities held as of September 30, 2010, the weighted average coupon rate was 4.85%, the weighted average months to reset was 74 months and the weighted average reset rate assumption was 2.83%, which is based on a weighted average underlying index rate of 1.03% as of the date we acquired the securities and a weighted average margin of 1.80%.

Interest income for the three months ended September 30, 2010 and 2009 is net of $30.8 million and $9.4 million premium and discount amortization, net on our investment portfolio, respectively. Interest income for the nine months ended September 30, 2010 and 2009, is net of $66.0 million and $15.9 million premium and discount amortization, net on our investment portfolio, respectively. The unamortized premium balance, net of discounts, of our aggregate investment portfolio was $464.6 million (including the unamortized cost basis of our interest-only strips) and $112.8 million as of September 30, 2010 and 2009, respectively.

Leverage

Our leverage as of September 30, 2010 and 2009 was 8.8 and 6.9 times our stockholders' equity, respectively. When adjusted for the net amount of agency securities purchased and sold but not yet settled, our leverage ratio was 9.8 and 7.3 times our stockholders' equity as of September 30, 2010 and 2009, respectively. Our actual leverage will vary from time to time based on various factors, including our Manager's opinion of the level of risk of our assets and liabilities, our liquidity position, our level of unused borrowing capacity, over-collateralization levels required by lenders when we pledge agency securities to secure our borrowings and the current market value of our investment portfolio. In addition, certain of our master repurchase agreements and master swap agreements contain a restriction that prohibits our leverage from exceeding levels ranging from 12 to 16 times our stockholders' equity.

The table below presents our average and period end repurchase agreement and other debt balance outstanding and leverage ratios for the nine months ended September 30, 2010 and the year ended December 31, 2009 (dollars in thousands):

	Repurchase Agreements and Other Debt							
Quarter Ended	Average Daily Amount Outstanding	Maximum Daily Amount Oustanding	Ending Amount Outstanding	Average Daily Interest Rate on Amounts Outstanding	Average Interest Rate on Ending Amount Outstanding	Average Leverage(1)	Leverage as of Period End(2)	Leverage as of Period End, Net of Unsettled Trades(3)
March 31, 2009	$ 1,537,798	$ 1,996,087	$ 1,849,473	1.07%	0.81%	5.6:1	6.4:1	7.0:1
June 30, 2009	$ 2,139,402	$ 2,451,077	$ 2,346,875	0.60%	0.47%	7.0:1	7.5:1	7.7:1
September 30, 2009	$ 2,693,851	$ 3,349,087	$ 2,949,010	0.42%	0.35%	7.2:1	6.9:1	7.3:1
December 31, 2009	$ 3,637,220	$ 4,247,367	$ 3,841,834	0.28%	0.24%	6.8:1	7.0:1	7.3:1
March 31, 2010	$ 3,787,583	$ 4,651,115	$ 4,651,115	0.22%	0.21%	6.5:1	7.6:1	7.9:1
June 30, 2010	$ 5,548,225	$ 6,634,342	$ 6,634,342	0.26%	0.28%	7.9:1	8.4:1	8.2:1
September 30, 2010	$ 7,241,783	$ 8,050,221	$ 8,050,221	0.28%	0.28%	8.5:1	8.8:1	9.8:1

(1) Average leverage during the period was calculated by dividing our average repurchase agreements and other debt outstanding for the period by our average stockholders' equity for the period.
(2) Leverage as of period end was calculated by dividing the amount outstanding under our repurchase agreements and other debt by our stockholder's equity at period end.
(3) Leverage as of period end, net of unsettled trades was calculated by dividing the amount outstanding under our repurchase agreements, net liabilities and receivables for unsettled agency securities and other debt by our total stockholder's equity at period end.

For the quarter ended September 30, 2010, our ending leverage and ending repurchase agreement and other debt balances were significantly higher than our average balances for the quarter because we increased our asset positions through the use of additional leverage toward the end of the quarter in anticipation of our follow-on equity offering that we completed on October 1, 2010 for net proceeds of $328 million.

Interest Expense and Cost of Funds

Interest expense was $18.5 million and $11.6 million for the three months ended September 30, 2010 and 2009, respectively. Interest expense was $51.4 million and $29.3 million for the nine months ended

September 30, 2010 and 2009, respectively. The increase in interest was due to an increase in our average repurchase agreements and other debt outstanding, partially offset by a decline our total cost of funds for each of the comparative periods as described below.

For the three months ended September 30, 2010 and 2009, average repurchase agreements and other debt outstanding were $7.2 billion and $2.7 billion, respectively. For the nine months ended September 30, 2010 and 2009, average repurchase agreements outstanding were $5.5 billion and $2.1 billion, respectively. The increase in the average repurchase agreement balance over the prior period was primarily driven by deploying new equity capital raised over the 12 month period ended September 30, 2010 on a levered basis.

The average interest rate on our repurchase agreements declined to 0.28% from 0.42% for the three months ended September 30, 2010 and 2009, respectively, and to 0.26% from 0.63% for the nine months ended September 30, 2010 and 2009, respectively, primarily driven by the decline in the one month LIBOR interest rate. Including the net impact of interest rate swaps, the total average cost of funds for the three months ended September 30, 2010 and 2009 declined to 1.02% from 1.70% (or to 1.02% from 1.16% when excluding amortization expense associated with previously terminated interest rate swaps), and for the nine months ended September 30, 2010 and 2009 to 1.24% from 1.84% (or to 1.09% from 1.42%, when excluding amortization expense associated with previously terminated interest rate swaps).

We did not terminate any interest rate swaps accounted for as hedges under ASC 815 during the three or nine months ended September 30, 2010 or during the three months ended September 30, 2009. During the nine months ended September 30, 2009 we terminated interest rate swaps with a notional amount of $550.0 million resulting in net settlement payments $16.4 million equal to their fair value on the date of termination. The net settlements were amortized into income over the remaining life of the terminated interest rate swaps through the second quarter of 2010 and included in interest expense on our consolidated statements of operations and comprehensive income. Amortization expense for terminated swaps was $3.7 million for the three months ended September 30, 2009 and $6.3 million and $6.7 million for the nine months ended September 30, 2010 and 2009, respectively.

As of September 30, 2010 and 2009, we had outstanding interest rate swap agreements designated as cash flow hedges under ASC 815 for a total notional amount of $4.2 billion (or $4.1 billion including the net amount of payer and receiver interest rate swap agreements not designated as cash flow hedges described further in Note 6 to our consolidated financial statements in this Quarterly Report on Form 10-Q) and $1.4 billion, respectively. Outstanding designated interest rate swaps were 52% (or 50% including the net amount of undesignated interest rate swap agreements) and 47% of the outstanding balance under our repurchase agreements, respectively. For the three months ended September 30, 2010 and 2009 our designated interest rate swaps increased the cost of our borrowings by $13.4 million and $8.7 million (or $5.0 million excluding amortization expense associated with the termination of interest rate swaps), respectively, which equaled 0.74% and 1.28% (or 0.74% excluding terminated swap amortization expense) of interest bearing liabilities, respectively, and for the nine months ended September 30, 2010 and 2009 our interest rate swaps increased the cost of our borrowings by $40.6 million and $19.2 million (or $34.3 million and $12.5 million excluding terminated swap amortization expense), which equaled 0.98% and 1.21% (or 0.83% and 0.79% excluding terminated swap amortization expense) of interest bearing liabilities, respectively.

Net Interest Income and Net Interest Rate Spread

Net interest income, which equals interest income less interest expense, was $44.1 million and $21.2 million for the three months ended September 30, 2010 and 2009, respectively. Net interest income was $100.6 million and $57.6 million for the nine months ended September 30, 2010 and 2009, respectively. The average net interest rate spread, which equals the average yield on our assets less the average cost of funds was 2.21% and 2.68% (or 3.22% excluding terminated swap amortization expense) for the three months ended September 30, 2010 and 2009, respectively. The average net interest rate spread was 2.18% and 3.05% for the nine months ended

September 30, 2010 and 2009, respectively, (or 2.33% and 3.47% excluding terminated swap amortization expense). As of September 30, 2010, the net interest rate spread was 2.16%.

The decrease in our average net interest rate spread for each of the comparative periods was due to a decline in our average asset yield, partially offset by a decrease in our cost of funds, as discussed above. Our cost of funds as of September 30, 2010 was higher than our average cost of funds for the three months then ended because we increased our interest rate swap positions near the end of September in anticipation of a higher repurchase agreement balance following our completed equity offering on October 1, 2010.

Gain on Sale of Agency Securities, Net

The following table is a summary of our net gain on sale of agency securities for the three and nine months ended September 30, 2010 and 2009 (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2010	September 30, 2009	September 30, 2010	September 30, 2009
Agency securities sold, at cost	$ (2,172,978)	$ (1,679,557)	$ (6,914,764)	$ (4,151,797)
Proceeds from agency securities sold	2,197,543	1,695,627	6,996,322	4,182,215
Net gains on sale of agency securities	$ 24,565	$ 16,070	$ 81,558	$ 30,418
Gross gains on sale of agency securities	26,333	16,885	87,714	32,021
Gross losses on sale of agency securities	(1,768)	(815)	(6,156)	(1,603)
Net gains on sale of agency securities	$ 24,565	$ 16,070	$ 81,558	$ 30,418

The increase in the amount of agency securities sold for each of the comparative periods was due to an increase in the size of our investment portfolio as well as our Manager's execution of our active portfolio management strategy. Our strategy for the periods presented was largely focused on repositioning our portfolio towards securities with attributes our Manager believes reduce the level of prepayment risk in light of current and anticipated interest rates, federal government programs, general economic conditions and other factors.

Loss on Derivative Instruments and Trading Securities, Net

The following table is a summary of our loss on derivative instruments and trading securities, net for the three and nine months ended September 30, 2010 and 2009 (in thousands):

	For the three months		For the nine months	
	2010	2009	2010	2009
Realized (loss) gain from derivative instruments and trading securities:				
TBAs and forward settling agency securities	$(9,157)	$(3,158)	$(12,396)	$(1,592)
Interest rate swaptions	9,298	—	9,056	—
Interest rate swaps not designated as hedges under ASC 815	(1,014)	—	(2,125)	—
U.S. government securities	372		1,815	
Short sales of U.S. government securities	(330)	—	(330)	—
Hedge ineffectiveness related to missed forecasts on interest rate swaps designated as hedges under ASC 815	—	—	—	(948)
Put options	—	—	(328)	—
Other	96	—	96	—
Total realized (loss) gain from derivative instruments and trading securities, net	(735)	(3,158)	(4,212)	(2,540)
Unrealized (loss) gain from derivative instruments and trading securities:(1)				
TBAs and forward settling agency securities	1,394	(58)	(3,810)	(523)
Interest-only strips	(865)	—	(7,802)	—
Interest rate swaptions	(2,301)	—	(2,315)	—
Interest rate swaps not designated as hedges under ASC 815	(1,201)	—	(1,201)	—
Hedge ineffectiveness on interest rate swaps accounted for as hedges under ASC 815	(25)	(219)	(340)	496
Total unrealized (loss) gain from derivative instruments and trading securities, net	(2,998)	(277)	(15,468)	(27)
Total loss from derivative instruments and trading securities, net	$(3,733)	$(3,435)	$(19,680)	$(2,567)

(1) Unrealized (loss) gain from derivatives and trading securities includes reversals of prior period amounts for settled or expired derivatives and trading securities.

The increase in the net loss from derivatives and trading securities for the nine months ended September 30, 2010 over the prior period is due to unrealized losses on interest-only strips that are remeasured at fair value through earnings and an increase in hedging activity involving derivative instruments that were not designated as hedges under ASC 815 and. These instruments, while not designated as hedges under ASC 815, were entered into to manage the potential adverse impact of short term changes in interest rates on the value of our investments and our cash flows.

Further details regarding our derivatives and related hedging activity for the three and nine months ended September 30, 2010 and 2009 are discussed in Note 3 and 6 to our consolidated financial statements in this Quarterly Report on Form 10-Q.

Management Fees and General and Administrative Expenses

We pay our Manager a base management fee payable monthly in arrears in an amount equal to one twelfth of 1.25% of our Equity. Our Equity is defined as our month-end stockholders' equity, adjusted to exclude the effect of any unrealized gains or losses included in either retained earnings or OCI, each as computed in accordance with GAAP. There is no incentive compensation payable to our Manager pursuant to the management agreement. We incurred management fees of $2.7 million and $1.2 million during the three months ended September 30, 2010 and 2009, respectively, and $6.8 million and $3.0 million during the nine months ended September 30, 2010 and 2009, respectively. The increase in management fees compared to prior periods was due to an increase in the amount of Equity outstanding as a result new equity capital raised during the 12 months ended September 30, 2010.

General and administrative expenses were $1.9 million and $1.5 million for the three months ended September 30, 2010 and 2009, respectively, and $5.4 million and $4.5 million for the nine months ended September 30, 2010 and 2009, respectively. Our total expenses as a percentage of our average stockholders' equity declined to 2.15% for the three months ended September 30, 2010 compared to 2.78% in the prior period and declined to 2.28% for the nine months ended September 30, 2010 compared to 3.14% in the prior period due to improved operating leverage.

Net Income and Net Return on Equity

Net income was $60.0 million, or $1.69 and per basic and diluted share, for the three months ended September 30, 2010, compared to $31.2 million, or $1.82 per basic and diluted share, for the prior period. Our annualized net return on average equity declined to 27.9% for the current period compared to 32.9% for the prior period. While many factors may affect net income per share and the annualized return on our average equity, the primary factors impacting their decline for the current period were a decrease in gains from the sale of our agency securities of $0.24 per share partially offset by a decrease in net losses on our derivatives and trading securities of $0.09 per share. Although our interest income declined $0.14 per share over the period, net interest income per share remained unchanged at $1.24 per share, due to a reduction in our average cost of funds and an 18% increase in our average leverage over the prior period.

Net income was $150.0 million, or $4.97 per basic and diluted share, for the nine months ended September 30, 2010, compared to $77.9 million, or $4.95 per basic and diluted share, for the prior period. Our annualized net return on average equity declined to 28.1% for the current period compared to 32.6% for the prior period. The increase in net income per share of $0.02 was driven by an increase in gains from the sale of our agency securities of $0.77 per share and a reduction in expenses of $0.07 per share, partially offset by a reduction of net interest income of $0.32 per share and a increase in loss on derivative instruments and trading securities of $0.49 per share. The decrease in our annualized return on average equity, despite the increase in our net income per share, was largely due to an increase of our average equity due to new equity capital raised during the twelve months ended September 30, 2010.

Dividends

For the three months ended September 30, 2010 and 2009, we declared dividends of $1.40 per share. For the nine months ended September 30, 2010 and 2009, we declared dividends of $4.20 and $3.75 per share, respectively. As a REIT, we are required to distribute annually 90% of our taxable income to maintain our status as a REIT and all of our taxable income to avoid Federal, state and local corporate income taxes. We can treat dividends declared by September 15 and paid by December 31 as having been a distribution of our taxable income for our prior tax year. As of September 30, 2010, we did not have any undistributed taxable income from 2009. We intend to distribute sufficient dividends to eliminate our taxable income for 2010. However, we may elect not to distribute sufficient dividends to eliminate our taxable income so long as we distribute at least 90% of our taxable income in order to maintain our qualification as a REIT. Income as determined under GAAP differs from income as determined under tax rules because of both temporary and permanent differences in income and expense recognition. Examples include temporary differences for unrealized gains and losses on derivative instruments and trading securities recognized in income for GAAP but are excluded from taxable income until realized or settled, differences in the CPR used to amortize premiums or accrete discounts as well as hedge ineffectiveness, and stock-based compensation and permanent differences for excise tax expense.

As a REIT, if we fail to distribute in any calendar year at least the sum of (i) 85% of our ordinary income for such year, (ii) 95% of our capital gain net income for such year, and (iii) any undistributed taxable income from the prior year, we would be subject to a non-deductible 4% federal excise tax on the excess of such required distribution over the sum of (i) the amounts actually distributed and (ii) the amounts of income we retained and on which we have paid corporate income tax. Dividends declared by December 31 and paid by January 31 count as having been a distribution of our taxable income for the prior tax year. For the three and nine months ended September 30, 2010, we accrued a federal excise tax of $0.3 million because we believe it is more likely than not that we will have undistributed taxable income for excise tax purposes at the end of the year. We did not accrue excise tax on undistributed taxable income for the nine months ended September 30, 2009.

LIQUIDITY AND CAPITAL RESOURCES

Our primary sources of funds are borrowings under master repurchase agreements, equity offerings, asset sales and monthly principal and interest payments on our investment portfolio. Because the level of these borrowings can be adjusted on a daily basis, the level of cash and cash equivalents carried on the balance sheet is significantly less important than the potential liquidity available under our borrowing arrangements. We currently believe that we have sufficient liquidity and capital resources available for the acquisition of additional investments, repayments on borrowings and the payment of cash dividends as required for our continued qualification as a REIT. To qualify as a REIT, we must distribute annually at least 90% of our taxable income. To the extent that we annually distribute all of our taxable income in a timely manner, we will generally not be subject to federal and state income taxes. We currently expect to distribute all of our taxable income. This distribution requirement limits our ability to retain earnings and thereby replenish or increase capital for operations.

During the nine months ended September 30, 2010, we issued 7.7 million shares of our common stock under our direct stock purchase plan for proceeds of $204.3 million. Additionally, we completed two public offerings in 2010. In May 2010, we sold 6.9 million shares of our common stock, including the over-allotment option, at a public offering price of $25.75 per share, for $169.0 million of proceeds, net of underwriters' discount and other offering costs. On October 1, 2010, we completed the sale of 13.2 million shares of our common stock, including the over-allotment option, at a public offering price of $26.00 per share, for $328.1 million of proceeds, net of underwriters' discount and other offering costs.

To the extent we raise additional equity capital through secondary equity offerings or under our direct stock purchase plan, we currently anticipate using cash proceeds from such transactions to purchase additional agency securities, to make scheduled payments of principal and interest on our repurchase agreements and for other general corporate purposes. There can be no assurance, however, that we will be able to raise additional equity capital at any particular time or on any particular terms.

As part of our investment strategy, we borrow against our investment portfolio pursuant to master repurchase agreements. We expect that our borrowings pursuant to repurchase transactions under such master repurchase agreements generally will have maturities that range from 30 to 90 days, but may have maturities of less than 30 days or up to 364 days. When adjusted for net payables and receivables for agency securities purchased but not yet settled and other debt, our leverage ratio was 9.8 times the amount of our stockholders' equity as of September 30, 2010, which does not reflect the impact of net proceeds received from our follow-on equity offering that closed on October 1, 2010. Our cost of borrowings under master repurchase agreements generally corresponds to LIBOR plus or minus a margin. We have master repurchase agreements with 21 financial institutions, subject to certain conditions. As of September 30, 2010, borrowings under repurchase arrangements secured by agency securities totaled $8.0 billion and other debt associated with a structured transaction accounted for as a financing transaction totaled $0.1 billion. As of September 30, 2010, we did not have an amount at risk with any counterparty greater than 10% of our stockholders' equity. Refer to Note 5 to our consolidated financial statements in this Quarterly Report on Form 10-Q for further details regarding our borrowings under repurchase agreements and other debt and weighted average interest rates as of September 30, 2010 and December 31, 2009.

Amounts available to be borrowed under our repurchase agreements are dependent upon lender collateral requirements and the lender's determination of the fair value of the securities pledged as collateral, which fluctuates with changes in interest rates, credit quality and liquidity conditions within the investment banking, mortgage finance and real estate industries. Under the repurchase agreements, we may be required to pledge additional assets to the repurchase agreement counterparties (i.e., lenders) in the event the estimated fair value of the existing pledged collateral under such agreements declines and such lenders demand additional collateral (a margin call), which may take the form of additional securities or cash. Similarly, if the estimated fair value of investment securities increases due to changes in the market interest rates, lenders may release collateral back to us. Specifically, margin calls would result from a decline in the value of the agency securities securing our repurchase agreements and prepayments on the mortgages securing such agency securities. As of September 30, 2010, we have met all margin requirements. We had unrestricted cash and cash equivalents of $115.3 million and unpledged agency securities of $191.9 million available to meet margin calls on our repurchase agreements and derivative instruments as of September 30, 2010.

Although we believe that we will have adequate sources of liquidity available to us through repurchase agreement financing to execute our business strategy, there can be no assurances that repurchase agreement financing will be available to us upon the maturity of our current repurchase agreements to allow us to renew or replace our repurchase agreement financing on favorable terms or at all. If our repurchase agreement lenders default on their obligations to resell the underlying agency securities back to us at the end of the term, we could incur a loss equal to the difference between the value of the agency securities and the cash we originally received.

We maintain an interest rate risk management strategy under which we use derivative financial instruments to manage the adverse impact of interest rates changes on the value of our investment portfolio as well as our cash flows. In particular we attempt to mitigate the risk of the cost of our short-term variable rate liabilities increasing at a faster rate than the earnings of our long-term assets during a period of rising interest rates. The principal derivative instruments that we use are interest rate swaps, supplemented with the use of interest rate swaptions, TBA agency securities, options and futures.

We use interest rate swap agreements to effectively lock in fixed rates on a portion of our short-term borrowings because longer-term committed borrowings are not available at attractive terms. We have entered into interest rate swap agreements to attempt to mitigate the risk of the cost of our short-term variable rate liabilities rising during a period of rising interest rates, thereby compressing the net spreads that we earn on our long-term fixed-rate assets. As of September 30, 2010, we had interest rate swap agreements that were designated as cash flow hedges for accounting purposes of a like amount of our short-term borrowings, or $4.1 billion of interest rate swaps agreements net of payer and receiver interest rate swap agreements which were not designated as cash flow hedges for accounting purposes. Refer to Note 6 to our consolidated financial statements in this Quarterly Report on Form 10-Q for further details regarding our outstanding interest rate swaps as of September 30, 2010 and December 31, 2009 and the related activity for the three and nine months ended September 30, 2010 and 2009.

We may be limited on the types of hedging strategies we can deploy as a REIT under the Code; therefore, we may implement part of our hedging strategy through American Capital Agency TRS, LLC, our domestic taxable REIT subsidiary, which will be subject to federal, state and, if applicable, local income tax. As of September 30, 2010, we had not transacted any hedging transactions through American Capital Agency TRS, LLC.

Off-Balance Sheet Arrangements

As of September 30, 2010, we did not maintain any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance, or special purpose or variable interest entities, established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. Further, as of September 30, 2010, we had not guaranteed any obligations of unconsolidated entities or entered into any commitment or intent to provide funding to any such entities.

FORWARD-LOOKING STATEMENTS

This document contains "forward-looking statements" (within the meaning of the Private Securities Litigation Reform Act of 1995) that inherently involve risks and uncertainties. Our actual results and liquidity can differ materially from those anticipated in these forward-looking statements because of changes in the level and composition of our investments and other factors. These factors may include, but are not limited to, changes in general economic conditions, the availability of suitable investments from both an investment return and regulatory perspective, the availability of new investment capital, fluctuations in interest rates and levels of mortgage prepayments, deterioration in credit quality and ratings, the effectiveness of risk management strategies, the impact of leverage, liquidity of secondary markets and credit markets, increases in costs and other general competitive factors.

Item 3. ***Quantitative and Qualitative Disclosures About Market Risk***

Market Risk

Market risk is the exposure to loss resulting from changes in interest rates, foreign currency exchange rates, commodity prices and equity prices. The primary market risks that we are exposed to are interest rate risk, prepayment risk, liquidity risk, extension risk and inflation risk.

Interest Rate Risk

Interest rate risk is highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control.

Changes in the general level of interest rates can affect our net interest income, which is the difference between the interest income earned on interest-earning assets and the interest expense incurred in connection with our interest-bearing liabilities, by affecting the spread between our interest-earning assets and interest bearing liabilities. Changes in the level of interest rates can also affect the rate of prepayments of our securities and the value of the agency securities that constitute our investment portfolio, which affects our ability to realize gains from the sale of these assets and impacts our ability and the amount that we can borrow against these securities.

We may utilize a variety of financial instruments, including interest rate swaps, swaptions, caps, collars, floors, purchases and sales of TBA agency securities and specified agency securities on a forward basis, or put and call options on securities or securities underlying futures contracts, in order to limit the effects of changes in interest rates on our operations. When we use these types of derivatives to hedge the risk of interest-earning assets or interest-bearing liabilities, we may be subject to certain risks, including the risk that losses on a hedge position will reduce the funds available for payments to holders of our common stock and that the losses may exceed the amount we invested in the instruments.

Our profitability and the value of our investment portfolio (including derivatives used for hedging purposes) may be adversely affected during any period as a result of changing interest rates including resulting changes in forward yield curves. The following table quantifies the estimated changes in net interest income and investment portfolio value should interest rates go up or down by 50 and 100 basis points, assuming the yield curves of the rate shocks will be parallel to each other and the current yield curve. These estimates were compiled using a combination of third-party services, market data and internal models. All changes in income and value are measured as percentage changes from the projected net interest income and investment portfolio value at the base interest rate scenario. The base interest rate scenario assumes interest rates as of September 30, 2010. Given the low level of interest rates, we also apply a floor of 0% for all anticipated interest rates included in our assumptions, such that any hypothetical interest rate decrease would have a limited positive impact on our funding costs beyond a certain level. However, because estimated prepayment speeds are unaffected by this floor, it is expected that an increase in our prepayment speeds as a result of a hypothetical interest rate decrease would result in an acceleration of our premium amortization and could result in reinvestment of such prepaid principal into lower yielding assets.

Actual results could differ materially from estimates, especially in the current market environment. The accuracy of the projected agency securities prices relies on assumptions that define specific agency securities spreads and varying prepayment assumptions at projected interest rate levels. To the extent that these estimates or other assumptions do not hold true, which is likely in a period of high price volatility, actual results will likely differ materially from projections and could be larger or smaller than the estimates in the table below. Moreover, if different models were employed in the analysis, materially different projections could result. In addition, while the tables below reflect the estimated impact of interest rate increases and decreases on a static portfolio we may from time to time sell any of our agency securities as a part of our overall management of our investment portfolio.

Change in Interest Rate	Percentage Change in Projected Net Interest Income	Percentage Change in Projected Portfolio Value, with Effect of Derivatives
+100 Basis Points	0.8%	-1.3%
+50 Basis Points	1.6%	-0.5%
-50 Basis Points	-7.1%	0.2%
-100 Basis Points	-20.5%	0.0%

Prepayment Risk

Premiums and discounts associated with the purchase of agency securities are amortized or accreted into interest income over the projected lives of the securities, including contractual payments and estimated prepayments using the interest method. Furthermore, U.S. Government agency or U.S. Government entity buyouts of loans in imminent risk of default, loans that have been modified, or loans that have defaulted will generally be reflected as prepayments on agency securities and also increase the uncertainty around these estimates. Our policy for estimating prepayment speeds for calculating the effective yield is to evaluate published prepayment data for similar agency securities, market consensus and current market conditions. If the actual prepayment experienced differs from our estimate of prepayments, we will be required to make an adjustment to the amortization or accretion of premiums and discounts that would have an impact on future income.

Spread Risk

Our available-for-sale securities are reflected at their estimated fair value with unrealized gains and losses excluded from earnings and reported in OCI pursuant to ASC 320. As of September 30, 2010, the fair value of these securities was $9.7 billion. When the spread between the yield on our agency securities and U.S. Treasuries or swap rates widens, this could cause the value of our agency securities to decline, creating what we refer to as spread risk. The spread risk associated with our agency securities and the resulting fluctuations in fair value of these securities can occur independent of interest rates and may relate to other factors impacting the mortgage and fixed income markets such as liquidity or changes in required rates of return on different assets.

Liquidity Risk

The primary liquidity risk for us arises from financing long-term assets with shorter-term borrowings in the form of repurchase agreements. Our assets which are pledged to secure repurchase agreements are high-quality agency securities and cash. As of September 30, 2010, we had unrestricted cash and cash equivalents of $115.3

million and unpledged agency securities of $191.9 million available to meet margin calls on our repurchase agreements, derivative instruments and for other corporate purposes. However, should the value of our agency securities pledged as collateral suddenly decrease, margin calls relating to our repurchase agreements could increase, causing an adverse change in our liquidity position. As such, we cannot assure that we will always be able to renew (or roll) our repurchase agreements.

Extension Risk

The projected weighted-average life of our investments is based on our assumptions regarding the rate at which the borrowers will prepay the underlying mortgage loans. In general, when we acquire an agency security collateralized by fixed rate mortgages or hybrid ARMs, we may, but are not required to, enter into an interest rate swap agreement or other hedging instrument that effectively fixes our borrowing costs for a period close to the anticipated average life of the fixed-rate portion of the related assets. This strategy is designed to protect us from rising interest rates because the borrowing costs are fixed for the duration of the fixed-rate portion of the related agency security.

However, if prepayment rates decrease in a rising interest rate environment, the life of the fixed-rate portion of the related assets could extend beyond the term of the swap agreement or other hedging instrument. This could have a negative impact on our results from operations, as borrowing costs would no longer be fixed after the end of the hedging instrument while the income earned on the agency securities collateralized by fixed rate mortgages or hybrid ARMs would remain fixed. This situation may also cause the market value of our agency security collateralized by fixed rate mortgages or hybrid ARMs to decline, with little or no offsetting gain from the related hedging transactions. In extreme situations, we may be forced to sell assets to maintain adequate liquidity, which could cause us to incur losses.

Inflation Risk

Virtually all of our assets and liabilities are interest rate sensitive in nature. As a result, interest rates and other factors influence our performance more so than does inflation. Changes in interest rates do not necessarily correlate with inflation rates or changes in inflation rates. Further, our consolidated financial statements are prepared in accordance with GAAP and our distributions are determined by our Board of Directors based primarily by our net income as calculated for income tax purposes. In each case, our activities and balance sheet are measured with reference to historical cost and/or fair market value without considering inflation.

Item 4. ***Controls and Procedures***

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure based on the definition of "disclosure controls and procedures" as promulgated under the SEC Act of 1934, as amended. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

We, including our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of September 30, 2010. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective.

Changes in Internal Controls over Financial Reporting

There have been no changes in our "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that occurred during the quarter ended September 30, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II.—OTHER INFORMATION

Item 1. *Legal Proceedings*

From time to time, we may be involved in various claims and legal actions arising in the ordinary course of business. As of September 30, 2010, we have no legal proceedings.

Item 1A. *Risk Factors*

There have been no material changes to the risk factors previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2009, except as described below.

You should carefully consider the risks described below and all other information contained in this interim report on Form 10-Q, including our interim consolidated financial statements and the related notes thereto before making a decision to purchase our securities. The risks and uncertainties described below are not the only ones facing us. Additional risks and uncertainties not presently known to us, or not presently deemed material by us, may also impair our operations and performance.

If any of the following risks actually occur, our business, financial condition or results of operations could be materially adversely affected. If that happens, the trading price of our securities could decline, and you may lose all or part of your investment.

Risks Related to Our Investing, Active Portfolio Management and Financing Strategy

The conservatorship of Fannie Mae and Freddie Mac and related efforts, along with any changes in laws and regulations affecting the relationship between Fannie Mae and Freddie Mac and the federal government, may adversely affect our business.

Due to increased market concerns about Fannie Mae and Freddie Mac's ability to withstand future credit losses associated with securities held in their investment portfolios, and on which they provide guarantees, without the direct support of the federal government, on July 30, 2008, the government passed the Housing and Economic Recovery Act of 2008 (the "HERA"). On September 6, 2008, the FHFA placed Fannie Mae and Freddie Mac into conservatorship and, together with the U.S. Treasury, established a program designed to boost investor confidence in Fannie Mae's and Freddie Mac's debt and mortgage-backed securities. As the conservator of Fannie Mae and Freddie Mac, the FHFA controls and directs the operations of Fannie Mae and Freddie Mac and may (i) take over the assets of and operate Fannie Mae and Freddie Mac with all the powers of the stockholders, the directors and the officers of Fannie Mae and Freddie Mac and conduct all business of Fannie Mae and Freddie Mac; (ii) collect all obligations and money due to Fannie Mae and Freddie Mac; (iii) perform all functions of Fannie Mae and Freddie Mac which are consistent with the conservator's appointment; (iv) preserve and conserve the assets and property of Fannie Mae and Freddie Mac; and (v) contract for assistance in fulfilling any function, activity, action or duty of the conservator. A primary focus of the HERA was to increase the availability of mortgage financing by allowing Fannie Mae and Freddie Mac to continue to grow their guarantee business without limit, while limiting net purchases of agency securities to a modest amount through the end of 2009. Fannie Mae and Freddie Mac began gradually reducing the size of their agency security portfolios in 2010.

In addition to FHFA becoming the conservator of Fannie Mae and Freddie Mac, the U.S. Department of Treasury, or the U.S. Treasury, took three additional actions: (i) the U.S. Treasury and FHFA entered into preferred stock purchase agreements between the U.S. Treasury and Fannie Mae and Freddie Mac pursuant to which the U.S. Treasury required that each of Fannie Mae and Freddie Mac maintain a positive net worth; (ii) the U.S. Treasury established a secured lending credit facility which provided Fannie Mae, Freddie Mac and the Federal Home Loan Banks access to a liquidity backstop; and (iii) the U.S. Treasury initiated a temporary program to purchase agency securities issued by Fannie Mae and Freddie Mac.

Initially, Fannie Mae and Freddie Mac each issued $1.0 billion of senior preferred stock to the U.S. Treasury and warrants to purchase 79.9% of the fully-diluted common stock outstanding of each government sponsored enterprise, or GSE, at a nominal exercise price. Pursuant to these stock purchase agreements, each of Fannie Mae's and Freddie Mac's mortgage and agency security portfolios may not exceed $900 billion as of December 31, 2009. In December 2009, these stock purchase agreements were amended to allow Freddie Mac and Fannie Mae additional flexibility to reduce the size of their portfolios over time, such that each portfolio will be required to decline by 10% of the maximum portfolio size permitted as of December 31, 2009 each year until such portfolio reaches $250 billion. Given the highly fluid and evolving nature of these events, it is unclear how our business will be impacted.

Although the U.S. Treasury has committed capital to Fannie Mae and Freddie Mac, there can be no assurance that these actions will be adequate for their needs. If these actions are inadequate, Fannie Mae and Freddie Mac could continue to suffer losses and could fail to honor their guarantees and other obligations. The future roles of Fannie Mae and Freddie Mac could be significantly reduced and the nature of their guarantees could be considerably limited relative to historical measurements. Any changes to the nature of the guarantees provided by Fannie Mae and Freddie Mac could redefine what constitutes an agency security and could have broad adverse market implications.

On November 25, 2008, the Federal Reserve announced that it would initiate a program to purchase $100 billion in direct obligations of Fannie Mae, Freddie Mac and the Federal Home Loan Banks and $500 billion in agency securities backed by Fannie Mae, Freddie Mac and Ginnie Mae. In March 2009, the size of the direct obligation purchase program was expanded to $200 billion and the agency securities purchase program was expanded to a total of $1.25 trillion. Purchases of direct obligations began in December 2008 and purchases of agency securities began in January 2009. Both purchase programs were concluded in the first quarter of 2010. One of the effects of these programs has been to increase competition for available direct obligations and agency securities, with the result being an increase in pricing of such securities. The Federal Reserve may hold the direct obligations and agency mortgage securities to maturity or may sell them on the open market. Sales by the Federal Reserve of the direct obligations or agency mortgage securities that it currently holds may reduce the market price of such securities. Reductions in the market price of agency mortgage securities may negatively impact our book value.

In December 2009, the U.S. Treasury extended the duration and increased the size of its credit support commitment to Fannie Mae and Freddie Mac under the HERA. However, the U.S. Treasury could stop providing credit support to Fannie Mae and Freddie Mac in the future. The problems faced by Fannie Mae and Freddie Mac resulting in their being placed into conservatorship have stirred debate among some federal policy makers regarding the continued role of the federal government in providing liquidity for mortgage loans. Following expiration of the current authorization, each of Fannie Mae and Freddie Mac could be dissolved and the federal government could stop providing liquidity support of any kind to the mortgage market. If Fannie Mae or Freddie Mac were eliminated, or their structures were to change radically, we would not be able to acquire agency securities from these companies, which would eliminate the major component of our business model.

In April 2010, Freddie Mac and Fannie Mae announced tighter underwriting guidelines for ARMs and hybrid interest-only ARMs in particular. Specifically, Freddie Mac announced that it would no longer purchase interest-only mortgages and Fannie Mae changed its eligibility criteria for purchasing and securitizing ARMs to protect consumers from potentially dramatic payment increases. Although our portfolio includes fixed-rate agency securities, we also purchase adjustable-rate agency securities and tighter underwriting standards could reduce the supply of ARMs, resulting in a reduction in the attractiveness of the asset class.

The Federal Reserve also recently announced in November 2010 that it plans to initiate another purchase program for an additional $600 billion of longer-term US Treasury securities by mid-2011 as part of its continuing effort to help stimulate the economy by reducing mortgage and interest rates. Such action could negatively affect our income or our net book value by impacting interest rate levels and the spread between mortgage rates and other interest rates. Thus, these actions could reduce the yields on assets that we are targeting for purchase thereby reducing our net interest spreads. Alternatively, the Federal Reserve’s actions may not have the intended impact and could create inflation and higher interest rates. This could negatively impact our net book value or our funding cost.

As indicated above, recent legislation has changed the relationship between Fannie Mae and Freddie Mac and the federal government and requires Fannie Mae and Freddie Mac to reduce the amount of mortgage loans they own or for which they provide guarantees on agency securities. Future legislation could further change the relationship between Fannie Mae and Freddie Mac and the federal government, and could also nationalize or eliminate such entities entirely. Any law affecting these GSEs may create market uncertainty and have the effect of reducing the actual or perceived credit quality of securities issued or guaranteed by Fannie Mae or Freddie Mac. As a result, such laws could increase the risk of loss on investments in Fannie Mae and/or Freddie Mac agency security. It also is possible that such laws could adversely impact the market for such securities and spreads at which they trade. All of the foregoing could materially adversely affect our business, operations and financial condition.

There can be no assurance that the actions of the U.S. Treasury, the Federal Reserve and other governmental and regulatory bodies for the purpose of stabilizing the financial markets, or market response to those actions, will achieve the intended effect, our business may not benefit from these actions and further government or market developments could adversely impact us. Further, when the U.S. Government withdraws its support under these programs, the market may lose liquidity, adversely impacting us.

In response to the financial issues affecting the banking system and financial markets and going concern threats to investment banks and other financial institutions, the U.S. Government implemented a number of initiatives intended to bolster the banking system, the financial and housing markets and the economy as a whole. These initiatives include: (i) the Emergency Economic Stabilization Act of 2008, or the EESA, which established the Troubled Asset Relief Program, (ii) the voluntary Capital Purchase Program which was implemented under authority provided in the EESA and gives the U.S. Treasury the authority to purchase up to $250 billion of senior preferred shares in qualifying U.S. controlled banks, saving associations, and certain bank and savings and loan holding companies engaged only in financial activities, (iii) a program to purchase $200 billion in direction obligations issued by Fannie Mae, Freddie Mac and the Federal Home Loan Banks and $1.25 trillion in agency securities backed by Fannie Mae, Freddie Mac and Ginnie Mae, which was concluded during the first quarter of 2010, (iv) a program to purchase up to $300 billion of U.S. Treasury securities, (v) the creation of the PPIP for private investors to purchase mortgage-related assets from financial institutions and (vi) the TALF which is intended to increase securitization activity for various consumer and commercial loans and other financial assets, including student loans, automobile loans and leases, credit card receivables, SBA small business loans and commercial mortgage-backed securities. There can be no assurance these programs and proposals will have a beneficial impact on the financial and housing markets or the banking system. To the extent the market does not respond favorably to these programs and proposals or the initiatives do not function as intended, our business may not receive the anticipated positive impact therefrom.

Changes in prepayment rates may adversely affect our profitability.

The agency securities in our investment portfolio are backed by pools of mortgage loans. We receive payments, generally, from the payments that are made on these underlying mortgage loans. When borrowers prepay their mortgage loans at rates that are faster or slower than expected, this results in prepayments that are faster or slower than expected on the related agency securities. These faster or slower than expected payments may adversely affect our profitability.

We may purchase agency securities that have a higher interest rate than the then prevailing market interest rate. In exchange for this higher interest rate, we may pay a premium to par value to acquire the security. In accordance with GAAP, we amortize this premium over the expected term of the agency security based on our prepayment assumptions. If the agency security is prepaid in whole or in part at a faster than expected rate, however, we must expense all or a part of the remaining unamortized portion of the premium that was paid at the time of the purchase, which will adversely affect our profitability.

We also may purchase agency securities that have a lower interest rate than the then prevailing market interest rate. In exchange for this lower interest rate, we may pay a discount to par value to acquire the security. We accrete this discount over the expected term of the agency security based on our prepayment assumptions. If the agency security is prepaid at a slower than expected rate, however, we must accrete the remaining portion of the discount at a slower than expected rate. This will extend the expected life of the portfolio and result in a lower than expected yield on securities purchased at a discount to par.

Prepayment rates generally increase when interest rates fall and decrease when interest rates rise, but changes in prepayment rates are difficult to predict. Prepayments can also occur when borrowers sell the property and use the sale proceeds to prepay the mortgage as part of a physical relocation or when borrowers default on their mortgages and the mortgages are prepaid from the proceeds of a foreclosure sale of the property. Fannie Mae and Freddie Mac will generally, among other conditions, purchase mortgages that are 120 days or more delinquent from MBS trusts when the cost of guarantee payments to security holders, including advances of interest at the security coupon rate, exceeds the cost of holding the nonperforming loans in their portfolios. Consequently, prepayment rates also may be affected by conditions in the housing and financial markets, which may result in increased delinquencies on mortgage loans, the GSEs' cost of capital, general economic conditions and the relative interest rates on FRM and ARM loans, which could lead to an acceleration of the payment of the related principal. Additionally, changes in the GSE's decisions as to when to repurchase delinquent loans can materially impact prepayment rates.

In addition, the introduction of government programs, such as the U.S. Treasury's HASP program, are expected to increase the availability of mortgage credit to a large number of homeowners in the U.S., which we expect will impact the prepayment rates for the entire mortgage securities market, but primarily for Fannie Mae and Freddie Mac agency securities. While increased prepayment rates negatively impact our interest income for agency securities purchased at a premium, we believe we have sourced agency securities with collateral attributes that improve the prepayment profile of our investment portfolio. However, these are new programs and there could be additional programs or changes to existing programs made in the future, such that there is substantial uncertainty around the magnitude of prepayment speed increases and our asset selection process may not provide the desired benefits. While we will seek to manage prepayment risk, in selecting investments we must balance prepayment risk against other risks, the potential returns of each investment and the cost of hedging our risks. No strategy can completely insulate us from prepayment or other such risks, and we may deliberately retain exposure to prepayment or other risks.

Risks Related to Conflicts of Interest in Our Relationship with Our Manager and American Capital

Our Manager's management fee is based on the amount of our Equity and is payable regardless of our performance.

Our Manager is entitled to receive a management fee from us that is based on the amount of our Equity (as defined in our management agreement), regardless of the performance of our investment portfolio. For example, we would pay our Manager a management fee for a specific period even if we experienced a net loss during the same period. The amount of the management fee is equal to one-twelfth of 1.25% of our Equity and therefore is only increased by raising new Equity, which could result in a conflict of interest between our manager and our shareholders with respect to the timing and terms of our equity offerings. Our Manager's entitlement to substantial nonperformance-based compensation may reduce its incentive to devote sufficient time and effort to seeking investments that provide attractive risk-adjusted returns for our investment portfolio. This in turn could harm our ability to make distributions to our stockholders and the market price of our common stock.

Risks Related to Our Common Stock

Changes in laws or regulations governing our operations or our failure to comply with those laws or regulations may adversely affect our business.

We are subject to regulation by laws at the local, state and federal level, including securities and tax laws and financial accounting and reporting standards. These laws and regulations, as well as their interpretation, may be changed from time to time. Accordingly, any change in these laws or regulations or the failure to comply with these laws or regulations could have a material adverse impact on our business. Certain of these laws and regulations pertain specifically to REITs.

The market price of our common stock may fluctuate significantly.

The market price and marketability of shares of our securities may from time to time be significantly affected by numerous factors, including many over which we have no control and that may not be directly related to us. These factors include the following:

- price and volume fluctuations in the stock market from time to time, which are often unrelated to the operating performance of particular companies;
- significant volatility in the market price and trading volume of securities of REITs or other companies in our sector, which is not necessarily related to the operating performance of these companies;
- changes in regulatory policies, tax guidelines and financial accounting and reporting standards, particularly with respect to REITs;
- changes in our dividend policy and earnings or variations in operating results;
- any shortfall in revenue or net income or any increase in losses from levels expected by securities analysts;
- decreases in our net asset value per share;
- general economic trends and other external factors; and
- loss of major repurchase agreement providers.

Fluctuations in the trading price of our common stock may adversely affect the liquidity of the trading market for our common stock and, in the event that we seek to raise capital through future equity financings, our ability to raise such equity capital.

Item 2. *Unregistered Sales of Equity Securities and Use of Proceeds*

None.

Item 3. *Defaults Upon Senior Securities*

None.

Item 4. *Removed and Reserved*

Item 5. *Other Information*

None.

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Item 6. *Exhibits*

(a) **Exhibits:**

10.1	Underwriting Agreement, dated September 28, 2010, among American Capital Agency Corp., American Capital Agency Management, LLC, Merrill Lynch, Pierce, Fenner and Smith Incorporated, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC, as representatives of the several underwriters listed on Schedule A attached thereto.
31.1	Certification pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002.
31.2	Certification pursuant to Section 302(a) of the Sarbanes-Oxley Act of 2002.
32	Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AMERICAN CAPITAL AGENCY CORP.

Date: November 8, 2010

By: /s/ MALON WILKUS

Malon Wilkus
Chairman of the Board of Directors,
President and Chief Executive Officer

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INDEX TO EXHIBITS

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Exhibit 10.1

EXECUTION COPY

UNDERWRITING AGREEMENT

AMERICAN CAPITAL AGENCY CORP.

(a Delaware corporation)

11,500,000 Shares of Common Stock

Dated: September 28, 2010

AMERICAN CAPITAL AGENCY CORP.

(a Delaware corporation)

11,500,000 Shares of Common Stock

(Par Value $0.01 Per Share)

UNDERWRITING AGREEMENT

September 28, 2010

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Citigroup Global Markets Inc.
Deutsche Bank Securities Inc.
UBS Securities LLC

c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, NY 10013

As Representatives of the several Underwriters

Ladies and Gentlemen:

American Capital Agency Corp., a Delaware corporation (the "Company") and American Capital Agency Management, LLC, a Delaware limited liability company and manager of the Company (the "Manager"), confirm their agreement with each of the Underwriters named in Schedule I hereto (collectively, the "Underwriters," which term shall also include any underwriter hereinafter substituted as provided in Section 10 hereof), for whom Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC are acting as representatives (in such capacity, the "Representatives"), with respect to (i) the sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of 11,500,000 shares of common stock, par value $0.01 per share, of the Company ("Common Stock") and (ii) the grant by the Company to the Underwriters, acting severally and not jointly, of the option described in Section 2(b) hereof to purchase all or any part of 1,725,000 additional shares of Common Stock to cover over allotments, if any. The aforesaid 11,500,000 shares of Common Stock (the "Initial Securities") to be purchased by the Underwriters and all or any part of the 1,725,000 shares of Common Stock subject to the option described in Section 2(b) hereof (the "Option Securities") are hereinafter called, collectively, the "Securities."

The Company and the Manager understand that the Underwriters propose to make a public offering of the Securities as soon as the Representatives deem advisable after this Agreement has been executed and delivered.

Section 1. Representations and Warranties.

(a) Representations and Warranties by the Company. The Company represents and warrants to each Underwriter as of the date hereof, as of the Applicable Time referred to in Section 1(a)(iii) hereof, as of the Closing Time referred to in Section 2(c) hereof, and as of each Date of Delivery (if any) referred to in Section 2(b) hereof, and agrees with each Underwriter, as follows:

(i) Compliance with Registration Requirements. The Company has filed with the Securities and Exchange Commission (the "Commission") a shelf registration statement on Form S-3 (File No. 333-159650) under the Securities Act of 1933, as amended (the "1933 Act"), in respect of the Common Stock (including the Securities) on June 1, 2009, as amended by Pre-Effective Amendment No. 1 thereto filed with the Commission on June 29, 2009, Pre-Effective Amendment No. 2 thereto filed with the Commission on July 8, 2009 and Pre-Effective Amendment No. 3 thereto filed with the Commission on July 9, 2009, which contains a base prospectus, to be used in connection with the public offering and sale of the Securities; the Company satisfies all eligibility requirements for use of Form S-3 as contemplated by such registration statement and this Agreement; such registration statement became effective under the 1933 Act on July 13, 2009; the Company has complied to the Commission's satisfaction with all requests of the Commission for additional or supplemental information with respect to such registration statement or otherwise; no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose has been initiated or, to the knowledge of the Company, threatened by the Commission, and no notice of objection of the Commission to the use of such form of registration statement or any post-effective amendment thereto has been received by the Company (the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the "Basic Prospectus"); the various parts of such registration statement, including all exhibits thereto and any prospectus supplement or prospectus relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B under the 1933 Act to be part of such registration statement (any such information that was omitted from such registration statement at the time it became effective but that was deemed to be a part and included in such registration statement pursuant to Rule 430B under the 1933 Act is referred to as "430B Information"), each as amended at each time such part of the registration statement became effective, are hereinafter collectively called the "Registration Statement"; any registration statement filed by the Company pursuant to Rule 462(b) under the Securities Act is referred to as the "Rule 462 Registration Statement" and, from and after the date and time of filing of the Rule 462(b) Registration Statement, the term "Registration Statement" shall include the Rule 462(b) Registration Statement; each preliminary prospectus used in connection with the offering of the Securities that omitted Rule 430B Information, including the related Basic Prospectus in the form first filed by the Company pursuant to Rule 424(b) under the 1933 Act is herein called, a "Preliminary Prospectus"; the final prospectus supplement specifically relating to the Securities prepared and filed with the Commission pursuant to Rule 424(b) under the 1933 Act is hereinafter called the "Prospectus Supplement"; the Basic Prospectus, as amended and supplemented by the Prospectus Supplement, is hereinafter called the "Prospectus"; any reference herein to the Basic Prospectus, each Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act; provided, however, that no representation or warranty included in any exhibit to any such incorporated document, other than the representations and warranties contained herein, is deemed to be made to you; any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement or base prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the 1933 Act and any documents filed under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and incorporated therein, in each case after the date of the Basic Prospectus, each Preliminary Prospectus or the Prospectus, as the case may be; any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the 1934 Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement.

(ii) No order preventing or suspending the use of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and the Registration Statement, the Basic Prospectus, each Preliminary Prospectus and the Prospectus, at the time of filing thereof and at the time it became effective, as applicable, conformed in all material respects to the requirements of the 1933 Act and the rules and regulations of the Commission thereunder (the "1933 Act Regulations") and did not and will not as of the Closing Time and each Date of Delivery (if any) contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(iii) For the purposes of this Agreement, the "Applicable Time" means 9:20 a.m. (New York City time) on September 28, 2010; the applicable Issuer General Use Free Writing Prospectus(es) issued at or prior to the Applicable Time and each Preliminary Prospectus issued at or prior to the Applicable Time, as most recently amended or supplemented immediately prior to the Applicable Time, taken together (collectively, and, with respect to any Securities, together with the information included on Schedule II hereto, all considered together, the "General Disclosure Package") as of the Applicable Time, the Closing Time and each Date of Delivery (if any), does not and will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each such Issuer Limited Use Free Writing Prospectus, as supplemented by and taken together with the General Disclosure Package as of such Applicable Time, the Closing Time and each Date of Delivery (if any), will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As used in this subsection and elsewhere in this Agreement:

"Issuer Free Writing Prospectus" means any "issuer free writing prospectus," as defined in Rule 433 of the 1933 Act Regulations ("Rule 433"), relating to the Securities that (i) is required to be filed with the Commission by the Company, (ii) is a "road show that is a written communication" within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) because it contains a description of the Securities or of the offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"Issuer General Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors, as evidenced by its being specified in Schedule III hereto.

"Issuer Limited Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

(iv) Issuer Free Writing Prospectus. Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Securities or until any earlier date that the issuer notified or notifies the Representatives as described in Section 3(e), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, any Preliminary Prospectus, the Prospectus Supplement, the Prospectus, or other prospectus deemed to be a party thereof (including any document incorporated by reference therein) that has not been superseded or modified.

(v) Incorporation of Documents by Reference. The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, at the time they were or hereinafter filed with the Commission, as the case may be, complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission thereunder (the "1934 Act Regulations").

(vi) Ineligible Issuer. As of the date of this Agreement (with such date being used as the determination date for purposes of this clause), the Company is not an ineligible issuer (as defined in Rule 405 under the 1933 Act), without taking account of any determination by the Commission pursuant to Rule 405 under the 1933 Act that it is not necessary that the Company be considered an ineligible issuer (as defined in Rule 405 under the 1933 Act).

(vii) Independent Accountants. Ernst & Young LLP, who certified the financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, is an independent public accounting firm as required by the 1933 Act and the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations, and the Public Company Accounting Oversight Board (United States).

(viii) Financial Statements. The financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, together with the related notes, present fairly the financial position of the Company and its consolidated subsidiaries at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved. The selected financial data incorporated by reference in the General Disclosure Package and the Prospectus present fairly the information shown therein and was compiled on a basis consistent with that of the audited financial statements included or incorporated by reference in the Registration Statement. Any disclosures contained in the Registration Statement, the General Disclosure Package or the Prospectus, or incorporated by reference therein, regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G under the 1934 Act and Item 10 of Regulation S-K under the 1933 Act, to the extent applicable.

(ix) No Material Adverse Change in Business. Since the respective dates as of which information is given in the General Disclosure Package or the Prospectus (in each case exclusive of any amendments or supplements thereto subsequent to their respective dates), except as otherwise stated therein, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings and business affairs or business prospects of the Company together with its consolidated subsidiaries, all of which are listed on Schedule IV attached hereto (each, a "Subsidiary," and collectively, the "Subsidiaries"), considered as one enterprise, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company or any of its Subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company and its Subsidiaries considered as one enterprise, (C) there has been no obligation, contingent or otherwise, directly or indirectly incurred by the Company or any of its Subsidiaries considered as one enterprise that could reasonably be likely to have a Material Adverse Effect and (D) except for regular quarterly dividends on the Common Stock in amounts per share that are consistent with past practice, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(x) Good Standing of the Company. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware and has the corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure, individually or in the aggregate, so to qualify or to be in good standing would not result in a Material Adverse Effect.

(xi) Good Standing of Subsidiaries. Each Subsidiary is duly incorporated or organized and is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with requisite power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus, and to consummate the transactions contemplated hereby. Each Subsidiary is duly qualified as a foreign corporation, limited liability company, partnership or trust to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect; except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, all of the issued and outstanding equity interests in each Subsidiary have been duly authorized and validly issued, are fully paid and non-assessable and are owned by the Company, directly or indirectly, free and clear of any security interests, mortgages, pledges, liens, encumbrances, claims or equitable interests; none of the outstanding equity interests in any Subsidiary was issued in violation of, or subject to, any preemptive right, co-sale right, registration right, right of first refusal or other similar rights of equity holders or any other person arising by operation of law, under the organizational documents of each Subsidiary, under any agreement to which any Subsidiary is a party or otherwise. The Company does not own or control, directly or indirectly, any equity interest in any corporation, joint venture, limited liability company, association or other entity other than the Subsidiaries. The Company does not, and did not as of June 30, 2010, have any "significant subsidiaries" (as defined in Rule 1-02(w) of Regulation S-X).

(xii) Capitalization. As of the date hereof, (A) 150,000,000 shares of Common Stock were authorized for issuance, of which 38,966,805 shares were issued and outstanding and (B) 10,000,000 shares of preferred stock, par value $0.01 per share of the Company were authorized for issuance, none of which were issued or outstanding. The issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable; none of the outstanding shares of capital stock was issued in violation of the preemptive or other similar rights of any securityholder of the Company. Upon completion of the issuance and sale of the Securities pursuant to this Agreement, the capitalization of the Company will be as set forth in the Prospectus in the column entitled "As Adjusted for This Offering" under the caption "Capitalization." Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there are no outstanding (A) securities or obligations of the Company or any of the Subsidiaries convertible into or exchangeable for any equity interests of the Company or any such Subsidiary, (B) warrants, rights or options to subscribe for or purchase from the Company or any such Subsidiary any such equity interests or any such convertible or exchangeable securities or obligations or (C) obligations of the Company or any such Subsidiary to issue any equity interests, any such convertible or exchangeable securities or obligation, or any such warrants, rights or options. The Company's Common Stock has been registered pursuant to Section 12(b) of the 1934 Act and is authorized for trading on the Nasdaq Global Select Market ("Nasdaq"), and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Common Stock from Nasdaq, nor has the Company received any notification that the Commission or Nasdaq is contemplating terminating such registration or listing. The Company is in compliance with the current listing standards of Nasdaq.

(xiii) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company. This Agreement conforms in all material respects to the description thereof in the Registration Statement, the General Disclosure Package and the Prospectus.

(xiv) Description of Securities. The Securities conform to all statements relating thereto contained in the Registration Statement, the General Disclosure Package and the Prospectus and such descriptions conform to the rights set forth in the instruments defining the same; no holder of the Securities will be subject to personal liability by reason of being such a holder.

(xv) Absence of Defaults and Conflicts. The Company is not in violation of its Amended and Restated Certificate of Incorporation ("Charter") or its Amended and Restated Bylaws ("Bylaws"). No Subsidiary is in violation of its organizational documents (including, without limitation, partnership and limited liability company agreements). Neither the Company nor any of its Subsidiaries is in default in the performance or observance (nor has any event occurred which with notice, lapse of time or both would constitute a default in the observance or performance) of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any Subsidiary is a party or by which the Company or any Subsidiary may be bound, or to which any of the property or assets of the Company or any Subsidiary is subject (collectively, "Agreements and Instruments"), except for such defaults that would not result in a Material Adverse Effect; and the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated herein (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Registration Statement, the General Disclosure Package and the Prospectus under the caption "Use of Proceeds") and compliance by the Company with its obligations hereunder and thereunder have been duly authorized by all necessary corporate action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any Subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the Charter or Bylaws of the Company or the organizational documents of any Subsidiary (including, without limitation, partnership and limited liability company operating agreements), any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any Subsidiary or any of their assets, properties or operations. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any Subsidiary.

(xvi) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company (without further inquiry), threatened, against or affecting the Company or any Subsidiary, which is required to be disclosed in the Registration Statement, the General Disclosure Package or the Prospectus (other than as disclosed therein), or which would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the properties or assets thereof or the consummation of the transactions contemplated in this Agreement or the performance by the Company of its obligations hereunder; the aggregate of all pending legal or governmental proceedings to which the Company or any Subsidiary is a party or of which any of their respective property or assets is the subject which are not described in the Registration Statement, including ordinary routine litigation incidental to the business, would not, individually or in the aggregate, result in a Material Adverse Effect.

(xvii) Accuracy of Exhibits. There are no contracts or documents that are required to be described in the Registration Statement, the General Disclosure Package or the Prospectus or the documents incorporated by reference therein or to be filed as exhibits thereto which have not been described in all material respects and filed as required by Item 601(b) of Regulation S-K under the 1933 Act. The copies of all contracts, agreements, instruments and other documents (including governmental licenses, authorizations, permits, consents and approvals and all amendments or waivers relating to any of the foregoing) that have been furnished to the Underwriter or its counsel are complete and genuine and include all material collateral and supplemental agreements thereto.

(xviii) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is required in connection with the offering, issuance or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement, except such as have been already obtained or as may be required under the 1933 Act or the 1933 Act Regulations or state securities laws or the rules of the Financial Industry Regulatory Authority, Inc. (the "FINRA").

(xix) Absence of Manipulation. Other than permitted activity pursuant to Regulation M under the 1934 Act, neither the Company nor any of its affiliates, as such term is defined in Rule 501(b) under the 1933 Act (each, an "Affiliate"), has taken, nor will the Company or any of its Affiliates take, directly or indirectly, any action that is designed to, has constituted or would be expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(xx) Possession of Licenses and Permits. The Company and its Subsidiaries possess such permits, licenses, approvals, consents and other authorizations issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them as described in the Registration Statement, the General Disclosure Package and the Prospectus (collectively, the "Intangibles"), except where the failure so to possess is not reasonably likely to, individually or in the aggregate, result in a Material Adverse Effect; the Company and its Subsidiaries are in compliance with the terms and conditions of all such Intangibles, except where the failure so to comply would not, individually or in the aggregate, result in a Material Adverse

Effect; all of the Intangibles are valid and in full force and effect, except when the invalidity of such Intangibles or the failure of such Intangibles to be in full force and effect is not reasonably likely to, individually or in the aggregate, result in a Material Adverse Effect; the Company and its Subsidiaries have not received any notice of proceedings relating to the revocation or modification of any such Intangibles which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would be reasonably likely to result in a Material Adverse Effect; the Company and its Subsidiaries have not violated or received written notice of any infringement of or conflict with (and the Company does not know of any such infringement of or conflict with) asserted rights of others with respect to any such Intangibles, except where the infringement of or conflict with is not reasonably likely to, individually or in the aggregate, result in a Material Adverse Effect.

(xxi) Personal Property. Neither the Company nor any Subsidiary owns any real property or holds any real property lease. The Company and its Subsidiaries have good title to all personal property, if any, owned by them, in each case, free and clear of all liens, security interests, pledges, charges, encumbrances, mortgages and defects, except as are disclosed in the Registration Statement, the General Disclosure Package and the Prospectus or as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(xxii) Investment Company Act. The Company is not required to register as an "investment company" under the Investment Company Act of 1940, as amended (the "1940 Act").

(xxiii) Registration Rights. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus or which have been waived, there are no persons with registration or other similar rights to have any equity or debt securities, including securities that are convertible into or exchangeable for equity securities, registered pursuant to the Registration Statement or otherwise registered by the Company under the 1933 Act; no person has a right of participation, first refusal or similar right with respect to the sale of the Securities by the Company.

(xxiv) Accounting Controls and Disclosure Controls. The Company and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) receipts and expenditures are being made only in accordance with management's general or specific authorization; (D) access to assets is permitted only in accordance with management's general or specific authorization; and (E) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (A) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (B) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company and its

Subsidiaries, considered as one enterprise, have established and currently maintain disclosure controls and procedures that comply with Rule 13a-15 under the 1934 Act and the Company has determined that such disclosure controls and procedures are effective in compliance with Rule 13a-15 under the Exchange Act.

(xxv) No Commissions. Neither the Company nor any of its Subsidiaries is a party to any contract, agreement or understanding with any person (other than as contemplated by this Agreement) that would give rise to a valid claim against the Company or any of its Subsidiaries or the Underwriter for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Securities by the Underwriter under this Agreement.

(xxvi) Actively-Traded Security. The Common Stock is an "actively-traded security" exempted from the requirements of Rule 101 of Regulation M under the 1934 Act by subsection (c)(1) of such rule.

(xxvii) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any applicable provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxviii) Payment of Taxes. All tax returns of the Company and its Subsidiaries required by law to be filed have been filed and all taxes shown by such returns or otherwise assessed, which are due and payable, have been paid, except assessments against which appeals have been or will be promptly taken and as to which adequate reserves have been provided. The charges, accruals and reserves on the books of the Company in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not result in a Material Adverse Effect.

(xxix) Absence of Transfer Taxes. There are no transfer taxes or other similar fees or charges under federal law or the laws of any state, or any political subdivision thereof, required to be paid in connection with the execution and delivery of this Agreement or the sale by the Company of the Securities under this Agreement.

(xxx) Insurance. The Company and its Subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as is generally maintained by companies of established repute engaged in the same or similar business, and all such insurance is in full force and effect. The Company has no reason to believe that it or any Subsidiary will not be able (A) to renew its existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. Neither the Company nor any Subsidiary has been denied any material insurance coverage which it has sought or for which it has applied.

(xxxi) Statistical and Market-Related Data. The statistical and market-related data included in the Registration Statement, the General Disclosure Package and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate as of the respective dates of such documents, and the Company has obtained the written consent to the use of such data from such sources to the extent required.

(xxxii) Foreign Corrupt Practices Act. None of the Company, any Subsidiary or, to the knowledge of the Company, any director, officer, agent, employee, Affiliate or other person acting on behalf of the Company or any of its Subsidiaries, is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA. The Company and the Subsidiaries have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxiii) Money Laundering Laws. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(xxxiv) OFAC. None of the Company, any Subsidiary or, to the knowledge of the Company, any director, officer, agent, employee, Affiliate or person acting on behalf of the Company or any of its Subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(xxxv) Related Party Transactions. No relationship, direct or indirect, exists between or among the Company or any of its Subsidiaries on the one hand, and the directors, officers, trustees, managers, stockholders, partners, customers or suppliers of the Company or any of the Subsidiaries on the other hand, which would be required by the 1933 Act or by the 1933 Regulations to be described in the Registration Statement, the General Disclosure Package and the Prospectus, which is not so described.

(xxxvi) Noncompetition; Nondisclosure. Neither the Company nor any officer of the Company is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar arrangement that would be violated by the present or proposed business activities of the Company as described in the Registration Statement, the General Disclosure Package and the Prospectus.

(xxxvii) Pending Proceedings and Examinations. The Registration Statement is not the subject of a pending proceeding or examination under Section 8(d) or 8(e) of the 1933 Act, and the Company is not the subject of a pending proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities.

(xxxviii) REIT Status. Commencing with its initial taxable year ended December 31, 2008, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively, the "Code"), and the Company's current and proposed method of operations as described in the Registration Statement, the General Disclosure Package and the Prospectus will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code for its taxable year ending December 31, 2010 and thereafter. No transaction or other event has occurred that could cause the Company to not be able to qualify as a REIT for its taxable year ending December 31, 2010 or future taxable years. Except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company and each of its Subsidiaries have no intention of changing their operations or engaging in activities that would cause the Company to fail to qualify, or make economically undesirable the Company's continued qualification, as a REIT under the Code.

(xxxix) Tax Opinion. With respect to each legal opinion as to Federal income tax matters provided to the Underwriters pursuant to Section 5(b) hereof, the Company's representatives have discussed with its counsel, Skadden, Arps, Slate, Meagher & Flom LLP, the officer's certificate supporting each such opinion, and where representations in such officer's certificate involve terms defined in the Code, the Treasury regulations thereunder, published rulings of the Internal Revenue Service or other relevant authority, the Company's representatives are satisfied after their discussions with their counsel in their understanding of such terms and are capable of making such representations.

(xl) Description of Organization and Method of Operations. The description of the Company's organization and current and proposed method of operations and its qualification and taxation as a REIT set forth in the Registration Statement, the General Disclosure Package and the Prospectus is accurate in all material respects and presents fairly the matters referred to therein. The Company's conflicts of interest, operating policies, investment guidelines and operating restrictions described or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus accurately reflect in all material respects the guidelines and policies of the Company with respect to the operation of its business, and no material deviation from such guidelines or policies is currently contemplated.

(xli) Director Independence. Each of the independent directors (or independent director nominees, once appointed, if applicable) named in the Registration

Statement, the General Disclosure Package and Prospectus satisfies the independence standards established by Nasdaq and, with respect to members of the Company's audit committee, the enhanced independence standards contained in Rule 10A-3(b)(1) promulgated by the Commission under the 1934 Act.

(xlii) Broker/Dealer Status. The Company is not required to register as a "broker" or "dealer" in accordance with the provisions of the rules and the 1934 Act Regulations and does not, directly or indirectly through one or more intermediaries, control or have any other association with (within the meaning of Article I of the By-laws of the FINRA) any member firm of the FINRA. No relationship, direct or indirect, exists between or among the Company, on the one hand, and the directors, officers or stockholders of the Company, on the other hand, which is required by the rules of the FINRA to be described in the Registration Statement, the General Disclosure Package and the Prospectus, which is not so described.

(xliii) Dividends/Distributions. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, no Subsidiary is currently prohibited, directly or indirectly, from paying any dividends or distributions to the Company to the extent permitted by applicable law, from making any other distribution on such Subsidiary's issued and outstanding capital stock or other equity interests, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of the property or assets of such Subsidiary to the Company.

(b) Representations and Warranties by the Manager. The Manager represents and warrants to each Underwriter as of the date hereof as of the Applicable Time, as of the Closing Time, and, as of each such Date of Delivery (if any) and agrees with each Underwriter, as follows:

(i) Good Standing of the Manager. The Manager has been duly formed and is validly existing as a limited liability company in good standing under the laws of the State of Delaware and has power and authority to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement; and the Manager is duly qualified as a foreign limited liability company to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(ii) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Manager and constitutes a valid and binding agreement of the Manager enforceable in accordance with its terms, except in each case as may be limited by (A) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or thereafter in effect relating to creditors' rights generally and (B) general equitable principles and the discretion of the court before which any proceeding therefor may be brought.

(iii) Absence of Defaults and Conflicts. The Manager is not in violation of its organizational documents or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Manager is a party or by which it may be bound, or to which any of the property or assets of the Manager is subject (collectively, the "Manager Agreements and Instruments"), or in violation of any law, statute, rule, regulation, judgment, order or decree, except for such violations or except for such defaults that would not result in a material adverse effect on the condition, financial or otherwise, or in the business affairs, business prospects or regulatory status of the Manager, whether or not arising in the ordinary course of business, or that would otherwise prevent the Manager from carrying out its obligations under this Agreement (a "Manager Material Adverse Effect"). The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and in the Registration Statement, the General Disclosure Package and the Prospectus and compliance by the Manager with its obligations under this Agreement do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Manager pursuant to the Manager Agreements and Instruments, nor will such action result in any violation of the provisions of the limited liability company operating agreement or other organizational documents of the Manager or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Manager or any of its assets, properties or operations, except as would not result in a Manager Material Adverse Effect.

(iv) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Manager, threatened, against or affecting the Manager, except for such matters that could not, individually or in the aggregate, result in a Manager Material Adverse Effect.

(v) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is required in connection with the offering or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement, except such as have been already obtained or as may be required under the 1933 Act or the 1933 Act Regulations or state securities laws or the rules of the FINRA.

(vi) Financial Resources. The Manager has the financial and other resources available to it necessary for the performance of its services and obligations as contemplated in the Registration Statement, the General Disclosure Package and the Prospectus and under this Agreement and the Management Agreement between the Company and the Manager, dated May 20, 2008 (the "Management Agreement").

(vii) Possession of Licenses and Permits. The Manager possesses such Intangibles issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus, except where the failure so to possess would not, individually or in the aggregate, result in a Manager Material Adverse Effect; the Manager is in compliance with the terms and conditions of all such Intangibles, except where the failure so to comply would not, individually or in the aggregate, result in a Manager Material Adverse Effect; all of the Intangibles are valid and in full force and effect, except when the invalidity of such Intangibles or the failure of such Intangibles to be in full force and effect would not have a Manager Material Adverse Effect; and the Manager has not received any notice of proceedings relating to the revocation or modification of any such Intangibles which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Manager Material Adverse Effect.

(viii) Employment; Noncompetition; Nondisclosure. Except for any transfer of employees of ACAS to the Manager or as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Manager has not been notified that any executive officer of the Company or the Manager plans to terminate his or her employment with the Manager or ACAS, as applicable.

(ix) Investment Advisers Act. The Manager is not prohibited by the Investment Advisers Act of 1940, as amended (the "Advisers Act"), or the rules and regulations thereunder, from performing its obligations under the Management Agreement as described in the Registration Statement, the General Disclosure Package and the Prospectus; and the Manager is not registered and is not required to register as an investment adviser under the Advisers Act.

Section 2. Sale and Delivery to Underwriters; Closing.

(a) Initial Securities. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company, at a price of $24.83 per share of Common Stock, the number of Initial Securities set forth in Schedule I opposite the name of such Underwriter, plus any additional number of Initial Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof, subject, in each case, to such adjustments among the Underwriters as the Representatives in their sole discretion shall make to eliminate any sales or purchases of fractional securities.

(b) Option Securities. In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an option to the Underwriters, severally and not jointly, to purchase up to an additional 1,725,000 shares of Common Stock, at the price per share set forth in paragraph (a) above. The option hereby granted will expire 30 days after the date hereof and may be exercised in whole or in part at any time on or before the 30th day after the date hereof only for the purpose of covering overallotments, which may be made in connection with the offering and distribution of the Initial Securities upon notice by the Representatives to the Company setting forth the number of Option Securities as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Representatives, but shall not be later than seven full business days after the exercise of said option. If the option is exercised as to all or any portion of the Option Securities, each of the Underwriters, acting severally and not jointly, will purchase that proportion of the total number of Option Securities then being purchased which the number of Initial Securities set forth in Schedule I opposite the name of such Underwriter bears to the total number of Initial Securities, subject in each case to such adjustments as the Representatives in their sole discretion shall make to eliminate any sales or purchases of fractional shares.

(c) Payment. The Securities shall be delivered by the Company to the Representatives, including, at the option of the Representatives, through the facilities of DTC for the account of the Representatives, against payment by the Representatives of the purchase price therefor by wire transfer of immediately available funds to a bank account designated by the Company. The time and date of such delivery and payment shall be 10:00 a.m. (New York City time) on the third (fourth, if the pricing occurs after 4:30 p.m. (New York City time) on any given day) business day after the date hereof, or such other time not later than ten business days after such date as shall be agreed upon by the Representatives and the Company (such time and date of payment and delivery being herein called "Closing Time").

In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representatives and the Company, on each Date of Delivery as specified in the notice from the Representatives to the Company.

Section 3. Covenants of the Company and the Manager. The Company and the Manager covenant with each Underwriter as follows:

(a) Compliance with Securities Regulations and Commission Requests. The Company, subject to Section 3(b) hereof, will comply with the requirements of Rule 430B and will notify the Representatives promptly, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall have been declared effective, or any supplement to the Prospectus or any amended Prospectus shall have been filed, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, or of any order preventing or suspending the use of any Preliminary Prospectus, or of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities. The Company will effect the filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)). The Company will make every reasonable effort to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof at the earliest possible moment.

(b) Filing of Amendments and Exchange Act Documents. The Company will give the Representatives notice of its intention to file or prepare any amendment to the Registration Statement (including any filing under Rule 462(b)) or any amendment, supplement or revision to any Preliminary Prospectus or to the Prospectus, whether pursuant to the 1933 Act, the 1934 Act or otherwise, and the Company will furnish the Representatives with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such document to which the Representatives or counsel for the Underwriters shall reasonably object, except as required by law. The Company has given the

Representatives notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the execution of this Agreement; the Company will give the Representatives notice of its intention to make any such filing from the execution of this Agreement to the Closing Time and will furnish the Representatives with copies of any such documents a reasonable amount of time prior to such proposed filing and will not file or use any such document to which the Representatives or counsel for the Representatives shall reasonably object, except as required by law.

(c) Delivery of Registration Statements. The Company has furnished or will deliver to the Representatives and counsel for the Underwriters, without charge, conformed copies of the Registration Statement and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein or otherwise deemed to be a part thereof) and conformed copies of all consents and certificates of experts, and will also deliver to the Representatives, without charge, a conformed copy of the Registration Statement and of each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to the Electronic Data Gathering, Analysis and Retrieval system ("EDGAR"), except to the extent permitted by Regulation S-T.

(d) Delivery of Prospectuses. The Company has delivered to each Underwriter, without charge, as many copies of each Preliminary Prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when the Prospectus is required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) Continued Compliance with Securities Laws. The Company will comply with the 1933 Act and the 1933 Act Regulations and the 1934 Act and the 1934 Act Regulations so as to permit the completion of the distribution of the Securities as contemplated in this Agreement and in the Prospectus. If at any time when a prospectus is required by the 1933 Act to be delivered in connection with sales of the Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to amend the Registration Statement or amend or supplement the Prospectus in order that the Prospectus will not include any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of such counsel, at any such time to amend the Registration Statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly prepare and file with the Commission, subject to Section 3(b), such amendment or supplement as may be necessary to correct such statement or omission or to comply with such requirements, the Company will use its best efforts to have such amendment declared effective as soon as practicable (if it is not an automatic shelf registration statement with respect to the Securities) and the Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement, the General Disclosure Package or the Prospectus, or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(f) Blue Sky Qualifications. The Company will use its best efforts, in cooperation with the Underwriters, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representatives may designate and to maintain such qualifications in effect for a period of not less than one year from the date hereof; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(g) Rule 158. The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its security holders as soon as practicable an earnings statement for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(h) Use of Proceeds. The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the General Disclosure Package and the Prospectus under "Use of Proceeds."

(i) Listing. The Company will use its best efforts to effect and maintain the quotation of the Securities on Nasdaq.

(j) Restriction on Sale of Securities. During a period of 30 days from the date of the Prospectus, the Company will not, without the prior written consent of the Representatives, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for shares of Common Stock or file any registration statement under the 1933 Act with respect to any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the shares of Common Stock, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of shares of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to the (A) Securities to be sold hereunder, (B) any shares of Common Stock sold pursuant to the Company's Direct Stock Purchase Program and Dividend Reinvestment Program; *provided that* the Company shall not grant any purchase volume waivers under such plan during the period of 30 days from the date of the Prospectus, (C) any shares of Common Stock issued or options to purchase Common Stock granted pursuant to existing employee benefit plans of the Company or (D) any shares of Common Stock issued pursuant to any non-employee director stock plans or dividend reinvestment plans.

(k) Issuer Free Writing Prospectuses. Each of the Company and the Manager represents and agrees that, unless it obtains the prior consent of the Representatives, and each Underwriter represents and agrees that, unless it obtains the prior consent of the Company, the Manager and the Representatives, it has not made and will not make any offer relating to the Securities that would constitute an "issuer free writing prospectus," as defined in Rule 433, or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, required to be filed with the Commission. Any such free writing prospectus consented to by the Company, the Manager and the Representatives is hereinafter referred to as a "Permitted Free Writing Prospectus." Each of the Company and the Manager represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping.

(l) Share Price Manipulation. Each of the Company and the Manager agrees that it will not, and will cause its respective officers and directors (and in the case of the Manager, ACAS) and their respective subsidiaries not to, take, directly or indirectly, any action designed to, or that might be reasonably expected to, cause or result in stabilization or manipulation of the price of the Securities to facilitate the sale or resale of the Securities, provided that the Company may bid for and purchase its Common Stock in accordance with Rule 10b-18 under the 1934 Act.

(m) REIT Qualification. The Company will use its best efforts to continue to meet the requirements for qualification and taxation as a REIT under the Code, subject to any future determination by the Company's board of directors that it is no longer in the Company's best interests to qualify as a REIT.

(n) Investment Company Act. The Company will use its best efforts to conduct its affairs and the affairs of its Subsidiaries in such a manner so as to ensure that neither the Company nor any of its Subsidiaries will be an "investment company" (as defined in the Investment Company Act of 1940 (the "1940 Act")) or an entity "controlled" by an investment company that is required to be registered under the 1940 Act.

(o) Undertakings. The Company will comply with all of the provisions of any undertakings in the Registration Statement.

(p) Transfer Agent. The Company has engaged and will maintain, at its sole expense, a registrar and transfer agent for the Securities.

(q) Liability Insurance. The Company will obtain or maintain, as appropriate, directors and officers liability insurance in an amount deemed advisable by the Company in its reasonable discretion.

Section 4. Payment of Expenses.

(a) Expenses. The Company will pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of this Agreement, and such other documents as may be required in connection with the offering, purchase, sale, issuance or delivery of the Securities, (iii) the preparation, issuance and delivery of the certificates for the Securities, if any, to the Underwriters, including any applicable stock or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel and accountants, (v) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(f) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of any Blue Sky Survey and any supplement thereto, (vi) the printing and delivery to the Underwriters of copies of each Preliminary Prospectus, any Permitted Free Writing Prospectus and of the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (vii) the fees and expenses of any transfer agent or registrar for the Securities, (viii) the reasonable costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including, expenses associated with the production of road show slides and graphics, but excluding travel and reasonable lodging expenses of the Underwriters and representatives and officers of the Company (which shall be paid by the Underwriters), and (ix) any filing fees incident to, and the reasonable fees and disbursements of counsel to the Underwriters in connection with the review by FINRA of the terms of the sale of the Securities (subject to a maximum of $10,000) and (x) the fees and expenses incurred in connection with the quotation of the Securities on Nasdaq.

(b) Termination of Agreement. If this Agreement is terminated by the Representatives in accordance with the provisions of Section 5 or Section 9 hereof, the Company shall reimburse the Underwriters for all of their out-of-pocket expenses, (including the reasonable fees and disbursements of counsel for the Underwriters) actually incurred in connection with the proposed purchase and the public offering and sale of the Securities.

Section 5. Conditions of Underwriters' Obligations. The obligations of the Underwriters hereunder are subject to the accuracy of the representations and warranties of the Company and the Manager contained in Section 1 hereof or in certificates of any officer of the Company or any subsidiary of the Company or the Manager delivered pursuant to the provisions hereof, to the performance by the Company of its covenants and other obligations hereunder, and to the following further conditions:

(a) Effectiveness of Registration Statement; Filing of Prospectus; Payment of Filing Fee. The Registration Statement, including any Rule 462(b) Registration Statement, shall have been declared effective and at the Closing Time no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefore initiated or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters. A prospectus containing the Rule 430B Information shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) without reliance on Rule 424(b)(8) (or a post-effective amendment providing such information shall have been filed and have been declared effective in accordance with the requirements of Rule 430B). The Company shall have paid the required Commission filing fees relating to the Securities within the time period required by the 1933 Act Regulations.

(b) Opinion of Counsel for Company. At Closing Time, the Representatives shall have received the favorable opinions, dated as of Closing Time, of Skadden, Arps, Slate, Meagher & Flom LLP, in form and substance satisfactory to counsel for the Underwriters to the effect set forth in Exhibit A and Exhibit B hereto and to such further effect as counsel to the Underwriters may reasonably request.

(c) Opinion of Counsel for Underwriters. At the Closing Time, the Representatives shall have received the favorable opinion, dated as of the Closing Time, of Hunton & Williams LLP with respect to the matters the Underwriters reasonably request. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon certificates of officers of the Company, the Manager and certificates of public officials.

(d) Officers' Certificates. At Closing Time, there shall not have been, since the date hereof, since the Applicable Time or since the respective dates as of which information is given in the Prospectus or the General Disclosure Package, any Material Adverse Effect or Manager Material Adverse Effect. The Underwriters shall have received a certificate of the President or a Vice President of the Company and of the chief financial or chief accounting officer of the Company, dated as of Closing Time, to the effect that (i) there has been no such Material Adverse Effect, (ii) the representations and warranties in Section 1(a) hereof are true and correct with the same force and effect as though expressly made at and as of Closing Time, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are pending or, to their knowledge, contemplated by the Commission. The Representatives shall have also received a certificate of the President of the Manager and of the Treasurer of the Manager, dated as of the Closing Time, to the effect that (i) there has been no Manager Material Adverse Effect, (ii) the representations and warranties in Section 1(b) hereof are true and correct with the same force and effect as though expressly made at and as of the Closing Time and (iii) the Manager has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time.

(e) Accountant's Comfort Letter. At the time of the execution of this Agreement, the Underwriter shall have received from Ernst & Young LLP a letter dated such date, in form and substance satisfactory to the Representatives, together with signed or reproduced copies of such letters for each of the other Underwriters, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the General Disclosure Package and the Prospectus. Such letters shall address the audited financial statements, any unaudited interim financial statements (including a statement that such unaudited financial statements have been reviewed in accordance with the standards established under Statement on Auditing Standards No. 100) and any pro forma financial statements and also shall provide customary negative assurances.

(f) Bring-down Comfort Letter. At Closing Time, the Representatives shall have received from Ernst & Young LLP a letter, dated as of Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (e) of this Section 5, except that the specified date referred to shall be a date not more than three business days prior to Closing Time.

(g) Approval of Listing. At Closing Time, the Securities shall have been approved for quotation on Nasdaq.

(h) No Objection. FINRA shall have not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements.

(i) Lock up Agreements. At the date of this Agreement, the Representatives shall have received an agreement substantially in the form of Exhibit C hereto signed by the persons and entities listed on Schedule V.

(j) Conditions to Purchase of Option Securities. In the event that the Underwriters exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Option Securities, the representations and warranties of the Company and the Manager contained herein and the statements in any certificates furnished by the Company and the Manager hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representatives shall have received:

(i) Officers' Certificate. A certificate, dated such Date of Delivery, of the President or a Vice President of the Company and of the Chief Financial Officer or chief accounting officer of the Company confirming that the certificate delivered by the Company at the Closing Time pursuant to Section 5(d) hereof remains true and correct as of such Date of Delivery.

(ii) Officers' Certificate. A certificate, dated such Date of Delivery, of the President of the Manager and of the Treasurer of the Manager confirming that the certificate delivered by the Manager at the Closing Time pursuant to Section 5(d) hereof remains true and correct as of such Date of Delivery.

(iii) Opinion of Counsel for Company. The favorable opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company and the Manager, each in form and substance satisfactory to counsel for the Underwriters, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinions required by Section 5(b) hereof.

(iv) Opinion of Counsel for Underwriters. The favorable opinion of Hunton & Williams LLP, special counsel for the Underwriters, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(c) hereof.

(v) Bring-down Comfort Letter. A letter from Ernst & Young LLP, in form and substance satisfactory to the Representatives and dated such Date of Delivery, substantially in the same form and substance as the letter furnished to the Representatives pursuant to Section 5(e) hereof, except that the "specified date" in the letter furnished pursuant to this paragraph shall be a date not more than three days prior to such Date of Delivery.

(k) Additional Documents. At the Closing Time and at each Date of Delivery, counsel for the Underwriters shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling it to pass upon the issuance and sale of the Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Securities as herein contemplated shall be reasonably satisfactory in form and substance to the Underwriters and counsel for the Underwriters.

(l) Termination of Agreement. If any condition specified in this Section 5 shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Option Securities on a Date of Delivery which is after the Closing Time, the obligations of the several Underwriters to purchase the relevant Option Securities, may be terminated by the Representatives by notice to the Company at any time at or prior to the Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party, except as provided in Section 4(b) and except that this paragraph and Sections 1, 6, 7 and 8 shall survive any such termination and remain in full force and effect.

Section 6. Indemnification.

(a) Indemnification of Underwriters. The Company agrees to indemnify and hold harmless each Underwriter, its Affiliates, its selling agents and each person, if any, who controls the Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including any 462(b) Registration Statement, and including the Rule 430B Information, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of any untrue statement or alleged untrue statement of a material fact included in any Preliminary Prospectus and the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in any Issuer Limited Use Free Writing Prospectus or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(iii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(e) below) any such settlement is effected with the written consent of the Company;

(iv) against any and all expense (including the fees and disbursements of counsel chosen by the Representatives), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with the Underwriter Content.

(b) Indemnification of Company, Directors and Officers. Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section 6, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement, the General Disclosure Package or the Prospectus in reliance upon and in conformity with the Underwriter Content. The Company hereby acknowledges that the only information that the Underwriters have furnished to the Company expressly for use in the Registration Statement, the General Disclosure Package or the Prospectus are the statements set forth under the caption "Underwriting" in such documents as follows: the first and second sentences of paragraph 9, and the third and fourth sentences of paragraph 10, each relating to price stabilization activities and paragraph 11 relating to electronic prospectus delivery (collectively, the "Underwriter Content").

(c) Actions Against Parties; Notification. Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 6 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the next preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (together with local counsel), approved by the indemnifying party, representing the indemnified parties who are parties to such action), (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, or (iii) the indemnifying party has authorized in writing the employment of counsel for the indemnified party at the expense of the indemnifying party, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party.

(d) Settlement without Consent if Failure to Reimburse. The indemnifying party under this Section 6 shall not be liable for any settlement of any proceeding effected without its written consent, which consent shall not be unreasonably withheld, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by Section 6(d) hereof, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent includes (i) an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

Section 7. Contribution. If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other hand from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and of the Underwriters on the other hand in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company on the one hand and the Underwriters on the other hand in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (before deducting expenses) received by the Company and the total underwriting discount received by the Underwriters, in each case as set forth on the cover of the Prospectus bear to the aggregate public offering price of the Securities as set forth on the cover of the Prospectus.

The relative fault of the Company on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, (i) no Underwriter shall be required to contribute an amount in excess of the underwriting discounts and commissions applicable to the Securities purchased by such Underwriter and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates and selling agents shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company.

The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number of Initial Securities set forth opposite their respective names in Schedule I hereto and not joint.

Section 8. Representations, Warranties and Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or the Manager submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors or any person controlling the Company, the person controlling the Manager and (ii) delivery of and payment for the Securities.

Section 9. Termination of Agreement.

(a) Termination; General. The Representatives may terminate this Agreement, by notice to the Company, at any time at or prior to the Closing Time (i) if there has been, since the time of execution of this Agreement or since the respective dates as of which information is given in the General Disclosure Package or the Prospectus (exclusive of any supplement thereto), any Material Adverse Effect or Manager Material Adverse Effect, the effect of which is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to market the Securities or to enforce contracts for the sale of the Securities, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any material and adverse change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Underwriter, impracticable or inadvisable to market the Securities or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or Nasdaq, or if trading generally on the New York Stock Exchange or The NASDAQ Stock Market, Inc. has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, FINRA or any other governmental authority, or (iv) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States such that settlement and clearance of the sale of the Securities is impracticable or impossible, or (v) if a banking moratorium has been declared by either federal or New York State authorities.

(b) Liabilities and Expenses. If this Agreement is terminated pursuant to this Section 9, (i) such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that this paragraph and Sections 1, 6, 7 and 9(a) shall survive such termination and remain in full force and effect, and (ii) the Underwriters shall only be entitled to receive out-of-pocket expenses actually incurred.

Section 10. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time or a Date of Delivery to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representatives shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representatives shall not have completed such arrangements within such 24-hour period, then:

(i) if the number of Defaulted Securities does not exceed 10% of the number of Securities to be purchased on such date, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(ii) if the number of Defaulted Securities exceeds 10% of the number of Securities to be purchased on such date, this Agreement, or, with respect to any Date of Delivery which occurs after the Closing Time, the obligation of the Underwriters to purchase and of the Company to sell the Option Securities to be purchased and sold on such Date of Delivery, shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Underwriters to purchase and the Company to sell the relevant Option Securities, as the case may be, either (i) the Representatives or (ii) the Company shall have the right to postpone the Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the Registration Statement or Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 10.

Section 11. Tax Disclosure. Notwithstanding any other provision of this Agreement, from the commencement of discussions with respect to the transactions contemplated hereby, the Company (and each employee, representative or other agent of the Company) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure (as such terms are used in Sections 6011, 6111 and 6112 of the U.S. Code and the Treasury Regulations promulgated thereunder) of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to the Company relating to such tax treatment and tax structure.

Section 12. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York, 10013, Attention: Equity Capital Markets Syndicate, with a copy to (which shall not constitute notice) Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, Attention of Edward W. Elmore, Jr., Esq.; notices to the Company and the Manager shall be directed to each of them at 2 Bethesda Metro Center, 14th Floor, Bethesda, Maryland 20814, attention of Secretary, each with a copy to (which shall not constitute notice) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, Attention of David J. Goldschmidt, Esq.

Section 13. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the public offering price of the Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Company and the Manager, on the one hand, and the several Underwriters, on the other hand, (ii) in connection with the offering contemplated hereby and the process leading to such transaction the Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company, the Manager, or their respective stockholders, creditors, employees or any other party, (iii) the Underwriter has not assumed and will not assume an advisory or fiduciary responsibility in favor of the Company or the Manager with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising the Company or the Manager on other matters) and the Underwriter has no obligation to the

Company or the Manager with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (iv) the Underwriters and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of each of the Company and the Manager, and (v) the Underwriters and their respective agents have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company and the Manager have consulted their own respective legal, accounting, regulatory and tax advisors to the extent each deemed appropriate.

Section 14. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company, the Manager and the Underwriters, or any of them, with respect to the subject matter hereof.

Section 15. Parties. This Agreement shall each inure to the benefit of and be binding upon the Underwriters, the Company, the Manager and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters, the Company, the Manager and their respective successors and the controlling persons and officers and directors referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters, the Company, the Manager and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

Section 16. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 17. TIME. TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

Section 18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

Section 19. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

[*Signature Page Follows.*]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company and the Manager a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Underwriters, the Company and the Manager in accordance with its terms.

Very truly yours,

AMERICAN CAPITAL AGENCY CORP.

By: ______________________________
Name:
Title:

AMERICAN CAPITAL AGENCY MANAGEMENT, LLC

By: ______________________________
Name:
Title:

CONFIRMED AND ACCEPTED,
as of the date first above written:

MERRIL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED
CITIGROUP GLOBAL MARKETS INC.
DEUTSCHE BANK SECURITIES INC.
UBS SECURITIES LLC

For themselves and as Representatives of the several Underwriters named in Schedule I hereto.

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By: ______________________________
Name:
Title:

CITIGROUP GLOBAL MARKETS INC.

By: ______________________________
Name:
Title:

DEUTSCHE BANK SECURITIES INC.

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

UBS SECURITIES LLC

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

SCHEDULE I

Name of Underwriter	Number of Initial Securities
Merrill Lynch, Pierce, Fenner & Smith Incorporated	2,530,000
Citigroup Global Markets Inc.	2,530,000
Deutsche Bank Securities Inc.	2,530,000
UBS Securities LLC	2,530,000
Jefferies & Company, Inc.	546,250
JMP Securities LLC	546,250
RBC Capital Markets Corporation	287,500
Total	**11,500,000**

SCHEDULE II

Information Conveyed at the Applicable Time

Price to Public: $26.00

Number of Shares Offered: 11,500,000

SCHEDULE III

Issuer General Use Free Writing Prospectus

None.

SCHEDULE IV

List of Subsidiaries

American Capital Agency TRS, LLC, a Delaware limited liability company

SCHEDULE V

List of Persons and Entities Subject to Lock Up Agreements

American Capital Agency Management, LLC
American Capital, Ltd.
Malon Wilkus
John R. Erickson
Samuel A. Flax
Alvin N. Puryear
Morris A. Davis
Gary Kain
Randy E. Dobbs
Larry K. Harvey

Exhibit A

Draft of September 27, 2010

[Subject to Opinion Committee Review]

October [1], 2010

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Citigroup Global Markets Inc.
Deutsche Bank Securities Inc.
UBS Securities LLC

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036

As Representatives of the several Underwriters

Re: Offering of Common Stock of American Capital Agency Corp.

Ladies and Gentlemen:

We have acted as special counsel to American Capital Agency Corp., a Delaware corporation (the "Company"), and American Capital Agency Management, LLC, a Delaware limited liability company (the "Manager"), in connection with the Underwriting Agreement, dated September [27], 2010 (the "Underwriting Agreement"), among you, as representatives of the several Underwriters named therein (the "Underwriters"), the Company and the Manager, relating to the sale by the Company to the Underwriters of [11,500,000] shares (the "Firm Shares") of the Company's common stock, par value $0.01 per share (the "Common Stock"), and up to an additional [1,725,000] shares of Common Stock (the "Option Shares") at the Underwriters' option to cover over-allotments. The Firm Shares and the Option Shares are collectively referred to herein as the "Securities."

This opinion is being furnished to you pursuant to Section 5(b) of the Underwriting Agreement.

In rendering the opinions set forth herein, we have examined and relied on originals or copies of the following:

(a) the registration statement on Form S-3 (File No. 333-159650) of the Company relating to the Securities and other securities of the Company filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933 (the "Securities Act") allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations"), and Pre-Effective Amendment Nos. 1 through 3 thereto, including information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations, the Notice of Effectiveness of the Commission posted on its website declaring such registration statement effective on July 13, 2009 (such registration statement, as so amended, being hereinafter referred to as the "[Initial] Registration Statement"), [and the registration statement on Form S-3 (File No. 333-[—]) of the Company relating to the Securities, which became effective upon filing with the Commission pursuant to Rule 462(b) of the Rules and Regulations (such registration statement, as so amended, being hereinafter referred to as the "462(b) Registration Statement")];

(b) the prospectus, dated July 13, 2009 (the "Base Prospectus"), which forms a part of and is included in the [Initial] Registration Statement;

(c) the preliminary prospectus supplement, dated September [27], 2010 (together with the Base Prospectus, the "Preliminary Prospectus"), relating to the offering of the Securities in the form filed by the Company with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(d) the final prospectus supplement, dated September [27], 2010 (the "Prospectus Supplement" and together with the Base Prospectus, the "Prospectus"), relating to the offering of the Securities in the form filed by the Company with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(e) the documents identified on Schedule A hereto filed by the Company with the Commission pursuant to the Securities Exchange Act of 1934 and incorporated by reference into the Prospectus as of the date of the Prospectus Supplement (the "Incorporated Documents");

(f) an executed copy of the Underwriting Agreement;

(g) the Amended and Restated Certificate of Incorporation of the Company, as certified by the Secretary of State of the State of Delaware (the "Certificate of Incorporation");

(h) the Amended and Restated Bylaws of the Company, as certified by Samuel A. Flax, the Secretary of the Company (the “Bylaws”);

(i) the resolutions of the Board of Directors of the Company with respect to the Underwriting Agreement and the authorization of the issuance of the Securities, adopted on May 29, 2009 and October 20, 2009[, the resolutions of the Board of Directors of the Company with respect to the filing of the 462(b) Registration Statement, adopted on September [—], 2010] and the resolutions of the Pricing Committee of the Board of Directors with respect to the issuance and sale of the Securities, adopted on September [—], 2010 as certified by Samuel A. Flax, the Secretary of the Company;

(j) the Certificate of Formation of the Manager, as certified by the Secretary of State of the State of Delaware;

(k) the Limited Liability Company Operating Agreement of the Manager, dated January 8, 2008 and the First Amendment thereto dated October 19, 2009, as certified by Samuel A. Flax, the Secretary of the Manager (the “Manager Operating Agreement”);

(l) the resolutions of the sole member of the Manager with respect to the Underwriting Agreement, adopted on September [—], 2010, as certified by Samuel A. Flax, the Secretary of the Manager;

(m) the certificate of Samuel A. Flax, the Secretary and an Executive Vice President of the Company and the Secretary and a Vice President of the Manager, dated the date hereof (the “Officer’s Certificate”);

(n) the certificate of Samuel A. Flax, the Secretary of the Company, dated the date hereof;

(o) the certificate of Samuel A. Flax, the Secretary of the Manager, dated the date hereof;

(p) officers’ certificates of the Company and the Manager, each dated the date hereof, delivered pursuant to the Underwriting Agreement;

(q) incumbency certificates of the Company and the Manager, each dated the date hereof;

(r) the certificate of Gary Kain, the Senior Vice President and Chief Investment Officer of the Company, dated the date hereof, relating to certain matters under the Investment Company Act of 1940, as amended (such Act, the “1940 Act” and such certificate, the “1940 Act Certificate”);

(s) the certificate of Gary Kain, the President of the Manager, dated the date hereof, relating to certain matters under the Investment Advisers Act of 1940, as amended (such Act, the “Advisers Act” and such certificate, the “Advisers Act Certificate”);

(t) executed copies of the Management Agreement between the Company and the Manager, dated May 20, 2008 (the “Management Agreement”), and the Registration Rights Agreement between the Company and American Capital, Ltd. (formerly known as American Capital Strategies, Ltd.), dated May 20, 2008 (collectively, the “Company Applicable Contracts”);

(u) an executed copy of the Administrative Services Agreement between the Manager and American Capital, Ltd., dated May 20, 2008 (together with the Management Agreement, the “Manager Applicable Contracts”);

(v) a certificate, dated September [27], 2010, and a facsimile telegram bringdown thereof, dated the date hereof, from the Secretary of State of the State of Delaware, as to the Company’s existence, due incorporation and good standing in the State of Delaware (the “Company Delaware Certificates”); and

(w) a certificate, dated September [27], 2010, and a facsimile telegram bringdown thereof, dated the date hereof, from the Secretary of State of the State of Delaware, as to the Manager’s existence, due formation and good standing in the State of Delaware (the “Manager Delaware Certificates”).

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and the Manager and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company, the Manager and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth below.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Company and the Manager, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts material to the opinions expressed herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company, the Manager and others and of public officials, including the facts set forth in the Officer's Certificate.

As used herein, (i) "Company Applicable Laws" means the General Corporation Law of the State of Delaware (the "DGCL") and those laws, rules and regulations of the State of New York and those federal laws, rules and regulations of the United States of America, in each case that, in our experience, are normally applicable to transactions of the type contemplated by the Underwriting Agreement (other than the United States federal securities laws, state securities or blue sky laws, antifraud laws and the rules and regulations of the Financial Industry Regulatory Authority, Inc.), but without our having made any special investigation as to the applicability of any specific law, rule or regulation; (ii) "Manager Applicable Laws" means the Limited Liability Company Act of the State of Delaware (the "DLLCA") and those laws, rules and regulations of the State of New York and those federal laws, rules and regulations of the United States of America, in each case that, in our experience, are normally applicable to transactions of the type contemplated by the Underwriting Agreement (other than the United States federal securities laws, state securities or blue sky laws, antifraud laws and the rules and regulations of the Financial Industry Regulatory Authority, Inc.), but without our having made any special investigation as to the applicability of any specific law, rule or regulation; (iii) "Governmental Authority" means any court, regulatory body, administrative agency or governmental body of the State of Delaware, the State of New York or the United States of America having jurisdiction over the Company under the Company Applicable Laws or over the Manager under the Manager Applicable Laws; (iv) "Governmental Approval" means any consent, approval, license, authorization or validation of, or filing, qualification or registration with, any Governmental Authority required to be made or obtained by the Company pursuant to the Company Applicable Laws or by the Manager pursuant to the Manager Applicable Laws, in each case other than any consent, approval, license, authorization, validation, filing, qualification or registration that may have become applicable as a result of the involvement of any party (other than the Company or the Manager, as applicable) in the transactions contemplated by the Underwriting Agreement or because of such parties' legal or regulatory status or because of any other facts specifically pertaining to such parties; (v) "Company Applicable Orders" means those judgments, orders or decrees identified on Schedule B hereto; (vi) "Manager Applicable Orders" means those judgments, orders or decrees identified on Schedule C hereto; and (vii) "General Disclosure Package" means the information set forth on Schedule II to the Underwriting Agreement, the Preliminary Prospectus and the Incorporated Documents, all considered together.

The opinions set forth below are subject to the following further qualifications, assumptions and limitations:

(a) the opinion set forth in paragraph 1 below is based solely upon the Company Delaware Certificates;

(b) the opinion set forth in paragraph 2 below is based solely upon the Manager Delaware Certificates;

(c) the opinion set forth in paragraph 9 below is based solely on our discussions with the officers of the Company responsible for the matters discussed therein, our review of documents furnished to us by the Company and our reliance on the representations and warranties of the Company contained in the Underwriting Agreement and the Officer's Certificate; and we have not made any other inquiries or investigations or any search of the public docket records of any court, governmental agency or body or administrative agency; in addition, we note that we have not been engaged by, nor have we rendered any advice to, the Company in connection with any legal or governmental proceedings; accordingly, we do not have any special knowledge with respect to such matters, if any;

(d) we do not express any opinion as to the effect on the opinions expressed herein of (i) the compliance or noncompliance of any party to the Underwriting Agreement (other than with respect to the Company and the Manager to the extent necessary to render the opinions set forth herein) with any state, federal or other laws or regulations applicable to it or them, or (ii) the legal or regulatory status or the nature of the business of any such party (other than with respect to the Company and the Manager to the extent necessary to render the opinions set forth herein);

(e) the opinion set forth in paragraph 13 below is based solely on our discussions with the officers of the Company responsible for the matters discussed therein and our reliance on the representations and warranties of the Company contained in the Underwriting Agreement and the 1940 Act Certificate; and

(f) the opinion set forth in paragraph 14 below is based solely on our discussions with the officers of the Manager responsible for the matters discussed therein and our reliance on the representations and warranties of the Manager contained in the Underwriting Agreement and the Advisers Act Certificate.

We do not express any opinion as to any laws other than Company Applicable Laws and Manager Applicable Laws and the federal laws of the United States of America to the extent referred to specifically herein. Insofar as the opinions expressed herein relate to matters governed by laws other than those set forth in the preceding sentence, we have assumed, without having made any independent investigation, that such laws do not affect any of the opinions set forth herein. The opinions expressed herein are based on laws in effect on the date hereof, which laws are subject to change with possible retroactive effect.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1. The Company has been duly incorporated and is validly existing in good standing under the laws of the State of Delaware.

2. The Manager has been duly formed and is validly existing in good standing under the laws of the State of Delaware.

3. The Company has the corporate power and authority to execute and deliver the Underwriting Agreement and to consummate the transactions contemplated thereby.

4. The Manager has the limited liability company power and limited liability company authority to execute and deliver the Underwriting Agreement and to consummate the transactions contemplated thereby.

5. The Underwriting Agreement has been duly authorized, executed and delivered by each of the Company and the Manager.

6. The execution and delivery by the Company of the Underwriting Agreement and the consummation by the Company of the transactions contemplated thereby, including the issuance and sale of the Securities, will not (i) conflict with the Certificate of Incorporation or Bylaws, (ii) constitute a violation of, or a breach or default under, the terms of any Company Applicable Contract, or (iii) violate or conflict with, or result in any contravention of, any Company Applicable Law or any Company Applicable Order. We do not express any opinion, however, as to whether the execution, delivery or performance by the Company of the

Underwriting Agreement will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the Company or any of its subsidiaries.

7. The execution and delivery by the Manager of the Underwriting Agreement and the consummation by the Manager of the transactions contemplated thereby, including the issuance and sale of the Securities, will not (i) conflict with the Manager Operating Agreement, (ii) constitute a violation of, or a breach or default under, the terms of any Manager Applicable Contract or (iii) violate or conflict with, or result in any contravention of, any Manager Applicable Law or any Manager Applicable Order. We do not express any opinion, however, as to whether the execution, delivery or performance by the Manager of the Underwriting Agreement will constitute a violation of, or a default under, any covenant, restriction or provision with respect to financial ratios or tests or any aspect of the financial condition or results of operations of the Manager or any of its subsidiaries.

8. No Governmental Approval, which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required for, the execution or delivery of the Underwriting Agreement by the Company or the Manager, or the consummation by either of them of the transactions contemplated thereby.

9. To our knowledge, there are no legal or governmental proceedings pending to which the Company is a party or to which any property of the Company is subject that are required to be disclosed in the Prospectus and the General Disclosure Package pursuant to Item 103 of Regulation S-K of the Rules and Regulations that are not so disclosed.

10. The [Firm Shares] [Securities] have been duly authorized by the Company and, when delivered to and paid for by the Underwriters in accordance with the terms of the Underwriting Agreement, will be validly issued, fully paid and non-assessable, and free and clear of any preemptive rights or any similar rights arising under the DGCL, the Certificate of Incorporation or the Bylaws.

11. The statements in the Prospectus and the General Disclosure Package under the caption “Description of Securities,” insofar as such statements purport to constitute summaries of the terms of the Common Stock and the DGCL, constitute accurate summaries of the terms of such securities or the DGCL, respectively, in all material respects.

12. The statements in the Prospectus and the General Disclosure Package under the caption “Underwriting,” insofar as such statements purport to summarize certain provisions of the Underwriting Agreement, fairly summarize such provisions in all material respects.

13. The Company is not and, solely after giving effect to the offering and sale of the Option Shares and the application of the proceeds thereof as described in the Prospectus and the General Disclosure Package, will not be subject to registration and regulation as an "investment company" as such term is defined in the 1940 Act.

14. The Manager is not subject to registration and regulation as an "investment adviser" as such term is defined in the Advisers Act.

15. The Company has an authorized capitalization consisting of 150,000,000 shares of Common Stock and 10,000,000 shares of preferred stock, par value $0.01 per share.

This opinion is furnished only to you as representatives of the Underwriters and is solely for the Underwriters' benefit in connection with the closing occurring today of the [Firm Shares] [Securities], pursuant to the Underwriting Agreement. Without our prior written consent, this opinion may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any other person that acquires any [Firm Shares] [Securities] or that seeks to assert your rights in respect of this opinion (other than an Underwriter's successor in interest by means of merger, consolidation, transfer of a business or other similar transaction).

Very truly yours,

Schedule A

<u>Incorporated Documents</u>

Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 24, 2010

Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed on May 3, 2010

Quarterly Report on Form 10-Q for the quarter ended June 30, 2010 filed on August 4, 2010

Current Report on Form 8-K filed on May 19, 2010

The portions of the Definitive Proxy Statement on Schedule 14A filed on April 2, 2010 that are incorporated by reference in the Annual Report on Form 10-K for the year ended December 31, 2009

The description of the Common Stock set forth in the registration statement on Form 8-A filed on May 9, 2008, and any amendment or report filed for the purpose of updating such description

Schedule B

Company Applicable Orders

None

Schedule C

Manager Applicable Orders

None

Draft of September 27, 2010

[Subject to Opinion Committee Review]

October [1], 2010

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Citigroup Global Markets Inc.
Deutsche Bank Securities Inc.
UBS Securities LLC

c/o Merrill Lynch, Pierce, Fenner & Smith
Incorporated
One Bryant Park
New York, New York 10036

As Representatives of the several Underwriters

Re: Offering of Common Stock of American Capital Agency Corp.

Ladies and Gentlemen:

We have acted as special counsel to American Capital Agency Corp., a Delaware corporation (the "Company"), and American Capital Agency Management, LLC, a Delaware limited liability company (the "Manager"), in connection with the Underwriting Agreement, dated September [27], 2010 (the "Underwriting Agreement"), among you, as representatives of the several Underwriters named therein (the "Underwriters"), the Company and the Manager, relating to the sale by the Company to the Underwriters of [11,500,000] shares (the "Firm Shares") of the Company's common stock, par value $0.01 per share (the "Common Stock"), and up to an additional [1,725,000] shares of Common Stock (the "Option Shares") at the Underwriters' option to cover over-allotments. The Firm Shares and the Option Shares are collectively referred to herein as the "Securities."

This letter is being furnished to you pursuant to Section 5(b) of the Underwriting Agreement.

In the above capacity, we have reviewed the registration statement on Form S-3 (File No. 333-159650) of the Company relating to the Securities and other securities of the Company filed on June 1, 2009 with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933 (the "Securities Act") allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations"), and Pre-Effective Amendment Nos. 1 through 3 thereto, including the Incorporated Documents (as defined below) and the information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations, the Notice of Effectiveness of the Commission posted on its website declaring such registration statement effective at 12:00 p.m. Eastern time on July 13, 2009 (such registration statement, as so amended, being hereinafter referred to as the "[Initial] Registration Statement")[, and the registration statement on Form S-3 (File No. 333-[—]) of the Company relating to the Securities which became effective upon filing with the Commission pursuant to Rule 462(b) of the Rules and Regulations] (such registration statement, as so amended, being hereinafter referred to [together with the Initial Registration Statement] as the "Registration Statements")], and (i) the prospectus, dated July 13, 2009 (the "Base Prospectus"), which forms a part of and is included in the [Initial] Registration Statement, (ii) the preliminary prospectus supplement, dated September [27], 2010 (the "Preliminary Prospectus Supplement " and, together with the Base Prospectus and the Incorporated Documents, the "Preliminary Prospectus"), relating to the offering of the Securities in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations, and (iii) the final prospectus supplement, dated September [27], 2010 (the "Prospectus Supplement" and, together with the Base Prospectus and the Incorporated Documents, the "Prospectus"), relating to the offering of the Securities in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations. We also have reviewed the documents identified on Schedule A hereto filed by the Company pursuant to the Securities Exchange Act of 1934 and incorporated by reference into the Preliminary Prospectus or the Prospectus, as the case may be, as of the date of the Preliminary Prospectus Supplement or Prospectus Supplement, respectively (collectively, the "Incorporated Documents") and such other documents as we deemed appropriate. We have been orally advised by the Commission that no stop order suspending the effectiveness of the [either of] Registration Statement[s] has been issued, and, to our knowledge, no proceedings for that purpose have been instituted or are pending or threatened by the Commission.

In addition, we have participated in conferences with officers and other representatives of the Company and the Manager, representatives of the independent registered public accountants of the Company and you and your counsel, at which the contents of the Registration Statement[s], the Prospectus, the General Disclosure Package (as defined below) and related matters were discussed. We did not participate in the preparation of the Incorporated Documents but have, however, reviewed such documents and discussed the business and affairs of the Company with officers and other representatives of the Company. We do not pass upon, or assume any responsibility for, the accuracy, completeness or fairness of the statements contained or incorporated by reference in the Registration Statement[s], the Prospectus or the General Disclosure Package and have made no independent check or verification thereof (except to the limited extent referred to in paragraphs 11 and 12 of our corporate opinion to you dated the date hereof and in paragraph 2 of our tax opinion to you dated the date hereof).

On the basis of the foregoing, (i) the Registration Statement[s], at the Effective Time (as defined below), and the Prospectus, as of the date of the Prospectus Supplement, appeared on their face to be appropriately responsive in all material respects to the requirements of the Securities Act and the Rules and Regulations (except that in each case we do not express any view as to the financial statements, schedules and other financial information included or incorporated by reference therein or excluded therefrom) and (ii) no facts have come to our attention that have caused us to believe that the Registration Statement[s], at the Effective Time, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that the Prospectus, as of the date of the Prospectus Supplement and as of the date hereof, contained or contains an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that in each case we do not express any view as to the financial statements, schedules and other financial information included or incorporated by reference therein or excluded therefrom or the statements contained in the exhibits to the Registration Statement[s]). In addition, on the basis of the foregoing, no facts have come to our attention that have caused us to believe that the General Disclosure Package, as of the Applicable Time (as defined below), contained an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that we do not express any view as to the financial statements, schedules and other financial information included or incorporated by reference therein or excluded therefrom or the statements contained in the exhibits to the Registration Statement[s]).

As used herein, (i) "Effective Time" means the time of effectiveness of the Registration Statement[s] for purposes of Section 11 of the Securities Act, as such section applies to the Underwriters, (ii) "Applicable Time" means [—] [a][p].m. New York City time on September [27], 2010, which you advised us is the time of the first contract of sale of the Securities, and (iii) "General Disclosure Package" means the information set forth on Schedule II to the Underwriting Agreement and the Preliminary Prospectus, all considered together.

In addition, based on the foregoing, we confirm to you that the Prospectus has been filed with the Commission within the time period required by Rule 424 of the Rules and Regulations.

This letter is furnished only to you as representatives of the Underwriters and is solely for the Underwriters' benefit in connection with the closing occurring today of the [Firm Shares] [Securities], pursuant to the Underwriting Agreement. Without our prior written consent, this letter may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any other person that acquires [Firm Shares] [Securities] or that seeks to assert your rights in respect of this letter (other than an Underwriter's successor in interest by means of merger, consolidation, transfer of a business or other similar transaction).

Very truly yours,

Schedule A

Incorporated Documents

Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 24, 2010

Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed on May 3, 2010

Quarterly Report on Form 10-Q for the quarter ended June 30, 2010 filed on August 4, 2010

Current Report on Form 8-K filed on May 19, 2010

The portions of the Definitive Proxy Statement on Schedule 14A filed on April 2, 2010 that are incorporated by reference in the Annual Report on Form 10-K for the year ended December 31, 2009

The description of the Common Stock set forth in the registration statement on Form 8-A filed on May 9, 2008, and any amendment or report filed for the purpose of updating such description

Exhibit B

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
155 NORTH WACKER DRIVE
CHICAGO, ILLINOIS 60606-1720

TEL: (312) 407-0700
FAX: (312) 407-0411
www.skadden.com

[October 1], 2010

Merrill Lynch, Pierce, Fenner & Smith Incorporated
Citigroup Global Markets Inc.
Deutsche Bank Securities Inc.
UBS Securities LLC
As Representatives of the several Underwriters
named in Schedule I of the Underwriting Agreement

c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, NY 10013

Re: Certain United States Federal Income Tax Matters

Ladies and Gentlemen:

You have requested our opinion concerning certain United States Federal income tax considerations in connection with the sale (the "Sale") by American Capital Agency Corp., a Delaware corporation ("ACAC"), to the several Underwriters named in Schedule I (the "Underwriters") of the Underwriting Agreement among Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC as representatives of the several Underwriters, and ACAC and American Capital Agency Management, LLC, dated as of September [27], 2010 (the "Underwriting Agreement"), of [11,500,000] shares of ACAC's common stock, par value $0.01 per share, and an additional [1,725,000] shares of ACAC's common stock at the Underwriters' option to cover over-allotments (collectively, the "Shares"), pursuant to a shelf registration statement on Form S-3 filed with the Securities and Exchange Commission (the "Commission"), which was declared effective by the Commission on July 13, 2009, including the base prospectus dated as of July 13, 2009, the preliminary prospectus supplement thereto dated as of September [27], 2010, and the final prospectus supplement thereto dated as of September [27], 2010 (the "Offering Documents"). We have acted as tax counsel to ACAC in connection with, and have participated in the preparation of, the Offering Documents. This opinion is being furnished to you pursuant to Section 5(b) of the Underwriting Agreement. Capitalized terms used herein but not defined shall have the meanings set forth in the Underwriting Agreement.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the Offering Documents and such other documentation and information provided to us by ACAC as we have deemed necessary or appropriate as a basis for the opinion set forth herein. In addition, ACAC has provided us with, and we are relying upon, a certificate containing certain factual statements, factual representations and covenants of officers of ACAC (the "Officers' Certificate") relating to, among other things, the actual and proposed operations of ACAC and the entities in which it holds, or has held, a direct or indirect interest (collectively, the "Company"). For purposes of our opinion, we have not independently verified the facts, statements, representations and covenants set forth in the Officers' Certificate, the Offering Documents, or in any other document. In particular, we note that the Company may engage in transactions in connection with which we have not provided legal advice, and have not reviewed, and of which we may be unaware. Consequently, we have relied on ACAC's representation that the facts, statements, representations, and covenants presented in the Officers' Certificate, the Offering Documents, and other documents, or otherwise furnished to us, accurately and completely describe all material facts relevant to our opinion. We have assumed that all such facts, statements, representations and covenants are true without regard to any qualification as to knowledge, belief, intent, materiality, or otherwise. Our opinion is conditioned on the continuing accuracy and completeness of such facts, statements, representations and covenants. We are not aware of any facts inconsistent with the statements in the Officers' Certificate. Any material change or inaccuracy in the facts, statements, representations, and covenants referred to, set forth, or assumed herein or in the Officers' Certificate may affect our conclusions set forth herein.

In our review of certain documents in connection with our opinion as expressed below, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed, photostatic, or electronic copies, and the authenticity of the originals of such copies. Where documents have been provided to us in draft form, we have assumed that the final executed versions of such documents will not differ materially from such drafts.

Our opinion is also based on the correctness of the following assumptions: (i) ACAC and each of the entities comprising the Company has been and will continue to be operated in accordance with the laws of the jurisdictions in which they were formed, and in the manner described in the relevant organizational documents, (ii) there will be no changes in the applicable laws of the State of Delaware or of any other jurisdiction under the laws of which any of the entities comprising the Company have been formed, and (iii) each of the written agreements to which the Company is a party has been and will be implemented, construed and enforced in accordance with its terms.

In rendering our opinion, we have considered and relied upon the Internal Revenue Code of 1986, as amended (the "Code"), the regulations promulgated thereunder ("Regulations"), administrative rulings and other Treasury interpretations of the Code and the Regulations by the courts and the Internal Revenue Service ("IRS"), all as they exist at the date hereof. It should be noted that the Code, Regulations, judicial decisions, and administrative interpretations are subject to change at any time and, in some circumstances, with retroactive effect. A material change that is made after the date hereof in any of the foregoing bases for our opinion could affect our conclusions set forth herein. In this regard, an opinion of counsel with respect to an issue represents counsel's best judgment as to the outcome on the merits with respect to such issue, is not binding on the IRS or the courts, and is not a guarantee that the IRS will not assert a contrary position with respect to such issue or that a court will not sustain such a position if asserted by the IRS.

We express no opinion as to the laws of any jurisdiction other than the federal laws of the United States. We express no opinion on any issue relating to ACAC or any investment therein, other than as expressly stated herein.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, YOU ARE HEREBY NOTIFIED THAT: (A) ANY FEDERAL TAX ADVICE CONTAINED HEREIN IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY ANY PERSON, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED UNDER THE CODE; (B) THE ADVICE IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE TRANSACTION OR THE MATTERS ADDRESSED HEREIN BY THE COMPANY; AND (C) YOU SHOULD SEEK ADVICE BASED ON YOUR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

Based on and subject to the foregoing, we are of the opinion that:

1. Commencing with ACAC's initial taxable year that ended on December 31, 2008, ACAC has been organized and operated in conformity with the requirements for qualification and taxation as a real estate investment trust (a "REIT") under the Code, and its actual method of operation through the date of this opinion has enabled, and its proposed method of operation will continue to enable, it to meet the requirements for qualification and taxation as a REIT for its taxable year ending December 31, 2010 and subsequent years. As noted in the Offering Documents, ACAC's qualification and taxation as a REIT depend upon its ability to meet, through actual operating results, certain requirements relating to the sources of its income, the nature of its assets, its distribution levels and the diversity of its stock ownership, and various other qualification tests imposed under the Code, the results of which are not reviewed by us. Accordingly, no assurance can be given that the actual results of ACAC's operations for any one taxable year will satisfy the requirements for taxation as a REIT under the Code.

2. Although the discussion set forth in the Offering Documents under the headings "Federal Income Tax Considerations" and "Supplement to Federal Income Tax Considerations" does not purport to discuss all possible United States Federal income tax consequences of the ownership and disposition of the Shares, such discussion, though general in nature, constitutes, in all material respects, a fair and accurate summary under current law of the material United States Federal income tax consequences of the ownership and disposition of the Shares of ACAC, subject to the qualifications set forth therein.

This opinion has been prepared for you in connection with the Sale and pursuant to Section 5(b) of the Underwriting Agreement. This opinion may not be relied upon by anyone else without our prior written consent. This opinion is expressed as of the date hereof, and we are under no obligation to supplement or revise our opinion to reflect any legal developments or factual matters arising subsequent to the date hereof, or the impact of any information, document, certificate, record, statement, representation, covenant, or assumption relied upon herein that becomes incorrect or untrue.

Very truly yours,

Exhibit C

FORM OF LOCK-UP AGREEMENT
TO BE DELIVERED PURSUANT TO SECTION 5(i)

September __, 2010

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Citigroup Global Markets Inc.
Deutsche Bank Securities Inc.
UBS Securities LLC

c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, NY 10013

As Representatives of the several Underwriters

Re: Proposed Public Offering by American Capital Agency Corp.

Dear Sirs:

The undersigned, an officer and/or director or the manager of American Capital Agency Corp., a Delaware corporation (the "Company"), understands that Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and UBS Securities LLC (in such capacity, the "Representatives") propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with the Company and American Capital Agency Management, LLC, a Delaware limited liability company and the manager of the Company (the "Manager"), providing for the public offering of shares of the Company's common stock, $0.01 par value per share ("Common Stock"). In recognition of the benefit that such an offering will confer upon the undersigned as an officer and/or director or the manager of the Company, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees with the Representatives that, during a period of 30 days following the date of the Underwriting Agreement, the undersigned will not, without the prior written consent of the Representatives, directly or indirectly, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, or otherwise dispose of or transfer any of the shares of Common Stock or any securities convertible into or exchangeable or exercisable for shares of Common Stock, whether now owned or hereafter acquired by the undersigned or with respect to which the undersigned has or hereafter acquires the power of disposition, or file, or cause to be filed, any registration statement under the Securities Act of 1933, as amended, with respect to any of the foregoing (collectively, the "Lock-Up Securities") or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Lock-Up Securities, whether any such swap or transaction is to be settled by delivery of shares of Common Stock or other securities, in cash or otherwise.

For the avoidance of doubt, nothing contained herein shall prevent the undersigned from, or restrict the ability of the undersigned to, (i) purchasing shares of Common Stock or other securities of the Company, (ii) exercising any options or other convertible securities granted under any benefit plan of the Company; provided, that any shares of Common Stock received upon exercise of such options or other convertible securities shall be subject to the foregoing restrictions, or (iii) causing to be filed one or more registration statements under the Securities Act, including amendments and supplements thereto, with respect to the Company's Direct Stock Purchase Program and Dividend Reinvestment Program, and authorizing or effecting the sale by the Company of any shares of Common Stock registered pursuant thereto; *provided that* the undersigned shall not grant any purchase volume waivers under such plan during the period of 30 days from the date of the Underwriting Agreement.

Notwithstanding the foregoing, the undersigned may make gifts or transfers of Common Stock to, or for the benefit of, family members, charitable institutions, and trusts, limited partnerships or other entities created for estate planning purposes, the principal beneficiaries of which are family members or charitable institutions, subject to the condition that any such family member or charitable institution or other holder shall execute an agreement with the Representatives stating that such transferee is receiving and holding the shares of Common Stock subject to the provisions of this lock-up agreement. In addition, if the undersigned is a corporation, partnership, limited liability company or other entity, the undersigned may transfer shares of Common Stock to persons or other entities that own equity interests in the undersigned, subject to the condition that the recipient shall execute an agreement with the Representatives stating that such recipient is receiving and holding the shares of Common Stock subject to the provisions of this lock-up agreement.

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities, except in compliance with the foregoing instructions.

THIS LOCK-UP AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[*Signature page follows.*]

Very truly yours,

Signature:

Print Name: ________________________________

Title: ________________________________

Exhibit 31.1

American Capital Agency Corp.
Certification Pursuant to Section 302(a)
of the Sarbanes-Oxley Act of 2002

I, Malon Wilkus, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of American Capital Agency Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors:
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 8, 2010

By: /s/ MALON WILKUS
Malon Wilkus
Chairman of the Board of Directors,
President and Chief Executive Officer

Exhibit 31.2

American Capital Agency Corp.
Certification Pursuant to Section 302(a)
of the Sarbanes-Oxley Act Of 2002

I, John R. Erickson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of American Capital Agency Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors:
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 8, 2010

By: /s/ JOHN R. ERICKSON
John R. Erickson
Chief Financial Officer and
Executive Vice President

Exhibit 32

American Capital Agency Corp.
Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350,
as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

We, Malon Wilkus, Chief Executive Officer, President and Chairman of the Board of Directors, and John R. Erickson, Executive Vice President and Chief Financial Officer of American Capital Agency Corp. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350 that:

1. The Quarterly Report on Form 10-Q of the Company for the quarter ended September 30, 2010 (the "Report") fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 8, 2010

By: /s/ MALON WILKUS
Malon Wilkus
Chairman of the Board,
President and Chief Executive Officer

Date: November 8, 2010

By: /s/ JOHN R. ERICKSON
John R. Erickson
Chief Financial Officer and
Executive Vice President

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.