

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In the matter of the application of

THE BANK OF NEW YORK MELLON (as  
Trustee under various Pooling and Servicing  
Agreements and Indenture Trustee under various  
Indentures) *et al.*,

Petitioners,

-against-

WALNUT PLACE LLC *et al.*,

Intervenor-Respondents.

2011-cv-5988(WHP)

**THE BANK OF NEW YORK MELLON'S RESPONSES & OBJECTIONS  
TO INTERVENOR-RESPONDENTS' FIRST SET OF DOCUMENT REQUESTS**

Pursuant to Rule 26 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of New York, Petitioner The Bank of New York Mellon ("BNYM"), by its attorneys, hereby responds and objects to the Intervenor-Respondents' First Set of Document Requests, dated November 17, 2011 (the "Requests," each a "Request"), as follows:

**GENERAL OBJECTIONS**

1. BNYM's response to any Request is not an admission or acknowledgement that such Request calls for information that is relevant to the subject matter of this proceeding, and it is without prejudice to its right to contend at trial or in any other subsequent proceeding that such response is inadmissible, irrelevant, and/or not the proper basis for discovery. In particular, the question presented in this proceeding, and the standard of review, is whether BNYM's decision (as trustee) to enter into the Settlement (as defined in the Verified Petition, dated June 28, 2011)

was within the bounds of reasonableness, and the scope of the hearing or trial of this matter must be consistent with that standard.

2. BNYM objects to each Request to the extent that it seeks information relating to the claims being settled, rather than to whether BNYM's decision (as trustee) to enter into the Settlement (as defined in the Verified Petition, dated June 28, 2011) was within the bounds of reasonableness. *Cf. Mars Steel Corp. v. Cont'l Illinois Nat. Bank & Trust Co. of Chicago*, 834 F.2d 677, 684 (7th Cir. 1987) ("The temptation to convert a settlement hearing into a full trial on the merits must be resisted."); *Patterson v. Stovall*, 528 F.2d 108, 114 (7th Cir. 1976) ("The trial judge should not attempt to decide the merits of the controversy where the parties have reached a settlement. Any virtue which may reside in a compromise is based upon doing away with the effect of such a decision.").

3. BNYM objects to each Request, definition and instruction contained in the Requests to the extent that any Request, definition or instruction contains an inaccurate, incomplete or misleading description of the facts, persons, or events underlying this proceeding. The disclosure of information in response to the Requests shall not constitute BNYM's agreement with or acquiescence to, any such description.

4. BNYM objects to the definition of "BNY Mellon" to the extent it seeks to include BNYM's outside counsel.

5. Nothing contained in any response herein shall be deemed to be an admission, concession or waiver by BNYM as to the validity of any claim asserted by any party in this proceeding.

6. BNYM objects to the Requests to the extent that they call for the disclosure of privileged information or communications, including, without limitation, information that was

prepared, generated, or received for or in anticipation of litigation, information that constitutes attorney-work product, or any other applicable privilege (including the common interest privilege), rule of privacy or confidentiality, immunity, protection, or restriction that makes such information non-discoverable. To the extent that any privileged information is provided inadvertently, BNYM reserves: (i) its privileges with respect to such information; (ii) its right to object to the use of such information; and (iii) the right to object to the admissibility of such information.

7. BNYM objects to the Requests to the extent that they seek information in the possession, custody, or control of persons or entities other than BNYM.

8. BNYM objects to the Requests to the extent that they seek cumulative or duplicative information.

9. BNYM objects to the Requests to the extent that they are vague, ambiguous, overbroad, unduly burdensome, oppressive, not susceptible to a reasoned interpretation, not reasonably particular and do not otherwise comply with the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of New York and/or any other applicable local rules.

10. BNYM objects to the Requests to the extent that they are not limited to a reasonable period of time or the time period at issue in this proceeding.

11. BNYM objects to the Requests to the extent that they call for the disclosure of information in the public domain, already in the Intervenor-Respondents' possession, custody or control, or equally available to the Intervenor-Respondents.

12. BNYM objects to the Requests and the instructions contained therein to the extent that they seek to impose obligations beyond those set forth in the Federal Rules of Civil

Procedure, the Local Rules of the United States District Court for the Southern District of New York, and/or any other applicable local rules.

13. BNYM reserves the right to rely, at the time of trial or in any other related proceeding, upon evidence in addition to that provided in the responses to the Interrogatories regardless of whether, *inter alia*, any evidence is newly discovered or is currently in existence. To the best of BNYM's knowledge, the responses contained herein are true and correct at this particular time, but are subject to correction and modification as new facts may be discovered. To the extent that BNYM does discover additional information that would make any of the responses herein incorrect, BNYM will supplement or amend those responses pursuant to Federal Rule of Civil Procedure 26(e).

14. BNYM objects to the Requests to the extent that they seek information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. BNYM's response is without prejudice to its right to contend at trial or in any other subsequent proceeding that such response is inadmissible, irrelevant and/or not the proper basis for discovery.

15. All objections as to the relevance or admissibility of any information provided in these responses are expressly reserved by BNYM.

16. An objection to a Request shall not be construed to indicate that information responsive to that Request actually exists. Similarly, an undertaking to respond to a Request shall not be construed to indicate that any such information exists.

17. The foregoing General Objections shall be considered made, to the extent applicable, in response to each of the Interrogatories as if the General Objections were fully set forth in each specific response, even if such response also sets forth specific objections.

**SPECIFIC OBJECTIONS**

**Request No. 1:**

*All documents BNY Mellon considered when evaluating the Proposed Settlement and deciding to sign the Settlement Agreement. For clarification, this request is broader than documents BNY Mellon relied upon.*

**Response to Request No. 1:**

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that the distinction between “considered” and “relied upon” is vague and ambiguous, and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000109 – BNYM\_CW-00008813, BNYM\_CW-00032780 – BNYM\_CW-00033093, BNYM\_CW-00033368 – BNYM\_CW-00053344, BNYM\_CW-00115978 – BNYM\_CW-00120300, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 2:

*All requests for information made by BNY Mellon or its experts in connection with the Proposed Settlement, and all responses to such requests.*

Response to Request No. 2:

BNYM objects to this Request on the grounds stated in its General Objections and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, BNYM objects to each Request to the extent that it seeks information relating to the claims being settled, rather than to whether BNYM's decision (as trustee) to enter into the Settlement (as defined in the Verified Petition, dated June 28, 2011) was within the bounds of reasonableness. *Cf. Mars Steel Corp. v. Cont'l Illinois Nat. Bank & Trust Co. of Chicago*, 834 F.2d 677, 684 (7th Cir. 1987) ("The temptation to convert a settlement hearing into a full trial on the merits must be resisted."); *Patterson v. Stovall*, 528 F.2d 108, 114 (7th Cir. 1976) ("The trial judge should not attempt to decide the merits of the controversy where the parties have reached a settlement. Any virtue which may reside in a compromise is based upon doing away with the effect of such a decision.").

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000001 – BNYM\_CW-00120300, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 3:

*All documents describing or discussing the Proposed Settlement or the Settlement Agreement including but not limited to all drafts of the Settlement Agreement, including drafts of text of any provisions considered by the Trustee, the Institutional Investors, or Bank of America, whether adopted or omitted in the final version Settlement Agreement.*

Response to Request No. 3:

BNYM objects to this Request on the grounds stated in its General Objections and on the ground that it is overbroad and seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor likely to lead to the discovery of admissible evidence. In particular, communications between and among BNYM, the Institutional Investors, and/or Bank of America in the course of settlement negotiations ("Settlement Communications") are irrelevant and not discoverable. *See, e.g., Grant Thornton v. Syracuse Savs. Bank*, 961 F.2d 1042, 1046 (2d Cir. 1992) ("Discovery with respect to a settlement agreement of an ongoing litigation, however, is permissible only where the moving party 'lays a foundation by adducing from other sources evidence indicating that the settlement may be collusive. . . .'" (quoting *Mars Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co. of Chicago*, 834 F.2d 677, 684 (7th Cir. 1987))); *Davis v. J.P. Morgan Chase & Co.*, 775 F. Supp. 2d 601, 607 (W.D.N.Y. 2011) ("to the extent that [intervenor-objectors] seek discovery, such requests are generally looked upon with disfavor, absent some evidence of collusion in the settlement negotiations"). BNYM further objects to Request No. 3 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 4:

*All documents concerning the decision by BNY Mellon to seek approval of the Proposed Settlement and Settlement Agreement through a proceeding under Article 77 of the New York Civil Practice Law and Rules, including, without limitation, all documents concerning the Proposed Final Order and Judgment.*

Response to Request No. 4:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it is overbroad and seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor likely to lead to the discovery of admissible evidence. BNYM further objects to Request No. 4 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. Specifically, BNYM's reasons for choosing a particular procedure do not affect the substantive legal standard of judicial review. In addition, documents concerning the use of Article 77 of the New York CPLR are not relevant to a proceeding in federal court. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 5:

*All documents concerning the Proposed Settlement or the Settlement Agreement or the claims to be resolved by the Proposed Settlement that were provided to You by the Institutional*

*Investors, Bank of America, Countrywide, or any other third party including, without limitation, experts retained by You.*

Response to Request No. 5:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00008814 – BNYM\_CW-00003277, BNYM\_CW-00033094 – BNYM\_CW-00033367, BNYM\_CW-00053345 – BNYM\_CW-00115977, BNYM\_CW-00008683 – BNYM\_CW-00008702, BNYM\_CW-00008741 – BNYM\_CW-00008759, BNYM\_CW-00008799 – BNYM\_CW-00008768, BNYM\_CW-00120105 – BNYM\_CW-00120106, BNYM\_CW-00120115 – BNYM\_CW-00120224, BNYM\_CW-00120287 – BNYM\_CW-00120300, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 6:

*All documents concerning the Proposed Settlement or the Settlement Agreement or the claims to be resolved by the Proposed Settlement that were provided by You to the Institutional Investors, Bank of America, Countrywide, or any other third party including, without limitation, experts retained by You.*

Response to Request No. 6:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), on the ground that any documents that BNYM provided to the Institutional Investors or Bank of America are not relevant to the reasonability of BNYM's decision to enter into the Settlement Agreement, and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000109 – BNYM\_CW-00008813, BNYM\_CW-00032780 – BNYM\_CW-00033093, BNYM\_CW-00033368 – BNYM\_CW-00053344, BNYM\_CW-00115978 – BNYM\_CW-00120300 and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 7:

*All “factual information provided to the Trustee, its counsel, and its experts in connection with the negotiation of the Settlement Agreement” described in Section 13(b) of the Settlement Agreement, including the CD-ROM provided to the Trustee's counsel and experts on June 3, 2011.*

Response to Request No. 7:

Subject to and without waiving the General Objections and any relevant privileges and/or protections, BNYM states that it has already produced all relevant, non-privileged documents that are responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000001 – BNYM\_CW-00120300.

Request No. 8:

*All communications concerning the Proposed Settlement or Settlement Agreement exchanged internally at BNY Mellon and between You and any of (a) Countrywide, (b) Bank of America, (c) any Institutional Investor, (d) any expert witness (and their agents and staff), including without limitation the experts whose reports accompany the BNY Mellon's court filings in Article 77 proceeding, and/or (e) any other third party including, without limitation, any rating agency or government entity.*

Response to Request No. 8:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it is overbroad and unduly burdensome, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000278–00000369, BNYM\_CW-00008683–BNYM\_CW-00008702, BNYM\_CW-00008741–BNYM\_CW-00008759, BNYM\_CW-00008799–BNYM\_CW00008768, BNYM\_CW-

00120287–BNYM\_CW-00120293, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 9:

*All communications between and among BNY Mellon and any certificateholder in the Covered Trusts, including, but not limited to, demands by certificateholders that the Trustee take action on their behalf or on behalf of a Covered Trust and the Trustee’s response to such demands.*

Response to Request No. 9:

BNYM objects to this Request on the grounds stated in its General Objections, and on the ground that it seeks information already in the possession of the requesting parties.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 10:

*All of the “confidential materials” exchanged between You, Bank of America, Countrywide, and the Institutional Investors that are referred to in the ninth “Whereas” clause on page 2 of the Settlement Agreement and in the sixth “Whereas” clause on page 2 of the Institutional Investor Agreement, and all other documents You consider confidential under paragraph 17 of the Institutional Investor Agreement.*

Response to Request No. 10:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), on the ground that it is duplicative of other Requests.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00008814 – BNYM\_CW-00003277, BNYM\_CW-00033094 – BNYM\_CW-00033367, BNYM\_CW-00053345 – BNYM\_CW-00115977, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter. BNYM further states that it will not withhold non-privileged documents that are responsive to other Requests on the basis that those documents are “confidential” under the Settlement Agreement or the Institutional Investor Agreement.

Request No. 11:

*All analyses performed by You (or any third party on Your behalf, including experts and servicers), documents received by You, documents You provided to another, or communications of which You are aware regarding the loans within each Trust that have or will have deficiencies, were the subject of repurchase or substitution requests, or are or will be subject to repurchase by Countrywide or Bank of America, including but not limited to:*

*a. all documents concerning actual and/or potential damages from (i) breaches of representations and warranties, (ii) document exceptions, and/or (iii) servicing-related liability, including any Event of Default in each and all of the Covered Trusts, and (iv) loan defects identified in foreclosure proceedings and correspondence with mortgage insurers; and*

*b. the loan level exception reports for the Covered Trusts provided by the Trustee to the Master Servicer including, without limitation, those provided on April 14, 2011, April 27, 2011, and April 28, 2011 that are described in Section 6(a)(iv) of the Settlement Agreement, and all documents reflecting whether the loans on the exception reports were cured, substituted or repurchased.*

Response to Request No. 11:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that the Request is vague and incomprehensible insofar as subparts a. and b. seek documents that are not described in the introductory paragraph, on the ground that it seeks documents that are not within BNYM's possession, custody, or control, on the ground that the Request is overbroad and burdensome in that it seeks all documents related to *loans* that have "deficiencies," and is not limited to documents concerning the "deficiencies," on the ground that the term "deficiencies" is vague and ambiguous, especially in light of the reference to loans that "will have deficiencies" in the future, to the extent that the Request seeks confidential, personal and/or financial information protected from disclosures by statutes governing the privacy rights of consumers or other persons, including the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq.*, and on the ground that references to loans that "will be subject to repurchase" in the future requires speculation.

BNYM specifically objects to subpart a. on the ground that the terms "actual and/or potential damages" and "liability" require a legal conclusion to determine whether any document is responsive and on the ground that the term "damages" is vague and ambiguous, especially in light of the distinction between "actual" damages and "potential" damages.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00120105 – BNYM\_CW-00120106, BNYM\_CW-00120115 – BNYM\_CW-00120224,

BNYM\_CW-00120294 – BNYM\_CW-00120300, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter. In particular, BNYM will produce the loan level exception reports that are described in Section 6(a)(iv) of the Settlement Agreement.

Request No. 12:

*All certificates and opinions provided to You or which You provided with respect to compliance with the requirements of the pooling and servicing agreements (“PSAs”) and sale and servicing agreements (“SSAs”) for each Covered Trust.*

Response to Request No. 12:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that the information that it seeks is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor likely to lead to the discovery of admissible evidence, and on the ground that the documents it seeks are all publicly available or equally available to the Intervenor-Respondents. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 13:

*All documents concerning or analyzing Bank of America’s successor liability for any Countrywide entity, including, without limitation, (a) deal documents and government or regulatory filings in connection with Bank of America’s acquisition of Countrywide, and (b) all documents produced or transcripts of depositions taken in MBIA Insurance Corp. v. Countrywide Home Loans, Inc., et al., Index No. 08/602825 (N.Y. Sup. Ct.) regarding Bank of America’s successor liability.*

Response to Request No. 13:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that it is overbroad and unduly burdensome, and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00120143–BNYM\_CW-00120200, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 14:

*Any documents assessing or valuing claims against Bank of America for misconduct occurring after its acquisition of Countrywide, including for breaches of representations and warranties, document exceptions, and servicing errors.*

Response to Request No. 14:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that the terms or phrases “assessing or valuing claims,” “misconduct,” “document exceptions,” and “servicing errors” are vague and ambiguous, on the ground that it is overbroad and unduly burdensome insofar as it is not limited to claims that relate to the trusts at issue in this proceeding, on the ground that it is duplicative of other Requests, in particular Request No.

13, and also objects to Request No. 14 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00120105–BNYM\_CW-00120106, BNYM\_CW-00120115–BNYM\_CW-00120224, BNYM\_CW-00120294–BNYM\_CW-00120300, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 15:

*All documents concerning how the Settlement Payment, as that term is defined in Section 3 of the Settlement Agreement, will or may be allocated among the Covered Trusts and among certificateholders in the Covered Trusts.*

Response to Request No. 15:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and also objects to Request No. 15 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. BNYM further objects to this Request to the extent the information requested therein is publicly available or equally available to the Intervenor-Respondents.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00120105 – BNYM\_CW-00120106, and that it will produce any additional relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 16:

*All documents concerning potential or actual liability of BNY Mellon for which it will be released or indemnified by the Proposed Settlement and Settlement Agreement, including all communications about and drafts of the Proposed Final Order and Judgment.*

Response to Request No. 16:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it incorrectly assumes that BNYM is “released” from liability by the Settlement Agreement, on the ground that the phrase “potential or actual liability” is vague and ambiguous, and on the ground that “all communications about and drafts of the Proposed Final Order and Judgment” are not encompassed within the category of “documents concerning potential or actual liability of BNY Mellon for which it will be released or indemnified by the Proposed Settlement and Settlement Agreement.” BNYM further objects on the ground this Request is unintelligible, because BNYM is not being “released” from any “potential or actual liability” in the Settlement Agreement, and because the side letter to the Settlement Agreement does not “indemnif[y]” BNYM but merely confirms a pre-existing indemnity under Section 8.05 of the PSAs. BNYM further objects on the ground that this Request seeks documents that are

irrelevant, because the Settlement Agreement is unambiguous and speaks for itself. BNYM further objects on the ground that the scope of any release or indemnity of its “actual or potential liability” is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor likely to lead to the discovery of admissible evidence. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 17:

*Documents sufficient to show the earliest date on which BNY Mellon and Bank of America agreed to the \$8.5 billion settlement amount.*

Response to Request No. 17:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, namely, whether the Trustee’s decision to enter into the Settlement Agreement was reasonable. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 18:

*Documents sufficient to show the earliest date on which BNY Mellon and Bank of America agreed to the servicing improvements set forth in the Settlement Agreement.*

Response to Request No. 18:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and on the ground that this Request seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 19:

*Documents sufficient to show the earliest date on which BNY Mellon and Bank of America agreed on the document cure provisions set forth in the Settlement Agreement.*

Response to Request No. 19:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and on the ground that this Request seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 20:

*Documents sufficient to show the earliest date on which BNY Mellon and Bank of America agreed upon a settlement agreement substantially in the form of the final Settlement Agreement.*

Response to Request No. 20:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and on the ground that this Request seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. BNYM further objects on the ground that the phrase "substantially in the form of the final Settlement Agreement" is vague and ambiguous. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 21:

*Documents sufficient to show the earliest date on which the Institutional Investors or their counsel were made aware of the final settlement terms memorialized in the Settlement Agreement, including (a) the settlement amount, (b) the servicing improvements, and/or (c) the document cure provisions.*

Response to Request No. 21:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks documents that are not in the possession, custody, or control of BNYM, on the ground that Settlement Communications are not discoverable (*see* Response to Request No.

3), on the ground that this Request is unintelligible insofar as it assumes that the Institutional Investors or their counsel were “made aware” of the final settlement terms by someone else, and on the ground that this Request seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. BNYM also objects to Request No. 21 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 22:

*All documents concerning known, potential, or anticipated objections to the Proposed Settlement or Settlement Agreement by certificateholders, government entities, or any third party.*

Response to Request No. 22:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is overbroad, on the ground that it seeks information beyond the relevant time period, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. BNYM further objects to this Request to the extent the information requested therein is publicly available or equally available to the Intervenor-Respondents on the docket sheets of this Court or

the New York Supreme Court, New York County. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 23:

*All documents concerning Your acceptance of, and commencement of Your position as Trustee for the Covered Trusts, including, but not limited to, business acceptance forms and evaluations concerning the acceptance of the position of Trustee in the Covered Trusts.*

Response to Request No. 23:

BNYM objects to this Request on the grounds stated in its General Objections and on the ground that it is overbroad and unduly burdensome and seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 24:

*All minutes of any internal BNY Mellon committee, group, or department responsible for overseeing BNY Mellon's trusteeship of the Covered Trusts.*

Response to Request No. 24:

BNYM objects to this Request on the grounds stated in its General Objections, and on the ground that this Request is overbroad and unduly burdensome, seeks information beyond the relevant time period, and seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 25:

*All documents concerning whether You have any fiduciary duties to the Covered Trusts or to the beneficiaries of the Covered Trusts.*

Response to Request No. 25:

BNYM objects to this Request on the grounds stated in its General Objections, and on the ground that this Request is overbroad, seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is publicly available or equally available to the Intervenor-Respondents. BNYM further objects to Request No. 25 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, or any other privileges and/or protections, and on the ground that the question of whether BNYM is a fiduciary is a question of law. Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 26:

*A random sample of 500 loan files for performing loans and 500 loan files for non-performing loans in each of the Covered Trusts. For purposes of this request, the term "loan*

*files” means (i) the complete loan originator, servicer, and master servicer file, including but not limited to origination credit reports, underwriting work sheets, underwriting exceptions granted, appraisal or valuation results, title commitment and policy, AUS findings, loan approval, loan application (Form 1008 and all supporting documents), mortgage note, mortgage or deed of trust, mortgage insurance certificate, HUD1, etc.; (ii) applicable underwriting guidelines; (iii) closing loan tapes and mortgage loan schedules; (iv) evidence of all conveyances and assignments; (v) all loan servicing records, including without limitation, call notes, foreclosure files and communications, loss mitigation files; (vi) all mortgage insurance rescission-related documents; (vii) all records concerning repurchase analysis, demands, investigations, communications; and (viii) servicing guidelines and procedures. For the purposes of this request, a “performing loan” is a mortgage loan where the borrower is less than 60 days delinquent in his or her payments, or not delinquent at all; a “non-performing loan” is a mortgage loan where the borrower is at least 60 days delinquent in his or her payments.*

Response to Request No. 26:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, on the ground that the phrases “random sample,” “etc.” and “mortgage insurance rescission-related documents” are vague and ambiguous, to the extent that the Request seeks confidential, personal and/or financial information protected from disclosures by statutes governing the privacy rights of consumers or other persons, including the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq.*, and on the ground that it seeks documents that are not in the possession, custody, or control of BNYM.

BNYM further objects to this Request on the ground that it is overbroad and unduly burdensome, because it seeks “loan files” on 530,000 loans. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 27:

*All policies and procedures of the Master Servicer and subservicers on the covered pools concerning delinquent or defaulted loans, loss mitigation procedures, modifications under HAMP or otherwise and including processing of loan modifications for loans at imminent risk of default and the foreclosure of defaulted loans’ mortgages and the transfer of title of foreclosed properties, and REO handling.*

Response to Request No. 27:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is overbroad and unduly burdensome, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, and on the ground that it seeks documents that are not within its possession, custody or control. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 28:

*All Final Certifications (as that term is defined in the PSAs and SSAs) with respect to Initial Mortgage Loans and Supplemental Mortgage Loans for each of the Covered Trusts.*

Response to Request No. 28:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely,

that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, because the Final Certifications have no bearing on whether BNYM acted reasonably in entering into the Settlement Agreement, on the ground that the information requested therein is duplicative of the information requested in Request No. 11. Given all of these substantial objections, BNYM will not produce documents in response to this Request, but it will produce exception reports as stated in its Response to Request No. 11.

Request No. 29:

*All documents and communications concerning the Final Certifications (as that term is defined in the PSAs and SSAs) with respect to Initial Mortgage Loans and Supplemental Mortgage Loans for each of the Covered Trusts, including, but not limited to, documents and communications concerning exceptions noted on the Final Certifications.*

Response to Request No. 29:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it is overbroad and unduly burdensome, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence, on the ground that the information requested therein is duplicative of the information requested in Request No. 11. Given all of these substantial objections, BNYM will not produce documents in response to this Request, but it will provide exception reports as stated in its Response to Request No. 11.

Request No. 30:

*All documents concerning the certificate holdings of the Institutional Investors, Bank of America, or Countrywide in the Covered Trusts, including, but not limited to, documents concerning the voting rights held by the Institutional Investors, Bank of America, or Countrywide.*

Response to Request No. 30:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is overbroad and unduly burdensome insofar as it seeks documents other than those sufficient to show certificate holdings of the Institutional Investors in the Covered Trusts, on the ground that it seeks information beyond the relevant time period, and on the ground that it seeks documents that are not in BNYM's possession, custody or control.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, BNYM states that it will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 31:

*All documents which discuss the treatment of investors holding REMIC residual interests.*

Response to Request No. 31:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it is overbroad and unduly burdensome in that it does not specify which trusts it is referring to, on the ground that it is vague and ambiguous, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine,

the common interest privilege, or any other privileges and/or protections, and on the ground that the proposed treatment under the Settlement Agreement of investors holding REMIC residual interests is disclosed in Section 3(d) of the Settlement Agreement, which speaks for itself. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 32:

*All documents discussing whether to provide consideration to any investor who sold his position but sustained damages.*

Response to Request No. 32:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that it is overbroad, on the ground that the terms “consideration” and “damages” are vague and ambiguous, on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor likely to lead to the discovery of admissible evidence, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. Finally, BNYM responds that the proposed treatment of investors who sold their positions is addressed in Section 3(d) of the Settlement Agreement, which speaks for itself. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 33:

*All documents concerning and disclosing settlements of breach of representation and warranty claims, including the amount of such settlements, the loans to which the settlement*

*pertained, who received settlement payments and in what amounts, whether the settlement involved the repurchase of certificates or compensation for the loss in value of certificates, and whether the settlement was paid to a trust and distributed through the waterfall.*

Response to Request No. 33:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is overbroad, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), on the ground that it is incomprehensible and completely lacking in context, and to the extent that it requests information that is neither relevant to the claim in this proceeding, namely, that BNYM's decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. BNYM further objects to Request No. 33 to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections.

Subject to and without waiving the foregoing objections and any relevant privileges and/or protections, and interpreting this Request to seek information concerning prior settlements of claims that mortgage loan originators breached representations and warranties made to securitization trusts, BNYM states that it has already produced documents that may be responsive to this Request, which are identified as documents bearing Bates numbers BNYM\_CW-00000165 – BNYM\_CW-00000170, BNYM\_CW-00000209 – BNYM\_CW-00000222, BNYM\_CW-00000271 – BNYM\_CW-00000277, BNYM\_CW-00000281 – BNYM\_CW-00000300, BNYM\_CW-00000370 – BNYM\_CW-00000284, BNYM\_CW-00003402 – BNYM\_CW-00003803, BNYM\_CW-00004465 – BNYM\_CW-00004504, BNYM\_CW-00006059 – BNYM\_CW-00006071, BNYM\_CW-00006938 – BNYM\_CW-

00007149, BNYM\_CW-00008108 – BNYM\_CW-00008126, BNYM\_CW-00033087 – BNYM\_CW-00033093, and that it will produce any relevant, non-privileged documents that it reasonably understands to be responsive to this Request following the issuance of a protective order governing the treatment of confidential information in this matter.

Request No. 34:

*All documents concerning Bank of America's ability to withdraw from the Settlement Agreement.*

Response to Request No. 34:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. BNYM further responds that the circumstances under which Bank of America can withdraw from the Settlement Agreement are identified in the Settlement Agreement, which speaks for itself. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 35:

*All documents concerning the circumstances under which a Covered Trust would become an Excluded Covered Trust.*

Response to Request No. 35:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is vague and ambiguous, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it

calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. BNYM further responds that the circumstances under which a Covered Trust would become an Excluded Covered Trust are discussed in the Settlement Agreement, which speaks for itself. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 36:

*All documents concerning the exclusion of MERS-registered loans from the document cure provisions of the Settlement Agreement.*

Response to Request No. 36:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that the phrases “MERS-registered loans” and “document cure provisions” are vague and ambiguous, on the ground that Settlement Communications are not discoverable (*see* Response to Request No. 3), and to the extent that it calls for information subject to the attorney-client privilege, the attorney work-product doctrine, the common interest privilege, or any other privileges and/or protections. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Request No. 37:

*All documents concerning all efforts by You to enforce Trust or certificateholder rights or Bank of America or Countrywide repurchase obligations with respect to one or more of the Covered Trusts or the loans within the Covered Trusts or otherwise preserve the assets or value of one or more of the Covered Trusts.*

Response to Request No. 37:

BNYM objects to this Request on the grounds stated in its General Objections, on the ground that this Request is overbroad, on the ground that the phrase “otherwise preserve the assets or value” is vague and ambiguous, on the ground that it seeks information beyond the relevant time period, and on the ground that it seeks information that is neither relevant to the claim in this proceeding, namely, that BNYM’s decision to enter into the Settlement Agreement was reasonable, nor reasonably calculated to lead to the discovery of admissible evidence. BNYM further states that the only effort by BNYM to preserve the assets or value of the Covered Trusts that is relevant in this proceeding is its decision to enter into the Settlement Agreement. Given all of these substantial objections, BNYM will not produce documents in response to this Request.

Dated: New York, New York  
December 21, 2011

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