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June 28, 2011

The Bank of New York Mellon  
One Wall Street, 11<sup>th</sup> Floor  
New York, NY 10286

Subject: Opinion Concerning Contemplated Settlement Agreement - Mortgage Loan Servicing and Loan Administration

Gentlemen:

Attached please find my opinion regarding the mortgage loan servicing and loan administration components of the contemplated settlement agreement for 530 Trusts rendered at the request of your counsel, Mayer Brown.

Should you have any question, please feel free to contact me at (212) 843-9413.

Yours truly,

Brian Lin  
Managing Director



*Servicing Opinion*  
*Prepared for: The Bank of New York Mellon*  
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**Summary of Opinion**

I, in conjunction with selected RRMS Advisors personnel under my supervision (collectively, RRMS), have performed a review of the mortgage loan servicing and loan administration components of the settlement agreement (Settlement Agreement or Agreement) between The Bank of New York Mellon (BNYM), in its capacity as Trustee or Indenture Trustee for the mortgage securitization Trusts identified in the agreement (Covered Trusts), and Bank of America Corporation, BAC Home Loan Servicing, LP (collectively, BofA), Countrywide Financial Corporation and Countrywide Home Loan, Inc. (collectively, Countrywide). Based upon the analysis performed and the documentation provided, I find the approaches as outlined for both first and second lien mortgage assets to be reasonable and in accordance with or exceeding customary and usual standards of practice for prudent mortgage loan servicing and administration. Further, it is my opinion that this settlement can be viewed as an industry precedent setting, pro-active approach in regard to establishing a framework to enhance recovery efforts for underperforming loan pools.

This review and opinion is specifically related to servicing and loan administration components for:

- Transfer to subservicing or sale of mortgage servicing rights (MSRs) of non-performing assets from BofA to qualifying subservicers;
- Servicing of performing and non-performing assets by BofA;
- Loss mitigation requirements and considerations;
- Reporting and attestation of compliance; and
- Administration and cure of document deficiencies.

Summarized below is the background relating to the engagement, along with a summary of the methodologies and approaches undertaken in performing this review and support for the conclusions reached relating to each of the components listed above.

**Background**

BNYM currently acts as Trustee or Indenture Trustee of the Covered Trusts. In this capacity, BNYM has engaged me to render an independent professional opinion relating to the agreed-upon mortgage servicing and loan administration protocols outlined in the Settlement Agreement. The Agreement covers five hundred and thirty (530) Trusts, of which five hundred and thirteen (513) are governed by Pooling and Servicing Agreements (PSAs) and seventeen (17) are governed by Indentures and Sale and Servicing Agreements (SSAs). The aforementioned trusts are comprised of residential mortgage loans that are being serviced by BofA as the Master Servicer. Individual asset composition predominately includes:

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Sub-Prime, Alt “A”, Prime and Pay Option Arm residential mortgage loans, with originations occurring between the years 2004 through 2008.

High default rates and large loss severities have occurred pertaining to the underlying collateral. Breaches of loan servicing obligations and failure to cure documentation defects have been alleged against BofA. These and other alleged breaches are the subject of the Settlement Agreement. In the Agreement, the parties have decided to institute a transparent mortgage servicing and loan administration model. This model utilizes qualifying subservicers to optimize loan servicing performance and defines criteria and guidelines for the transfer of mortgage loan assets to selected qualifying subservicer and/or sale of MSR. In addition, loss mitigation requirements and considerations are set forth in the Agreement as well as administration guidelines relating to document deficiencies and cure processes. In addition, the Settlement Agreement mandates monthly reporting and annual attestation reports with respect to the servicing and loan administration improvements.

My review and assessment of the Settlement Agreement encompassed the servicing and loan administration provisions of the agreement. It is my understanding that these provisions have been designed by the parties to ensure compliance with the servicing and loan administration terms of the underlying PSAs and SSAs.

Set out below is my opinion with respect to these provisions.

**Transfer to Subservicing or Sale of MSR of Non-Performing Assets from BofA to Qualifying Subservicers**

A great amount of focus and attention is included in the Settlement Agreement relating to the transfer of non-performing or high risk residential mortgage loans from BofA to selected qualifying subservicers whose incentive compensation is dependent on servicing competency and quality. In my opinion, this arrangement is in line with and supports the goal of improving individual asset performance in order to positively impact overall pool performance.

Key components of the Settlement Agreement relating to the transfer of non-performing assets to qualifying subservicers include, among other things, the following:

- A detailed selection process for “qualifying mortgage subservicers”;
- The Trustee has the ability to veto any proposed subservicer (selected by the institutional investor and BofA) after consultation with an expert of its choice, on the basis of specific grounds summarized in the Settlement Agreement;

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- Protocols and timelines have been established for contracting with qualifying subservicers and for mapping of underlying data;
- Stated and agreed upon quarterly loan servicing transfers are specifically detailed;
- Assignment of only one qualifying subservicer per Covered Trust;
- Each subservicer shall have no more 30,000 outstanding mortgage loans from the Covered Trusts;
- Sale of MSR's on high risk loans is subject to certain limitations, including among other things, that they can only be sold to qualifying subservicers that are subject to the same pool performance incentives and activity based incentives compensation methods that is implemented for subservicing. In addition, BofA is obligated to provide or guarantee principal and interest advances to subservicers lacking the economic means to make such payments;
- Purchaser of MSR's are prohibited to sub-service or re-sell their respective rights to any third party entity; and
- Subserving are prohibited (under subservicing and sale of MSR's scenarios) from sub-contracting servicing, sub-servicing, selling servicing rights or transferring those rights for any high risk loans to another party.

In addition, the Settlement Agreement contains specific criteria to be considered when determining whether or not assets should be transferred to qualifying subservicers. This is prudent in that it reduces the potential for delinquency spikes related to unnecessary transfers of assets. The establishment of delinquency triggers provides structure relating to asset transfers. In addition, the assessment of loss mitigation efforts underway (i.e., in-process loan modifications and foreclosures greater than ninety days) is also prudent in that in-process efforts designed to improve asset performance are less subject to potential failures due to issues related to lack of servicing and processing continuity.

Based on my review and consistent with the summary above, I conclude that the portions of the Settlement Agreement dealing with the transfer (or sale of MSR's) of non-performing assets from BofA to qualifying subservicers are reasonable and can be viewed as an industry precedent setting model.

**Servicing of Performing and Non-Performing Assets by BofA**

To incentivize BofA to service mortgage loans prudently at industry standard levels, benchmarks have been factored into the Settlement Agreement, along with penalties for failure to adhere to those improvements. These mortgage servicing improvements are to take effect the later of five months after the signing date of the Settlement Agreement or the date of final court approval of the Settlement

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Agreement. Specifically, BofA's servicing performance shall be measured and evaluated, on a monthly basis, against defined industry benchmark metrics relating to:

- Loss mitigation referral timelines to foreclosure (first lien mortgage loans);
- Liquidation or foreclosures per FHFA guidelines (first lien mortgage loans);
- Delinquency status of borrower at the time reporting of charge-off to Trustee (second lien mortgage loans); and
- Comparative Trustee pool statistics with monthly reporting vs. industry standards.

With respect to any month in which BofA fails to meet the agreed-upon industry benchmark, the Settlement Agreement provides for deficient performance payments payable by BofA. These payments relate specifically to servicing timeline failures associated with certain loss mitigation activities.

Based on my review and consistent with the summary above, I have concluded that the portions of the Settlement Agreement dealing with the servicing of assets by BofA are reasonable and meet industry standards.

### **Loss Mitigation Requirements and Considerations**

I have reviewed the loss mitigation requirements and considerations for the mortgage loans in the Covered Trusts as stated in the Settlement Agreement. The Settlement Agreement is intended to create a framework for utilization of all reasonable avenues of recovery for the full principal of the mortgage balance other than through foreclosure or liquidation actions. I note the following provisions with respect to the mortgage loss mitigation servicing activities by BofA and/or each of the qualifying subservicers:

- Borrower's eligibility shall be evaluated simultaneously for all applicable loan modifications in accordance with the principles set forth in each of these programs and the applicable servicing entity must render a decision within sixty days of receiving all requested documentation from the borrower;
- Modifications and/or loss mitigation strategies shall consider the following factors: (i) NPV based recoveries, (ii) return of delinquent mortgage loans to permanent performing status, (iii) assessment of borrower's ability to make payments, (iv) alternative recovery strategies to minimize foreclosure or liquidation, (v) adherence to all applicable governing agreements and law, and (vi) consideration of other judgment factors that a prudent mortgage servicer would utilize;
- No principal modification shall reduce the principal amount due on any mortgage loan below the current market value using third party valuation sources; and

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- BofA may implement modification or loss mitigation strategies taking into consideration factors set forth above, and/or act in accordance with the policies that BofA utilizes for its own held for investment portfolio shall be deemed in compliance with the Settlement Agreement.

I find that this section of the Settlement Agreement dealing with loss mitigation and considerations as outlined is reasonable and meet industry standards.

**Reporting and Attestation of Compliance**

Upon final court approval of the Settlement Agreement, BofA is required to perform the following:

- Report to the Trustee on a monthly basis, for each Covered Trust, concerning its compliance with the servicing improvement required by the Settlement Agreement; and
- Pay for an annual attestation report by an audit firm, selected by the Master Servicer in accordance with a selection process and that allows the Trustee to veto BofA's selection for the Covered Trusts as a group no later than February 15<sup>th</sup> of each year.

The Trustee will use reasonable commercial efforts to make the above reports available via its website within five business days of its receipt of such report. In addition, the Trustee will distribute the attestation report to all Investors as part of its monthly statement issued in April of each year.

I find this section of the Settlement Agreement dealing with reporting and attestation of compliance as outlined above is reasonable and it meets or exceeds industry standards.

**Administration and Cure of Documentation Deficiencies**

The Settlement Agreement provides for agreed-upon procedures to cure certain document deficiencies. Such procedures include, among other things, the following:

- Not later than six weeks after the signing date of the Settlement Agreement, BofA (as Master Servicer) will compile an "Initial Exceptions Report Schedule";
- Each month following the month in which BofA submits the "Initial Exceptions Report Schedule", BofA will provide to the Trustee a monthly exception report listing separately all loans which remain uncured and those that have been cured;
- BNYM has fifteen business days following receipt of the monthly exception report to determine whether BofA's decision to list loans as cured is supported by reasonable evidence. If it is determined that reasonable evidence has not been provided, BNYM is required to direct BofA to revise its exception report accordingly; and

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- The Trustee will use reasonable best efforts to make the monthly exception reports available on its website within five business days of its receipt of such report.

BofA may elect, at its sole discretion, to resolve any document exception that is identified in the monthly exception reports. Failure to do so will subject BofA to reimburse the trust 100% of the mortgage loan's realized loss as defined in the applicable governing agreement.

Based on my review and consistent with the summary above, I conclude that the portions of the Settlement Agreement dealing with administration and cure of document deficiencies are reasonable and industry precedent setting.

\* \* \* \*

As summarized at the beginning of this opinion, based upon the documentation provided and the work performed by RRMS related to the mortgage loan servicing and administration portion of the Settlement Agreement, I find the approaches as outlined for both first and second lien mortgage assets to be reasonable and in accordance with or exceeding customary and usual standards of practice for prudent mortgage loan servicing and administration. It is my opinion that this settlement can be viewed as an industry precedent setting, pro-active approach in regard to establishing a framework to enhance recovery efforts for underperforming loan pools.

Yours truly,

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