



# Chase Independent Review

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## Third Report by the Independent Reviewer *JPMorgan Chase Bank, N.A., Bankruptcy Settlement*

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## I. INTRODUCTION

This is the third report by the Independent Reviewer (the “Third Report”) filed pursuant to the March 3, 2015 Bankruptcy Settlement Agreement between JPMorgan Chase Bank, N.A. (“Chase”) and the United States Trustee Program of the Department of Justice (“USTP”) (collectively, “the Parties”).<sup>1</sup> The Settlement Agreement requires Chase to perform three primary undertakings: (1) to make internal operational changes to the manner in which it prepares and files payment change notices (“PCN”) and escrow analyses in connection with Chapter 13 bankruptcy cases; (2) to provide approximately \$43 million in remediation to borrowers in Chapter 13 bankruptcy who were affected by Chase’s PCN and escrow-related practices; and (3) to donate \$7.5 million to the American Bankruptcy Institute’s endowment for financial education and support for the Credit Abuse Resistance Education Program. The Settlement Agreement appointed Amy Walsh as the Independent Reviewer to assess Chase’s compliance with these obligations and report the results on a semi-annual basis.

The Independent Reviewer issued her Initial Report on December 22, 2015 and her Second Report on August 12, 2016. These prior reports provided an overview of the Settlement Agreement, described the Independent Reviewer’s role and responsibilities, described the status of Chase’s borrower remediation and operational changes, and explained the testing methodologies and procedures the Independent Reviewer employs to assess Chase’s compliance with the Settlement Agreement. This Third Report discloses testing results from the current period, including:

- A summary of the content of the Initial and Second Reports;
- A review of the test results from the current testing period, which examines paragraphs 42, 38-39 and 41, 44 and 56, and 92(i)-(j) of the Settlement Agreement; and
- An overview of upcoming test results and next steps.

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<sup>1</sup> Terms, phrases, and provisions of the Settlement Agreement defined in the Initial Report maintain their definitions throughout this and subsequent reports by the Independent Reviewer. *See, generally*, Initial Report dated December 22, 2015, *available at* [www.chaseindependentreview.com](http://www.chaseindependentreview.com); *see also* Settlement Agreement, Exhibit 1 to the Initial Report dated December 22, 2015.

## II. SUMMARY OF PRIOR REPORTS

In December 2015 and August 2016, the Independent Reviewer filed her Initial Report and Second Report with the Court and published the reports independently on the Independent Reviewer's website at [www.chaseindependentreview.com](http://www.chaseindependentreview.com). The first two reports detail an overview of the Settlement, the Independent Reviewer's mandate and approach, Chase's borrower remediation efforts, and the Settlement compliance testing results—performed by Chase's Bankruptcy Review Group ("BRG")<sup>2</sup> and the Independent Reviewer's team—related to the requirements of paragraph 40, and paragraphs 76, 78, and 79 of the Settlement Agreement. Moreover, the Independent Reviewer reported in her Second Report that Chase had represented to the Independent Reviewer that it had completed its borrower remediation obligations by the deadlines set forth in the Settlement Agreement and applicable letter agreements, though the testing of the various remediation components is still in progress.

While the first two reports focus in depth on the requirements of the Settlement Agreement and the testing methodologies that the Independent Reviewer employs to evaluate Chase's compliance, this and subsequent reports will focus primarily on the testing results for the testable requirements under the Settlement Agreement.

## III. CURRENT REPORTING PERIOD TEST RESULTS

During the current testing period, the BRG completed its testing and submitted its results to the Independent Reviewer for the testable requirements under paragraph 42, paragraphs 38-39 and 41, paragraphs 44 and 56, and paragraph 92(i)-(j) of the Settlement Agreement. These paragraphs relate to Chase's remediation for attorneys' fees expended in connection with successful PCN challenges (§ 42); Chase's remediation relating to Substantively Inaccurate PCNs (§§ 38-39, 41); Chase's compliance with policies and procedures prohibiting Late Fees and other charges in bankruptcy cases (§§ 44 and 56); and the accuracy of PCNs that Chase filed after the conclusion of the self-imposed time period during which Chase generally stopped filing PCNs in order to address the PCN-related issues detailed in the Settlement Agreement (the "Moratorium"), which began on November 19, 2013 and ended on October 31, 2014 for Chase's MSP system, and on May 31, 2015 for Chase's VLS system (§ 92(i)-(j)).

The Independent Reviewer's testing principally focused on examining sampled loans in the populations tested by the BRG in accordance with the parameters established in the applicable Validation

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<sup>2</sup> The BRG is an organization within Chase's risk group that is and will remain independent from Chase's mortgage servicing business and controls group.

Protocols and Test Procedures that apply to each of the above paragraphs.<sup>3</sup> The Independent Reviewer's assessment also included: (i) follow-up meetings with the BRG; (ii) walk-throughs of the BRG's approach to population determination and remediation testing; and (iii) requests for additional evidence involving customer information in Chase's various systems of record and inquiries concerning the BRG's testing methodologies and results.

As discussed in detail below, the Independent Reviewer has concluded that Chase complied with its obligations under paragraph 42; paragraphs 38, 39, and 41; paragraphs 44 and 56; and paragraphs 92(i)-(j) of the Settlement Agreement.

**A. Reimbursement of Certain Attorneys' Fees (Settlement Agreement Paragraph 42)**

**Overview of Paragraph 42.** Paragraph 42 of the Settlement Agreement requires Chase to reimburse borrowers for reasonable attorneys' fees in bankruptcy cases in which: (1) Chase filed a Substantively Inaccurate PCN, an Untimely PCN, or failed to file a PCN in connection with a payment change for a non-HELOC loan during the PCN Relevant Period; (2) the Bankruptcy Case is still pending as of the date of the Settlement (March 3, 2015); (3) the borrower (or Bankruptcy trustee) has disputed a payment increase or fees, charges, and costs imposed in connection therewith as of March 3, 2015; and (4) the overall result was successful.

Before entering into the Settlement Agreement, Chase and the USTP agreed that it is difficult to ascertain the precise amount of attorneys' fees incurred by borrowers in connection with payment change objections in Chapter 13 bankruptcy cases; accordingly, Chase and the USTP determined that Chase will provide borrowers in all applicable cases with a reimbursement amount of \$1,000. The Independent Reviewer is obligated to verify that Chase identified with substantial accuracy the number of borrowers entitled to such relief and that Chase sent a check in the amount of \$1,000 to the borrowers. As detailed below, the Independent Reviewer has concluded that Chase complied with its obligations under paragraph 42 of the Settlement Agreement.

**Identification of the Testing Population for Paragraph 42.** Pursuant to a Letter Agreement between Chase and the USTP dated May 22, 2015, the test population for paragraph 42 is derived from Chase's internally maintained list of bankruptcy matters escalated to litigation and supplemented by any

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<sup>3</sup> Settlement Agreement paragraph 42 is tested pursuant to Validation Protocol 4; paragraphs 38, 39, and 41 are tested together pursuant to Validation Protocol 2; paragraphs 44 and 56 are tested together under Validation Protocol 5; and paragraph 92(i)-(j) is tested pursuant to Validation Protocols 13A and 13B. These paragraphs of the Settlement Agreement correspond to paragraphs 92(d), 92(e), and 92(i)-(j) of the Independent Reviewer's assessment mandate.

additional cases identified by the vendor that Chase engaged to assist in searching the PACER system for bankruptcy filings.<sup>4</sup> After identifying disputed payment changes via these two sources, Chase’s outside counsel reviewed each of the results to determine whether they met the four above-listed criteria and thus belonged in the test population for paragraph 42. Finally, Chase’s outside counsel certified in writing that the list of loans in the test population is substantially complete. The certification provides in relevant part that the population of loans eligible for reimbursement was determined through a combination of electronic searches and manual reviews to identify: (1) eligible loans from Chase’s database of bankruptcy matters escalated to litigation; and (2) eligible loans from data supplied by a Chase vendor that was retained to conduct relevant electronic docket searches.

After identifying the test population, Chase submitted to the BRG a list of 89 loans representing the test population, accompanied by the certification from its outside counsel. The Independent Review team reviewed the methods used to determine the test population and the certification by outside counsel. The Independent Review team requested and received additional information from Chase relating to the electronic search process used by Chase’s vendor. After reviewing the additional information, the Independent Reviewer is satisfied that the list of loans in the test population is substantially complete.

**BRG Testing of Paragraph 42.** The BRG tested all 89 loans in the test population under the applicable testing parameters in Validation Protocol 4 and its related Test Procedures, which include verifying that a check in the amount of \$1,000 was mailed to each borrower by the deadline of April 30, 2016.<sup>5</sup> The following table details the results of the BRG’s testing:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
89	0	0%

Because the BRG did not identify any errors in the sample, it reported to the Independent Reviewer that Chase has satisfied the testable requirements for paragraph 42, and provided its workpapers for review and testing by the Independent Reviewer and her team.

<sup>4</sup> See Letter Agreement between Chase and the USTP dated May 22, 2015 (Exhibit 4 to the Initial Report).

<sup>5</sup> The Settlement Agreement set a deadline of May 31, 2015 for borrower remediation under paragraph 42; however, Chase and the USTP agreed to extend the deadline until April 30, 2016 in a Letter Agreement dated December 2, 2015. See Exhibit 1 to the Second Report.

**Independent Reviewer’s Testing of Paragraph 42.** The Independent Review team’s assessment of the BRG’s paragraph 42 testing involved a detailed re-testing of all 89 loans originally tested by the BRG. The Independent Reviewer and her team interacted extensively with the BRG to resolve questions that arose during the testing process. After completing the loan-level testing, the Independent Review team compared its findings with those from the BRG. The following table sets forth the results of the Independent Reviewer’s loan-level testing, which is consistent with the BRG’s findings:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
89	0	0%

Despite the absence of any procedural errors in the BRG’s testing of Chase’s remediation, the Independent Reviewer identified a new issue that arose after defining the testing parameters and procedures for paragraph 42. While reviewing the reimbursement checks that Chase distributed, the Independent Reviewer noticed that 53 of the checks were both sent to and made payable to the borrowers’ respective bankruptcy counsel.<sup>6</sup> Chase explained that, in many cases, it sent checks to its borrowers’ attorneys to avoid any possible appearance of improper contact with litigants represented by counsel, and that making payment to counsel was consistent with its view of the settlement obligations because Chase expected the attorneys, as fiduciaries of their clients’ funds, to remit to their client the amounts in the checks made out to the attorneys. However, regardless of the fiduciary relationships between the attorneys and their clients, the Independent Reviewer concluded that the explicit language of paragraph 42 requires Chase to reimburse eligible borrowers directly rather than through their respective attorneys.

For this reason, the Independent Reviewer decided that it was necessary to obtain confirmation from the attorneys who received checks that they in fact provided the reimbursement funds to their clients (the Chase borrowers). To that end, the Independent Reviewer sent a letter to each of the 53 attorneys who received reimbursement checks (the “Attorney Outreach Letters”). The Attorney Outreach Letters requested the attorney to return an enclosed confirmation indicating whether the attorney had remitted all or part of these funds to the borrower and, if the attorney had retained any of the funds, to briefly explain why. The Independent Reviewer mailed the Attorney Outreach Letters on or about June 23, 2016. Over the next several months, approximately one-half of the attorneys returned the confirmation forms. Out of the one-half who responded, the majority of those attorneys indicated that they had

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<sup>6</sup> Of the remaining 36 loans, 5 were instances where the check was made payable directly to the borrower, and the remaining 31 involved borrowers whose attorneys either did not respond to, or declined, Chase’s reimbursement offer.

retained at least a portion of the funds because the borrowers owed them money in connection with their respective bankruptcy cases.

The Independent Reviewer relayed these results to Chase, and conveyed her conclusion that Chase should have reimbursed its borrowers directly by making the checks payable to them, not to their attorneys. After further discussions about the appropriate resolution to this issue, Chase decided voluntarily to send new checks directly to the 53 borrowers, this time with the checks made out to each borrower instead of each borrower's attorney. Chase undertook this corrective action in October 2016. The BRG subsequently tested all of the loans subject to Chase's corrective action using the same testing methodology provided for in Validation Protocol 4 and its Test Procedures.

In November 2016, the BRG submitted its test results and corresponding workpapers to the Independent Reviewer. The Independent Review team independently tested all the loans tested by the BRG in connection with Chase's corrective action and concluded that Chase properly remediated the borrowers who had not received their checks directly in the first instance. Accordingly, the Independent Reviewer has concluded that Chase complied with its obligations in paragraph 42 of the Settlement Agreement.

**B. Remediation for Substantively Inaccurate PCNs (Paragraphs 38, 39, and 41)**

**Overview of Paragraphs 38, 39, and 41.** Paragraphs 38, 39, and 41 of the Settlement Agreement require Chase to provide certain remediation to borrowers in bankruptcy cases where Chase filed Substantively Inaccurate PCNs during the PCN Relevant Period—in other words, PCNs that did not provide borrowers with the correct payment change amount or the correct date on which the new payment was effective.

The Settlement Agreement requires Chase to provide the following remediation. First, Chase is obligated to offer to forgive the outstanding principal balance of any HELOC loan<sup>7</sup> for which a Substantively Inaccurate PCN was filed during the PCN Relevant Period or, if the loan has already been foreclosed upon or was subject to a short sale, Chase is obligated to waive any remaining deficiency. See Settlement Agreement (“SA”) ¶ 38. In connection with this relief, Chase is required to provide borrowers with 30 days' notice and the right to opt out of the offer of loan forgiveness. *Id.* In fact, Chase cannot forgive an eligible HELOC loan under the Settlement Agreement if it does not provide borrowers with at least 30 days' notice and the opportunity to opt out. If, however, a HELOC loan borrower opts out of the loan forgiveness relief described above or if the HELOC loan has been closed or

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<sup>7</sup> A home equity line of credit (“HELOC”) is a loan in which the lender agrees to lend a maximum amount within an agreed period or term where the collateral for the loan is the borrower's equity in the house.



has a \$0 principal balance because the borrower paid in full as of the time of the forgiveness offer, Chase is required to pay the borrower by check or credit for the aggregate overpayments or underpayments made in connection with a Substantively Inaccurate PCN. SA ¶ 39(a-c).

Second, in the case of non-HELOC loans where Chase filed a Substantively Inaccurate PCN during the PCN Relevant Period, Chase must provide credits or refunds for the aggregate difference between the accurate amount due and the incorrect amount set forth in the Substantively Inaccurate PCN. Chase must also withdraw Substantively Inaccurate PCNs in cases where those PCNs are still effective, and file a Properly Filed PCN in its place. SA ¶ 41.

As detailed below, the Independent Reviewer has concluded that Chase complied with its obligations under paragraphs 38-39 and 41 of the Settlement Agreement.

**Identification of the Testing Population for Paragraphs 38, 39, and 41.** The testing population for paragraphs 38-39 and 41 consists of the approximately 462 Substantively Inaccurate PCNs that Chase identified in the Settlement Agreement. SA ¶ 30(f). These 462 PCNs were filed in connection with 431 separate loans (325 HELOC and 106 non-HELOC loans, with multiple PCNs having been filed for certain loans). The Substantively Inaccurate PCNs were filed with bankruptcy courts during the PCN Relevant Period and contained: (1) an incorrect payment change amount; or (2) an incorrect date that the new payment change would go into effect. Chase initially ascertained the number of Substantively Inaccurate PCNs that is set forth in the Settlement Agreement by reviewing the PCNs that Chase filed during the PCN Relevant Period and comparing the data in those PCNs with the data in Chase's internal records systems – its Vendor Loan System ("VLS") for HELOC loans and its Mortgage Servicing Platform ("MSP") for non-HELOC loans. During its confirmatory work, Chase identified three additional Substantively Inaccurate PCNs and concluded that the relevant testing population in fact consists of 465 PCNs (instead of 462) filed in connection with 434 separate loans (325 HELOC and 109 non-HELOC).

**BRG Testing of Paragraphs 38, 39, and 41.** The BRG separately tested the 325 HELOC and 109 non-HELOC loans for which Chase filed Substantively Inaccurate PCNs in order to account for the different relief applicable for each type of loan. All loans in the population were tested under the testing parameters in Validation Protocol 2 and its related Test Procedures, which include determining: (1) whether applicable borrowers were provided with at least 32 days' notice prior to loan forgiveness;<sup>8</sup> (2) whether the outstanding principal balance for applicable loans was forgiven; (3) whether credits or checks were provided in applicable cases; and (4) whether Chase withdrew and filed Properly Filed PCNs in

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<sup>8</sup> Although paragraph 38 requires Chase to give borrowers 30 days' notice before forgiving a loan balance, Chase and the Independent Reviewer agreed in Validation Protocol 2 to test for 32 days to account for the mailing process.

applicable cases. The following table details the results of the BRG’s testing:

Number of <b>HELOC</b> Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
325	7	
Number of <b>Non-HELOC</b> Loans in Test Population	Number of Errors Found	
109	1	
<b>Total</b> Number of Loans in Test Population	Total Number of Errors Found	
434	8	1.84%

Because the percentage of errors identified by the BRG did not exceed the agreed-upon error rate for the total number of loans in the population, the BRG reported to the Independent Review team that Chase satisfied the testable requirements of paragraphs 38-39 and 41. The BRG subsequently provided its work papers for review and testing by the Independent Reviewer and her team.

**Independent Reviewer’s Testing of Paragraphs 38, 39, and 41.** The Independent Review team’s assessment of the testing for paragraphs 38-39 and 41 involved a detailed independent test of all HELOC and non-HELOC loans originally tested by the BRG using the testing approach provided for in Validation Protocol 2 and its Test Procedures. The Independent Review team interacted extensively with the BRG to resolve questions that arose during the testing process. The Independent Review team ascertained the number of errors in the test population and compared its findings with those from the BRG. The following table sets forth the results of the Independent Reviewer’s loan-level testing:

Number of <b>HELOC</b> Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
325	4	
Number of <b>Non-HELOC</b> Loans in Test Population	Number of Errors Found	
109	1	
<b>Total</b> Number of Loans in Test Population	Total Number of Errors Found	
434	5	1.12%

The Independent Reviewer's test results indicate three fewer errors in the HELOC loan sample than the BRG's test results (4 and 7 errors, respectively). The difference in error total relates to a change in the evidence that the Independent Reviewer relied on during her independent testing, specifically with respect to the evidence used to demonstrate that Chase in fact provided eligible HELOC borrowers with 32 days' notice and the opportunity to opt out before forgiving the balance on the loan. The BRG initially reported that five HELOC borrowers were not given the required notice prior to Chase forgiving their respective loan balances. However, after reviewing multiple forms of evidence, the Independent Reviewer and Chase agreed to a different evidentiary approach, using a different screen in Chase's systems of record to determine the most accurate date on which Chase forgave the balance of an eligible HELOC loan. This change in evidence resulted in a change in the test results for three HELOC loans, which the Independent Reviewer concluded were timely forgiven.

Because the percentage of errors identified both by the BRG and by the Independent Reviewer did not exceed the agreed-upon error threshold for the total number of loans in the test population, the Independent Reviewer concluded that Chase complied with its obligations in paragraphs 38-39 and 41 of the Settlement Agreement.

**C. Validation of Adherence to Late Fees Policy (Paragraphs 44 and 56)**

**Overview of Paragraphs 44 and 56.** Chase represented in the Settlement Agreement that it has adhered to, and will continue to adhere to, its policy of not charging Late Fees in any bankruptcy case, and further represented that it has a policy not to impose additional fees, charges, or penalties on a borrower in a bankruptcy case as a result of a Substantively Inaccurate or Untimely PCN, or because of an Un-Noticed Payment Change (the "PCN Policies"). SA ¶¶ 44, 56. If, however, "it is determined that Chase did not adhere to the PCN Policies in any Bankruptcy Case, Chase will . . . credit[] the borrower's mortgage loan account with all amounts assessed or imposed . . . or refund[] all amounts improperly collected." SA ¶ 56.

To test the accuracy of Chase's statements, the Independent Reviewer sought to validate Chase's adherence to its Late Fee and PCN Policies in a two-pronged test. First, the Independent Reviewer would validate that Chase maintains policies, procedures, practices, limitations, or other requirements to prevent the imposition of Late Fees and other charges in Chapter 13 bankruptcy cases. Second, the Independent Reviewer would validate through a loan sampling methodology that loans in bankruptcy on or after December 1, 2011 were not assessed Late Fees or, in the event a borrower was assessed Late Fees, that the fee was credited or otherwise removed from the borrower's account upon exiting bankruptcy.

**Identification of the Testing Population for Paragraphs 44 and 56.** The testing of policies and procedures identified in paragraphs 44 and 56 involves a review of Chase’s policies and procedures regarding Late Fees in bankruptcy cases that were in effect during (a) the PCN Relevant Period, (b) the Moratorium, and (c) after the Moratorium. The test population identified in paragraphs 44 and 56 includes all loans in Chapter 13 bankruptcy with bankruptcy removal dates between December 1, 2011 (the beginning of the PCN Relevant Period) through June 17, 2016 (the date that the BRG pulled its sample from the loan population and began its test work). To identify the loans that should be in the test population, the BRG selected a random, statistically significant sample of 321 loans from the test population of 119,708 applicable loans.

**BRG Testing of Paragraphs 44 and 56.** Once the test population for paragraphs 44 and 56 was identified, the BRG first examined the applicable policies and procedures to ensure that they met the agreed-upon requirements, and then tested the 321 loans for evidence of assessed Late Fees and remediation if required.

With respect to Chase’s policies and procedures, the BRG determined that Chase maintained relevant policies and procedures during the three time periods in question and that the policies and procedures adequately addressed the treatment of Late Fees on loans in Chapter 13 bankruptcy cases.

With respect to the test population of loans, the BRG tested each of the loans in the sample pursuant to the requirements of Validation Protocol 5 and its accompanying Test Procedures. Specifically, the BRG tested the sample loans to determine whether Chase improperly assessed any Late Fees for loans in Chapter 13 bankruptcy during the period in question and, if Chase had assessed such Late Fees, whether Chase removed or credited those Late Fees. The following table sets forth the results of the BRG’s testing:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
321	0	0%

Because the BRG did not identify any loans that failed the applicable tests for Late Fees, the BRG reported to the Independent Reviewer that Chase satisfied the testable requirements of paragraphs 44 and 56, and provided its work papers for review and testing by the Independent Reviewer and her team.

**Independent Reviewer’s Testing of Paragraphs 44 and 56.** The Independent Reviewer tested Chase’s compliance with paragraphs 44 and 56 by reviewing the policies and procedures relating to Late Fees described above, and by conducting a detailed re-testing of the 321 loans originally tested by the BRG. Throughout that re-testing process, the Independent Reviewer and her team interacted extensively

with the BRG to resolve questions that arose during the testing process.

With respect to Chase’s policies and procedures, the Independent Reviewer concluded that Chase maintained relevant policies and procedures during the three time periods in question and that the policies and procedures adequately addressed the treatment of Late Fees for loans in Chapter 13 bankruptcy cases.

With respect to the loan-level testing, the Independent Review team determined the number of errors in the test population and compared its findings with those from the BRG. The following table sets forth the results of the Independent Reviewer’s loan-level testing, which is consistent with the BRG’s findings:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
321	0	0%

The Independent Review team therefore concurred with the BRG’s test results and did not identify any failed loans in the test sample. Accordingly, the Independent Reviewer concluded that Chase fulfilled its obligations set forth in paragraphs 44 and 56.

**D. Accuracy of Post-Moratorium PCNs (Paragraph 92(i)-(j))**

**Overview of Paragraph 92(i)-(j).** In the Settlement Agreement, Chase represented that it implemented various systemic and operational enhancements to ensure the proper verification and accuracy of PCNs prior to filing. SA ¶¶ 32-36. To ensure the efficacy of these enhancements, the Settlement Agreement requires the Independent Reviewer to validate the accuracy of Chase’s PCNs filed after the conclusion of the PCN Moratorium. Specifically, the Independent Reviewer’s mandate is to assess whether PCNs filed in Bankruptcy Cases after the MSP and VLS Moratoriums: (1) have been verified and reviewed by a PCN Signer; (2) contain the correct payment change amount; and (3) were filed 21 days or more prior to the effective date of the new payment.

The PCN Moratorium ended on two different dates that correspond to Chase’s two systems of record used to house loan data and generate PCNs. The Moratorium for Chase’s MSP system ended on October 31, 2014. The Moratorium for Chase’s VLS system ended on May 31, 2015. The MSP and VLS systems produced different populations subject to the same testing. Therefore, the BRG and the Independent Reviewer developed Validation Protocol 13A and 13B and corresponding Test Procedures to respectively test the populations from MSP and VLS.

To test the accuracy of Chase’s PCNs, the Independent Reviewer used a two-pronged test. First, the Independent Reviewer would validate that Chase maintains policies, procedures, or other

requirements that mandate PCN signers to have personal knowledge of the facts stated in PCNs that they sign, and to use their own ECF<sup>9</sup> credentials for filing PCNs. Second, the Independent Reviewer would validate through a loan sampling methodology that PCNs filed after the PCN Moratorium were verified and reviewed by a PCN Signer, contained the correct payment change amount, and were filed 21 days or more prior to the effective date of the new payment.

**Identification of the Testing Population for Paragraph 92(i)-(j).** The testing of policies and procedures identified in paragraph 92(i)-(j) involves a review of Chase’s policies and procedures regarding the filing of PCNs in bankruptcy cases that were in effect after the Moratorium. The two test populations for loan-level testing under paragraph 92(i) and 92(j) consist of: (1) all loans stored in Chase’s MSP system for which a PCN was filed after October 31, 2014 (tested under Validation Protocol 13A); and (2) all loans stored in Chase’s VLS system for which a PCN was filed after May 31, 2015 (tested under Validation Protocol 13B). The BRG’s search for these loans resulted in test populations of 37,857 for MSP and 2,882 for VLS.

**BRG Testing of Paragraph 92(i).** With respect to Chase’s policies and procedures, the BRG determined that Chase maintained relevant policies and procedures after the Moratorium and that the policies and procedures adequately instructed PCN reviewers to verify that the PCNs were factually accurate, timely filed, and filed using the reviewer’s own ECF credentials.

With respect to the loan-level test, once the BRG identified the test population of 37,857 loans from Chase’s MSP system, the BRG randomly selected a statistically significant sample consisting of 319 loans. The BRG tested each of the loans in the sample to determine whether the PCNs had been verified and reviewed by a PCN signer and whether they were accurate and complete. The following table sets for the results of the BRG’s testing:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
319	4	1.25% <sup>10</sup>

<sup>9</sup> “ECF” is the Electronic Case Files system used by bankruptcy courts throughout the United States. Each bankruptcy court across the 94 bankruptcy jurisdictions maintains its own set of rules regarding the credentials required to access the ECF system and file documents in a bankruptcy case.

<sup>10</sup> The 1.25% of errors in total is an aggregate error percentage for the entire test population for paragraph 92(i). The Validation Protocol applicable to paragraph 92(i) contains four distinct test questions, each of which was assigned an agreed-upon error rate. The BRG’s test results showed a total number of errors of less than 1% for each test question; however, when the number of errors across the four test questions are aggregated and compared to the total population of 319 loans, the total errors represent 1.25% of that population.

Because the percentage of errors identified by the BRG did not exceed the agreed-upon error rates, the BRG reported to the Independent Reviewer that Chase satisfied the testable requirements of paragraph 92(i), and provided its work papers for review and testing by the Independent Reviewer and her team.

**Independent Reviewer's Testing of Paragraph 92(i).** The Independent Reviewer began her review by conducting a review of the applicable policies and procedures and a detailed re-testing of the 319 loans originally tested by the BRG in connection with Chase's MSP system. Throughout that re-testing process, the Independent Reviewer and her team interacted extensively with the BRG to resolve questions that arose during the testing process.

With respect to Chase's policies and procedures, the Independent Reviewer determined that Chase maintained relevant policies and procedures after the Moratorium and that the policies and procedures adequately instructed PCN reviewers to verify that the PCNs were factually accurate, timely filed, and filed using the reviewer's own ECF credentials.

After completing the loan-level testing, the Independent Review team ascertained the number of errors in the paragraph 92(i) test population and compared its findings with those from the BRG. The following table sets forth the results of the Independent Reviewer's loan-level testing, which is consistent with the BRG's findings:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
319	4	1.25%

Because the Independent Review team concurred with the BRG's testing and the percentage of errors did not exceed the agreed-upon error rates for the total number of loans in the sample, the Independent Reviewer concluded that Chase satisfied the requirements of paragraph 92(i).

**BRG Testing of Paragraph 92(j).** With respect to Chase's policies and procedures, the BRG determined that Chase maintained relevant policies and procedures after the Moratorium and that the policies and procedures adequately instructed PCN reviewers to verify that the PCNs were factually accurate, timely filed, and filed using the reviewer's own ECF credentials.

With respect to the loan-level test, once the BRG identified the test population of 2,882 loans from Chase's VLS system, the BRG randomly selected a statistically significant sample of 290 loans. The BRG tested each of the loans in the sample to determine whether the PCNs had been reviewed and verified by a PCN signer, and whether they were accurate and complete. The following table sets for the results of the BRG's testing:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
290	0	0%

Because the BRG did not identify any errors in the sample, it reported to the Independent Reviewer that Chase satisfied the requirements of paragraph 92(j), and provided its workpapers for review by the Independent Reviewer and her team.

**Independent Reviewer’s Testing of Paragraph 92(j).** As with her assessment of the BRG’s testing under paragraph 92(i), the Independent Reviewer assessed Chase’s compliance with paragraph 92(j) by conducting a review of relevant policies and procedures and a detailed re-testing of the 290 loans originally tested by the BRG in connection with Chase’s VLS system. Throughout that re-testing process, the Independent Reviewer and her team interacted extensively with the BRG to resolve questions that arose during the process.

With respect to Chase’s policies and procedures, the Independent Reviewer determined that Chase maintained relevant policies and procedures after the Moratorium and that the policies and procedures adequately instructed PCN reviewers to verify that the PCNs were factually accurate, timely filed, and filed using the reviewer’s own ECF credentials.

After completing the loan-level testing, the Independent Review team determined the number of errors in the paragraph 92(j) test population and compared its findings with those from the BRG. The following table sets forth the results of the Independent Reviewer’s loan-level testing, which is consistent with the BRG’s findings:

Number of Loans in Test Population	Number of Errors Found	Percentage of Errors in Total
290	0	0%

Because the Independent Review team concurred with the BRG’s testing and found no errors in the loans in the sample, the Independent Reviewer concluded that Chase satisfied the testable requirements of paragraph 92(j).

**E. Additional BRG Test Results Submitted During the Current Testing Period**

In addition to the Independent Reviewer’s conclusions with respect to the test results reported above, the BRG completed its testing and submitted its findings and workpapers to the Independent Reviewer in connection with the following paragraphs during the current testing period:



- **Paragraphs 30 and 60:** Validating the number of Untimely, Incorrectly Signed, and Substantively Inaccurate PCNs as stated in paragraph 30, and the number of loans in the Pre-Moratorium Delayed Escrow Population as stated in paragraph 60;
- **Paragraphs 47-49 and 53:** Validating Chase's remediation for Untimely, Unfiled, or Substantively Inaccurate PCNs in applicable bankruptcy cases where Chase filed a Motion for Relief from Stay;
- **Paragraph 92(a):** Validating the existence of policies, procedures, or other controls within Chase as they relate to historically-filed PCNs;<sup>11</sup> and,
- **Paragraphs 92(k):** Validating that Chase's escrow analyses attached to PCNs filed after the Moratorium were no longer impacted by the Escrow Overlay issue identified in the Settlement Agreement. See SA Article X.

The Independent Reviewer's assessment of the BRG's test results is in progress with respect to the above paragraphs. Consistent with the testable requirements for which the Independent Reviewer has rendered her conclusions in this report, the Independent Reviewer is currently working closely with Chase and the BRG to understand the BRG's testing and resolve issues that may impact her independent testing and assessment of Chase's compliance with the above Settlement Agreement paragraphs. Pending the resolution of any issues, the Independent Reviewer's conclusions will be disclosed in her next report.

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#### **IV. CONCLUSION AND NEXT STEPS**

As detailed above, the Independent Reviewer concluded that Chase has complied with its obligations under paragraphs 42, 38,39 and 41, 44 and 56, and 92(i)-(j) of the Settlement Agreement.

The BRG has submitted to the Independent Reviewer its test results in connection with paragraphs 30 and 60, 47-49 and 53, 92(a), and 92(k), and is currently conducting testing of Chase's compliance with several additional paragraphs of the Settlement Agreement. Depending on the nature of the results of these tests and any issues that arise during the Independent Reviewer's assessment, the Independent Reviewer will report her conclusions with respect to some or all of these paragraphs in her next report, which will be issued in mid-2017.

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<sup>11</sup> Paragraph 92(a) requires the Independent Reviewer to validate whether Chase employees substantively reviewed and verified the data contained in Incorrectly Signed PCNs prior to filing. A portion of the Independent Reviewer's testing for paragraph 92(a) involves examining policies, procedures, and controls, which the BRG has tested and reported to the Independent Reviewer. The Independent Reviewer has also interviewed Chase employees who historically prepared PCNs to complete her assessment under paragraph 92(a). This portion of the testing for paragraph 92(a) was conducted by the Independent Reviewer without input from the BRG.