

Chase Independent Review

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

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I. Introduction

This is the first report by the Independent Reviewer appointed pursuant to the March 3, 2015 settlement agreement (the “Settlement Agreement” or “SA”) between JPMorgan Chase Bank, N.A. (“Chase”) and the United States Trustee Program of the Department of Justice (“USTP”) (collectively, “the Parties”). The Settlement Agreement appointed Amy Walsh as the Independent Reviewer to assess Chase’s compliance with certain obligations set forth in the Settlement Agreement. The Settlement Agreement is attached as Exhibit 1.

The Settlement Agreement requires the Independent Reviewer to file semi-annual reports. (SA ¶ 90). This first report describes the Independent Reviewer’s role in assessing Chase’s obligations under the Settlement Agreement and Chase’s efforts and progress toward meeting those obligations. To that end, this report includes the following:

- A brief summary of the background and legal requirements at issue in the Settlement Agreement;
- An overview of the Independent Reviewer’s role and responsibilities;
- An overview of the provisions of the Settlement Agreement subject to assessment by the Independent Reviewer;
- A description of Chase’s borrower remediation and operational changes made to date; and
- An overview of the testing methodology and procedures to assess Chase’s compliance.

II. Background of the Settlement Agreement

A. Payment Change Notices in Chapter 13 Bankruptcy Cases

During the course of a Chapter 13 bankruptcy proceeding, the monthly mortgage payments due from a debtor may change because of a number of events such as interest rate fluctuations on adjustable rate mortgages, changes in the amount of payments required to fund the escrow account, and changes resulting from loan modifications or repayment plans. In order to keep debtors informed of such changes, the Federal Rules of Bankruptcy Procedure were amended to adopt Bankruptcy Rule 3002.1, which became effective December 1, 2011 (“Rule 3002.1”).

Rule 3002.1 applies in Chapter 13 cases to claims that are secured by a security interest in the debtor’s principal residence and provided for under § 1322(b)(5) of the Bankruptcy Code.¹ The Rule requires the holder of the security interest in those circumstances—typically the lender or servicer for the debtor’s home mortgage—to file and serve on the debtor, debtor’s counsel, and trustee “a notice of any change in the payment amount, including any change that resulted from an interest rate or escrow account adjustment, no later than 21 days before a payment in the new amount is due.” Rule 3002.1(b). In other words, the holder or servicer of a mortgage on the debtor’s principal residence must file with the bankruptcy court and serve on the debtor (as well as the debtor’s attorney and the bankruptcy trustee) a notice alerting the debtor to the change in the payment amount and the reason for the change more than 21 days before the payment change goes into effect (such payment change notices are referred to as “PCNs”). The purpose of this Rule is to provide timely notice of changes to post-petition payment obligations so that the debtor or trustee may challenge in court the validity of any such changes or, if appropriate, adjust post-petition mortgage payments as set forth in the PCN. *See Fed. R. Bankr. P. 3002.1, Committee Notes on Rules, Apr. 26, 2011.*

The official form for PCNs requires the person signing the form to declare under penalty of perjury that “the information provided is true and correct to the best of my knowledge, information, and reasonable belief.” *See Form B10S1 (Supplement 1) (12/11), attached as Exhibit 2 (highlighting added).* Like other court documents, PCNs are filed electronically in each bankruptcy court through the court’s Case Management/Electronic Case File system (“ECF”). On and after December 1, 2011, Chase, along with other mortgage servicers, began filing PCNs in bankruptcy courts throughout the country pursuant to Rule 3002.1 whenever there was a change in the mortgage payment amount due from the debtor.

¹ Bankruptcy Code Section 1322(b)(5) provides for bankruptcy plans that allow a debtor to cure a default and maintain payments to a creditor going forward.

B. Annual Escrow Analyses in Chapter 13 Bankruptcy Cases

The servicer of a mortgage loan on real property typically pays amounts due to various parties related to the upkeep of the property, such as real estate taxes and property insurance. The servicer pays these amounts from an escrow account funded by the borrower. To determine the amount necessary for the borrower to fund his or her escrow account, a servicer typically runs an escrow analysis on an annual basis and apportions the projected annual total due over the 12 monthly mortgage payments for the forthcoming year.

C. The Belzak Case & Entry of the Settlement Agreement

In the *Belzak* case, Chase was the mortgage servicer for the Belzaks' Home Equity Line of Credit Agreement. See *In re Belzak*, Case No. 10-23963-dob (E.D. Mich.). The Belzaks filed a Chapter 13 Bankruptcy Petition on October 26, 2010. Shortly thereafter, Chase filed a Proof of Claim asserting a secured claim based on the Belzaks' Home Equity Line of Credit Agreement. In July 2013, Chase filed a PCN informing the Belzaks that the amount of their monthly mortgage payment increased from \$495.28 to \$1,694.73. *In re Belzak*, Docket No. 57. This PCN misstated the payment amount and also raised a concern as to whether Chase had correctly signed and filed the PCN through ECF.² The Belzaks objected to the PCN and the Bankruptcy Court sustained the objection. *In re Belzak*, Docket No. 63. The United States Trustee for Region 9 filed a motion to require Chase to appear for an examination relating to the Belzak PCN; thereafter, the Bankruptcy Court stayed all United States Trustee-related proceedings while Chase conducted a broader inquiry into its PCN-related practices.

Prior to the Bankruptcy Court's stay, Chase halted the filing of any further PCNs until a review of PCN filings could be conducted and the issues rectified ("the Moratorium"). (SA ¶ 2). During the Moratorium, Chase discovered that a number of its PCNs filed in bankruptcy courts throughout the country were incorrectly signed, untimely, or substantively inaccurate.³ (SA ¶ 30). In the course of Chase's review of its PCN filings, Chase also discovered two types of issues related to its escrow practices in Chapter 13 bankruptcy cases: Chase had not always prepared annual escrow analyses for mortgage loans in bankruptcy that were more than 12 months contractually delinquent; and Chase's first lien mortgage servicing platform had a technological deficiency that

² For additional facts relating to the *Belzak* matter, see the Settlement Agreement (attached as Exhibit 1), Recitals and Articles I – III.

³ The terms "Incorrectly Signed," "Untimely," and "Substantively Inaccurate" as they relate to PCNs are defined in Article II of the Settlement Agreement (SA, pp. 3-4) and are described more fully below. For additional detail on the factual background related to PCNs, see the Settlement Agreement, Articles III-IV.

caused new annual escrow analyses to overwrite prior escrow analyses, therefore potentially applying the incorrect escrow payment to a borrower's account.⁴ (SA ¶¶ 59, 63).

Chase concluded its investigation and disclosed its findings to the USTP. After many months of discussions and negotiations, Chase and the USTP forged a settlement that resolved potential claims related to the *Belzak* PCN and addressed the broader issues that Chase identified concerning the sufficiency and accuracy of its general practices relating to PCN filings and escrow analyses in bankruptcy cases, including the appropriate relief for Chase borrowers who were impacted by the PCN and escrow-related issues Chase uncovered. As a result, under the Settlement Agreement, Chase agreed to provide certain remediation and to make certain operational changes relating to the creation and filing of PCNs and escrow analyses for its customers in Chapter 13 bankruptcy throughout the country.

D. Resolutions Provided in the Settlement Agreement

The Settlement Agreement requires Chase to perform three main tasks: (1) to make internal operational changes to the way it prepares and files PCNs and escrow analyses; (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.

As set forth in detail below, the majority of these obligations are subject to assessment and verification by the Independent Reviewer. While Chase represents that it is well underway with much of the monetary remediation and operational enhancements required under the Settlement Agreement, the Independent Reviewer will report in detail on Chase's compliance with the specific items of relief as those items are independently tested and verified using sampling and other methodologies.

⁴ For additional detail on the factual background relating to escrow analyses, see the Settlement Agreement, Article VIII.

III. Role of the Independent Reviewer

The Settlement Agreement provides for the appointment of an Independent Reviewer, Amy Walsh, to assess whether Chase is satisfying its obligations under the Settlement Agreement, including whether certain representations in the Agreement are substantially accurate, and whether Chase is meeting the borrower remediation obligations called for by the Agreement. Ms. Walsh has engaged outside consultants to assist her in discharging her duties under the Settlement Agreement, including the testing through which Ms. Walsh and her team will assess whether Chase has met its obligations, as well as Ms. Walsh's reporting requirements. Ms. Walsh has engaged BDO Consulting, a division of BDO USA, LLP ("BDO") to assist her with the testing and verification of the assertions made in the Settlement Agreement. Ms. Walsh has also retained the Honorable William H. Brown, U.S.B.J. (retired) to advise her on bankruptcy law, rules, procedure and practice. Ms. Walsh has confirmed that neither BDO nor Judge Brown has any conflicts that would interfere with the independent execution of their work. Under the Settlement Agreement, any costs associated with the Independent Review will be paid by Chase, including any fees associated with the experts' work.

In addition to assessing whether Chase has complied with the Settlement Agreement, it is the Independent Reviewer's responsibility to communicate Chase's progress to the Court in a publicly-filed report filed through ECF in the *Belzak* case. However, because viewing the Independent Reviewer's reports in the *Belzak* case will require a subscription to PACER, the Independent Reviewer has established a website, www.ChaseIndependentReview.com, where all her reports, as well as other information about the *Belzak* settlement, will be publicly available.

Ms. Walsh will report semi-annually on Chase's progress in meeting the obligations set forth in the Settlement Agreement.

IV. Provisions of the Settlement Agreement Subject to Assessment by the Independent Reviewer

The provisions of the Settlement Agreement that are subject to the Independent Reviewer's assessment and verification are described in Paragraph 92 and its sub-paragraphs. Each of these sub-paragraphs relates to provisions of the Settlement Agreement covering one of three categories: (1) Chase's factual assertions concerning historical PCN filings; (2) Chase's borrower remediation obligations; and (3) Chase's factual assertions concerning its PCN filings and escrow practices in Bankruptcy cases going forward.⁵ The following is a brief description of the provisions of the Settlement Agreement that form the basis for the Independent Review.

A. Factual Assertions Made by Chase about Historical PCN Filings

1. Paragraph 92(a): The Substantive Review of PCNs:

Paragraph 92(a) requires the Independent Reviewer to assess whether Chase employees substantively reviewed and verified the data in the Incorrectly Signed PCNs⁶ before they were filed. This mandate derives from Chase's representations contained in paragraphs 9-15 of the Settlement Agreement, which articulate Chase's belief that PCNs were substantively reviewed before they were filed, even if that review was conducted by someone other than the person whose electronic signature was affixed to the PCN during the ECF filing process. The Independent Reviewer's testing methods and assessment of the accuracy of Chase's representations concerning the substantive review of PCNs will be described in subsequent reports.

⁵ In addition, although not part of the testable requirements of the Independent Reviewer's mandate under paragraph 92, the Independent Reviewer has viewed Chase's operational enhancements relating to its PCN and escrow analysis practices during onsite reviews and walk-throughs of the improvements, such that the Independent Reviewer may discuss and consider these operational enhancements and their impact on Chase's compliance with the Settlement Agreement. (See SA ¶¶ 32-36, 74-75 (relating to operational enhancements); ¶ 91(f) (noting that the Work Plan entered into between Chase and the Independent Reviewer will provide for "reasonable access to documents and records relevant to operational enhancements implemented by Chase under this Order and reasonably necessary for the Independent Reviewer to discuss those operational enhancements and their impact on Chase's ability to file Properly Filed PCNs in the final Report...."). Those enhancements are described below in Section V.C., and the effectiveness of those enhancements will be evidenced by the testing of Chase's accuracy and timeliness of PCN filings and issuance of escrow analyses as outlined in the Validation Protocols described below.

⁶ "Incorrectly Signed PCNs" are defined as "PCNs filed with bankruptcy courts during the PCN Relevant Period (December 1, 2011 through November 19, 2013) in which the signature of the person executing and filing the PCN on Chase's behalf is that of the individual whose CM/ECF credentials were used to file the PCN with the relevant bankruptcy court although that individual did not review and verify the contents of the PCN." (SA, Article II).

2. Paragraph 92(b): Accuracy of the Number of PCNs Stated in the Agreement

Paragraph 92(b) requires the Independent Reviewer to assess whether Chase represented with substantial accuracy the number of PCNs stated in paragraph 30(a)-(g). Paragraph 30 and its subparts break down the number of PCNs filed during the PCN Relevant Period into seven categories:

CATEGORY	APPROX. NO. OF PCNs	REF.
1 Total number of PCNs filed during the PCN Relevant Period	53,000	SA ¶ 30(a)
2 Approximate number of Incorrectly Signed PCNs filed using the signature and ECF credentials of an individual who no longer worked for Chase at the time of filing	4,380	SA ¶ 30(b)
3 Approximate number of Incorrectly Signed PCNs filed with the signature and ECF credentials of a Chase employee who no longer worked in Chase's bankruptcy department at the time of filing	2,285	SA ¶ 30(c)
4 Approximate number of Incorrectly Signed PCNs filed with the signature and ECF credentials of a 4S ⁷ employee	26,225	SA ¶ 30(d)
5 Approximate number of Incorrectly Signed PCNs filed using the signature and ECF credentials of a Chase bankruptcy employee at the time of filing, but, in most instances, were not substantively reviewed and verified by the same employee pursuant to Chase's policies and procedures ⁸	20,301	SA ¶ 30(e)
6 Approximate number of Substantively Inaccurate PCNs ⁹ filed	462	SA ¶ 30(f)
7 Approximate number of Untimely PCNs ¹⁰ filed	2,554	SA ¶ 30(g)

The Independent Reviewer will assess the substantial accuracy of the numbers set forth above using a sampling methodology and reasonable threshold error rates to test statistically relevant samples.¹¹

⁷ 4S Technologies was a third-party vendor Chase used at the time to file its PCNs in the 94 bankruptcy courts throughout the country.

⁸ As set forth in paragraph 12 of the Settlement Agreement, during the PCN Relevant Period, Chase had policies and procedures in place that required Chase employees to, among other things, verify the contents of a PCN by comparing the data in the PCN with account information contained in Chase's system of record.

⁹ "Substantively Inaccurate PCNs" are defined as "PCNs filed during the PCN Relevant Period that did not provide the borrower with (1) the correct payment change amount, or (2) the correct date that the new payment change would go into effect." SA, Article II.

¹⁰ "Untimely PCNs" are defined as PCNs filed during the PCN Relevant Period that were filed less than 21 days before a payment in the new amount was due, or were filed after the effective date of the new payment amount. SA, Article II.

¹¹ For paragraph 30(f), Chase and the USTP subsequently modified the Settlement Agreement to provide that if the testing yields the conclusion that the number of Substantively Inaccurate PCNs filed during the PCN Relevant Period was less than 2% of the total number

3. Paragraph 92(c): Bankruptcy Cases with Escrow Analyses Delinquent More Than 12 Months

Paragraph 92(c) requires the Independent Reviewer to assess whether Chase stated with substantial accuracy the number of loans in Bankruptcy Cases that, as of November 19, 2013, had not had an escrow analysis performed in more than 12 months. This mandate is derived from Chase’s factual representation in paragraph 60 that the total number of such loans is approximately 2,225. These loans are referred to in paragraph 60 of the Settlement Agreement as the Pre-Moratorium Delayed Escrow Population, meaning that these loans did not have escrow analyses performed due to Chase’s bankruptcy-related escrow practices at the time and not due to the Moratorium.

The Independent Reviewer will assess the substantial accuracy of the number set forth above using a sampling methodology and reasonable threshold error rates to test statistically relevant samples.

4. Paragraph 92(e): Chase Policies Regarding Late Fees in Bankruptcy Cases

The Independent Reviewer is obligated under paragraph 92(e) to assess whether Chase is fulfilling its obligations in paragraphs 44 and 56 of the Settlement Agreement. These paragraphs address Chase’s policies regarding late fees in Bankruptcy Cases and its adherence to these policies.

a. Paragraph 44:

In paragraph 44, Chase confirms that it has adhered, and will continue to adhere, to the Late Fee Policy¹² in any Bankruptcy Case in which Chase filed a Substantively Inaccurate PCN or Untimely PCN, or did not file a PCN for a payment change during the PCN Relevant Period or Moratorium¹³ (hereafter an “Un-Noticed Payment Change”). Chase also confirms in paragraph 44 that it has a policy not to impose additional fees, penalties, or charges on a borrower in a Bankruptcy Case as a result of a Substantively Inaccurate PCN, Untimely PCN or because there was an Un-Noticed Payment Change (collectively with the Late Fee Policy, the “PCN Policies”). Finally, Chase confirms in paragraph 44 that it has adhered to the PCN Policies during the PCN Relevant Period and will continue to adhere to the PCN Policies in Bankruptcy Cases. The Independent Reviewer will assess whether Chase adhered and continues to adhere to these PCN Policies.

of PCNs filed during that period, then Chase’s original representation about the approximate number of Substantively Inaccurate PCNs will be deemed substantially accurate. See Letter from J.P. Morgan Chase & Co. to U.S. Department of Justice, Executive Office for the United States Trustees dated August 17, 2015 (attached as Exhibit 3).

¹² “Late Fee Policy” is defined in paragraph 43 of the Settlement Agreement as Chase’s policy and practice not to impose post-petition late fees on borrowers in the course of a Bankruptcy Case.

¹³ “Moratorium” is defined in Article II of the Settlement Agreement as the time period beginning November 19, 2013, when Chase generally stopped filing PCNs in Bankruptcy Cases and stopped running annual escrow analyses for loans in Bankruptcy.

b. Paragraph 56:

In paragraph 56, Chase confirms that it has adhered to and will continue to adhere to the PCN Policies with respect to loans impacted by the Moratorium. Similar to paragraph 44, the Independent Reviewer will assess whether Chase adhered and continues to adhere to these PCN Policies for loans in Bankruptcy Cases during the Moratorium.

B. Borrower Remediation Obligations under the Settlement Agreement

1. Paragraph 92(d): Loan Forgiveness, Credits, and Corrective Action

Paragraph 92(d) requires the Independent Reviewer to assess whether Chase has fulfilled all affirmative obligations set forth in paragraphs 38-42 of the Settlement Agreement, and whether Chase has timely completed such obligations.

a. Paragraph 38:

Under paragraph 38, Chase will forgive the outstanding principal balance of a Home Equity Line of Credit (“HELOC”) loan in its entirety in those cases in which a Substantively Inaccurate PCN pertaining to a HELOC loan was filed during the PCN Relevant Period, regardless of whether the case is still pending. In the event that such a HELOC loan has already been foreclosed upon or subject to a short sale as of the effective date of the Settlement Agreement, Chase will confirm that any deficiency has been waived or will waive any remaining deficiency. The Independent Reviewer will assess, through a sampling methodology, whether Chase has in fact provided such relief.

b. Paragraph 39:

Paragraph 39 provides Chase borrowers who would otherwise be entitled to the relief provided under paragraph 38 with the ability to opt out of that relief in favor of other remedies. In the event that a HELOC borrower opts out of the forgiveness offer set forth in paragraph 38, or in the event that the HELOC loan has been closed or has \$0 principal balance as a result of payment in full of the loan balance at the time of the offer, Chase will, in applicable circumstances provided for in paragraph 39(a)-(e), provide refunds to borrowers or borrowers’ Bankruptcy trustee or certain credits to borrower accounts and, if required, file a superseding PCN or take other such corrective action. In these opt-out cases, the Independent Reviewer will assess, through a sampling methodology, whether Chase has provided the appropriate credits and taken the appropriate corrective action.

c. Paragraph 40:

Under paragraph 40, Chase will mail a check to borrowers in the amount of \$20 (per loan) for those borrowers with HELOC loans for which interest is calculated on a daily simple interest basis (“DSI Loans”) without a fixed monthly payment amount and whose Bankruptcy Case was pending as of October 31, 2013, unless Chase has already forgiven the DSI Loan as of May 31, 2015. The Independent Reviewer will assess, by a sampling methodology, whether Chase has provided the required relief. The Independent Reviewer will also assess whether Chase completed its obligations under this paragraph by July 31, 2015.

d. Paragraph 41:

Under paragraph 41, Chase is obligated to provide relief in the form of certain credits to borrower accounts and other corrective action detailed in paragraph 41(a)-(e) specifically pertaining to cases in which Substantively Inaccurate PCNs for non-HELOC loans were filed during the PCN Relevant Period, regardless of whether the case is still pending. The Independent Reviewer will assess, through a sampling methodology, whether Chase has provided the appropriate credit or taken the appropriate corrective action.

e. Paragraph 42:

Paragraph 42 requires Chase to reimburse the borrower for reasonable attorneys’ fees in those cases in which a Substantively Inaccurate PCN or an Untimely PCN was filed or where no PCN was filed for a non-HELOC payment change during the PCN Relevant Period, the Bankruptcy Case is still pending, and the borrower (or Bankruptcy trustee) has successfully disputed a payment increase or fees, charges, and costs imposed in connection therewith.¹⁴ The Independent Reviewer will assess whether Chase has provided such relief through a sampling methodology.

2. Paragraph 92(f): Account Credits and Refunds

Paragraph 92(f) requires the Independent Reviewer to assess whether Chase has fulfilled all affirmative obligations set forth in paragraphs 54, 55, and 57 of the Settlement Agreement, and whether Chase has timely completed such obligations. These paragraphs provide for:

- Certain credits or refunds for borrowers with Bankruptcy Cases that are still pending in which PCNs were not filed during the Moratorium for payment changes due to payment increases or decreases per the terms of an adjustable rate mortgage loan (SA ¶ 54);
- Certain credits and corrective action for borrowers with loans for which an escrow analysis was delayed by the Moratorium and whose Bankruptcy Case is still pending as of May 1, 2014 (SA ¶ 55); and
- Written notice to borrowers entitled to relief under paragraphs 54 and 55 (SA ¶ 57).

¹⁴ Per the Letter Agreement between the Parties dated May 22, 2015, the population is derived from Chase’s internally maintained list of escalated bankruptcy matters, as supplemented by any additional cases identified by its external vendor firm, if any. See Letter Agreement between Chase and the USTP dated May 22, 2015 (attached as Exhibit 4).

The Independent Reviewer will assess whether Chase has provided the required relief through a sampling methodology.

3. Paragraph 92(g): Chase’s Conduct Relating to Motions for Relief from Stay and Notices of Final Cure

Paragraph 92(g) requires the Independent Reviewer to assess whether Chase has fulfilled all affirmative obligations set forth in paragraphs 47-53 of the Settlement Agreement. These paragraphs address:

- The relief and corrective action Chase must undertake when seeking relief from an automatic stay in certain Bankruptcy cases where those cases were impacted by payment increases or decreases that were not noticed via a filed PCN, or payment increases were untimely noticed via a filed PCN, or by a Substantively Inaccurate PCN that overstated the payment amount (SA ¶¶ 47, 48, 49, 53); and
- The relief and corrective action Chase must undertake when receiving a Notice of Final Cure in certain Bankruptcy cases where those cases were impacted by payment increases or decreases that were not noticed via a filed PCN, or payment increases were untimely noticed via a filed PCN, or by a Substantively Inaccurate PCN that overstated the payment amount (SA ¶¶ 50, 51, 52, 53).

Each of these paragraphs requires Chase to undertake a full account reconciliation to determine whether all amounts claimed due are owing and properly collectible and to, in applicable circumstances, provide credits to entitled customers’ accounts. Chase must do so by relying on its relevant system of record and not on an incorrect payment amount in a Substantively Inaccurate PCN, an untimely noticed payment increase, or an unnoticed payment increase. The Independent Reviewer will assess whether Chase has properly performed the required account reconciliations and, if applicable, provided the required relief or corrective action. The Independent Reviewer will make this assessment through a sampling methodology.

4. Paragraph 92(h): Escrow-Related Relief and Corrective Action

Paragraph 92(h) requires the Independent Reviewer to assess whether Chase has fulfilled all affirmative obligations set forth in Article X, which encompasses paragraphs 76-79 of the Settlement Agreement. These paragraphs address corrective action and borrower remediation relating to the Pre-Moratorium Delayed Escrow Population and the Escrow Remediation Population.¹⁵ Chase is obligated under these paragraphs to provide certain credits or refunds to borrowers whose escrow accounts were impacted by the delays in performing escrow analyses (SA ¶ 77) or were impacted by the Escrow Overlay Issue (SA ¶ 78).

With regard to paragraph 77, the Independent Reviewer will assess whether Chase has properly performed new escrow analyses for the Pre-Moratorium Delayed Escrow Population and, if required, provided the appropriate credit, provided written notice of any required credit, and properly filed a PCN in connection

¹⁵ “Escrow Remediation Population” consists of the 8,165 borrowers in Bankruptcy Cases whose loans had been impacted by the Escrow Overlay Issue. (SA ¶ 65).

with any attendant payment change based on the new escrow analysis. The Independent Reviewer will also assess whether Chase has completed this remediation by the agreed upon deadline to remediate. With respect to paragraph 78, the Independent Reviewer will assess whether Chase has properly provided a one-time payment of \$600 for each loan in the Escrow Remediation Population, and whether Chase provided this relief timely.

C. Factual Assertions Made by Chase about PCN Filings Going Forward

1. Paragraph 92(i): MSP PCNs

Paragraph 92(i) requires the Independent Reviewer to assess the accuracy of Chase's PCNs filed in Bankruptcy Cases for which loan data is stored in Chase's Mortgage Servicing Platform ("MSP") system, which is used to service primarily non-HELOC loans. This assessment will review MSP PCNs filed after the MSP Moratorium ending October 31, 2014. Specifically, the Independent Reviewer will use a sampling methodology to test whether MSP PCNs have been verified and reviewed by the same person who signed the PCN and whether the PCNs are accurate, complete, and timely as required by the Federal Rules of Bankruptcy Procedure.

2. Paragraph 92(j): VLS PCNs

Paragraph 92(j) requires the Independent Reviewer to assess the accuracy of Chase's PCNs filed in Bankruptcy Cases for which loan data is stored in Chase's platform used to service HELOC loans (the "VLS" system). This assessment will review VLS PCNs filed after the VLS Moratorium ending May 31, 2015. Specifically, the Independent Reviewer will use a sampling methodology to test whether VLS PCNs have been verified and reviewed by the same person who signed the PCN, whether the PCNs are accurate and complete, and whether they otherwise comply with the Federal Rules of Bankruptcy Procedure.

3. Paragraph 92(k): Post-Moratorium Escrow Analyses

Paragraph 92(k) requires the Independent Reviewer to use a sampling methodology to assess Chase's current post-petition escrow analyses that are attached to PCNs filed in Chapter 13 bankruptcy cases. Specifically, the Independent Reviewer will assess whether escrow analyses attached to PCNs filed after the Moratorium no longer overlay any prior escrow analyses. In addition, for those escrow analyses attached to filed PCNs that were not part of the Pre-Moratorium Delayed Escrow Population or the Moratorium Delayed Escrow Population, the Independent Reviewer will assess whether the escrow analyses are timely and otherwise comply with the Federal Rules of Bankruptcy Procedure.

V. Remediation Efforts to Date

A. Monetary Relief Provided to Date

Under certain provisions of the Settlement Agreement, Chase is obligated to provide monetary relief to borrowers in the form of refunds or credits. Chase has represented to the Independent Reviewer that it has substantially completed certain categories of monetary borrower remediation under the Settlement Agreement as of the date of this report. While the Independent Reviewer has not yet tested and verified Chase's satisfaction of these obligations, and thus cannot conclusively report on these provisions, the Independent Reviewer believes the Court and the public will benefit from understanding Chase's relief efforts. Accordingly, the monetary relief efforts that Chase has represented it has substantially completed are summarized below.

1. Chase provided the following monetary relief and other relief related to substantively inaccurate PCNs:

- For cases in which a substantively inaccurate PCN pertaining to a HELOC loan was filed during the PCN Relevant Period, Chase has either forgiven the outstanding principal balance that the borrower owed on the loan, or has waived any deficiency resulting from foreclosure or short sale in connection with those loans (SA ¶ 38).
- For cases where a HELOC borrower opts out of the loan forgiveness option or where the HELOC loan has been closed or has a zero (\$0) principal balance, Chase has paid borrowers in the case of overstatements, and credited borrowers' accounts in the case of understatements, the amount that monthly payments were overstated or understated as a result of Substantively Inaccurate PCNs filed during the PCN Relevant Period (SA ¶ 39). In addition to the monetary relief provided for under Paragraph 39, Chase has undertaken to withdraw and file properly filed PCNs in these cases where Substantively Inaccurate PCNs are still effective.
- For non-HELOC loans where a Substantively Inaccurate PCN misstated the monthly payment or stated an inaccurate effective date in connection with a change in monthly payment, Chase has credited or refunded the aggregate difference between the contractually due amount and the previous monthly payment (SA ¶ 41). In addition, Chase has also undertaken to withdraw and file properly filed PCNs in these instances. The relief in Paragraph 41, however, is inapplicable in the event the borrower filed an intention to surrender the property at the time the Substantively Inaccurate PCN was filed.
- In addition to the monetary relief provided for borrowers in whose cases Substantively Inaccurate PCNs were filed, Chase represented that it has taken additional measures stated under Paragraph 53 to ensure reliance on its updated system of record rather than on incorrect payment amounts stated in Substantively Inaccurate PCNs when it performs post-petition payment account reconciliation in connection with filing a motion for relief from stay or responding to notices of final cure (SA ¶ 53).

2. Chase provided the following monetary relief in connection with DSI Loans:

- For borrowers with daily simple interest loans, or DSI Loans, without a fixed monthly payment amount and whose bankruptcy case was still pending as of October 31, 2013, Chase substantially completed the mailing of checks in the amount of \$20.00 to these borrowers as of July 31, 2015 (unless Chase already forgave the DSI loan as of May 31, 2015) (SA ¶ 40).

3. Chase provided the following monetary relief in connection with attorneys' fees:

- As of August 31, 2015, Chase has completed the payment of certain attorneys' fees to borrowers in whose currently-pending bankruptcy cases a Substantively Inaccurate PCN or Untimely PCN was filed for a non-HELOC payment change during the PCN Relevant Period, and the borrower or the borrower's trustee successfully disputed a payment increase or any charges or costs associated with the PCN. (SA ¶ 42).

4. Chase provided the following monetary relief in connection with escrow remediation:

- Chase has paid \$600.00 to substantially all of the borrowers whose loans were impacted by the technology-driven escrow overlay issue described above. (SA ¶ 78).

As set forth below, the Independent Reviewer will determine whether Chase fulfilled its remediation obligations as required under the Settlement Agreement through the testing outlined herein and will report on the outcome of that testing in her subsequent reports.

B. Remaining Remediation Efforts

Chase is scheduled to complete its borrower remediation efforts under the remaining paragraphs 47 – 52 and 54, 55, and 57 of the Settlement Agreement no later than the end of April 2016. The relief called for under these paragraphs is directed toward various groups of borrowers impacted by the issues in the Settlement Agreement and calls for account reconciliations and credits based on inaccurate or untimely PCNs and escrow analyses. Chase has notified or will notify in writing borrowers who are entitled to relief under these provisions of the Settlement Agreement. The Independent Reviewer will report on these remediation efforts in greater detail in her next report.

C. Operational Changes Completed to Date

1. Paragraphs 32-36: PCN System and Operational Enhancements

The Settlement Agreement obligates Chase to implement certain operational enhancements relating to PCN filings in Bankruptcy Cases. The enhancements are described in detail in paragraphs 32 – 36 of the Settlement Agreement. Paragraph 92 of the Settlement Agreement does not include the assessment of the implementation of these operational enhancements. However, as described below, the Independent Reviewer

has observed many of the enhancements in action while visiting Chase's mortgage servicing offices, and the Independent Reviewer will assess the effectiveness of these enhancements through its testing of PCNs filed after the Moratorium. (See SA ¶ 92(i)-(j)).

Briefly, Chase's system and operational enhancements include enhanced policies and procedures to ensure the proper preparation, signing and filing of PCNs; revised policies and procedures to provide for two levels of review before PCNs are filed; enhanced training for PCN signers and reviewers; additional trained and certified PCN signers; ECF credentials for every PCN signer in every Bankruptcy jurisdiction, except those that only allow one set of credentials for Chase as an institution; the discontinued use of 4S as a third-party vendor for filing PCNs; and quality assurance reviews after PCNs are filed. The Settlement Agreement requires Chase to have implemented these enhancements by September 30, 2014 for the MSP system and by December 31, 2014 for the VLS system.

In addition, though not obligated under the Settlement Agreement to do so, Chase implemented a temporary annual interest rate reduction to 0.00% for certain DSI Loans housed in the VLS system, specifically for HELOCs without a fixed monthly payment for which PCNs would otherwise be required. Until Chase can resolve the complexity of timely filing PCNs with the frequency of payment changes based on daily simple interest calculations for these DSI loans, and with the limitations described in the Settlement Agreement, Chase has decided to maintain this interest rate reduction.

2. Paragraphs 72, 74-75: Escrow-related Operational Enhancements

The Settlement Agreement obligates Chase to implement certain operational enhancements relating to its escrow practices in Bankruptcy Cases. The enhancements are described in detail in paragraphs 72, 74 and 75 of the Settlement Agreement. The operational enhancements relating to escrow include technological upgrades to the MSP system to correct the Escrow Overlay Issue and allow the MSP system to hold more than two escrow analyses at a time. According to Chase, this upgrade became effective as of November 2013. In addition, Chase represents that it will update and adhere to policies and procedures that provide for the annual running of escrow analyses in Bankruptcy Cases regardless of delinquency status; run monthly controls to identify loans in Bankruptcy that have not had an annual escrow analysis performed and subsequently perform escrow analyses for those loans; remove identified impediments to the running of annual escrow analyses for loans in Bankruptcy; and continue to review and enhance quality assurance and testing processes to detect errors in the application of payment in discharge audits and pay histories prepared in motions for relief from stay.

3. Implementation of Enhancements

PCN-Related Enhancements. According to Chase, the substantial majority of the PCN-related enhancements have been fully implemented. Chase represents that it has implemented certain operational enhancements to correct the technological and procedure-based errors that resulted in the filing of untimely, inaccurate, or improperly signed PCNs. These enhancements correspond to those described in Paragraph 32 of the Settlement Agreement, which were due to be implemented by September 30, 2014, and December 31, 2014, for Chase's two primary technology systems.

Operational Enhancements. Chase represents that it has similarly implemented operational enhancements to remediate issues concerning the creation and storage of escrow analyses for customers in bankruptcy pursuant to Paragraph 74 of the Settlement Agreement. As of November 2013, Chase upgraded the technology used in its primary mortgage servicing platform to address the Escrow Overlay Issue—that platform now stores up to ten annual escrow analyses. In addition, Chase represents that it implemented policies and procedures that mandate the performance of an annual escrow analysis for all loans in bankruptcy, regardless of the borrower's delinquency. Chase represents that it has also enhanced its controls in order to verify that these escrow analyses are in fact being performed on an annual basis and to identify any loans for which this may be an issue.

Technology & Policy Enhancements. The Independent Reviewer observed many of these technology and policy enhancements during an onsite visit. The Independent Reviewer observed that Chase has implemented enhanced policies and procedures concerning the review, verification, and signing of PCNs to include a mechanized procedural guide with electronic checkpoints to ensure thorough substantive review of PCNs. The Independent Reviewer also observed Chase's enhanced quality control review of PCNs, which consists of another level of substantive review prior to a PCN being filed. These enhancements include controls to ensure that only the person who reviews the PCN is able to sign and file it. The second level of substantive review is for quality control only—the second-level reviewer does not sign or file the PCN, but, instead, sends it back to the initial reviewer to file. The employees responsible for initially reviewing, signing, and filing the PCNs use their personal credentials for the filing system, except in those jurisdictions that provide credentials only to Chase as an entity. The true measurement of the effectiveness of these enhancements will be determined by whether Chase passes the objective testing as to the timeliness and accuracy of the PCNs and related escrow analyses. (See SA ¶ 92(i)-(j)).

D. Borrower Eligibility Tracking

The primary manner for determining a borrower's eligibility for remediation under the Settlement Agreement has been through Chase's systematic identification of borrowers whose loans fall within one or more of the categories identified in the Settlement Agreement mandating remediation.

Chase recognizes that, for reasons including technological or human error, it might not identify every borrower entitled to relief under the Settlement Agreement. Accordingly, Chase has established a hotline for borrower-driven inquiries. If a borrower believes that he or she was affected by the conduct set forth in the Settlement Agreement and is therefore entitled to any of the relief described therein, borrowers should contact Chase at (866) 451-2327. In addition, Chase instituted a systematic tracking process by which it records and follows borrower inquiries from intake through resolution. If a borrower asks about relief through the hotline, Chase will investigate the inquiry and provide a written account to the Independent Reviewer of its assessment of whether or not a particular borrower's inquiry results in any form of remediation.

VI. Testing Structure, Methodologies and Next Steps

The Settlement Agreement requires that the procedures and methodologies to be employed in testing and verifying Chase's compliance with the Settlement Agreement will be outlined in a Retention Agreement that is agreed upon between the Independent Reviewer and Chase. Prior to testing Chase's compliance, therefore, the Independent Reviewer and Chase have engaged in numerous discussions and meetings to determine the specific methodologies and procedures that will most effectively test the representations in the Settlement Agreement, as well as the specific data that will be used to substantiate any testing conclusions. Instrumental to this process have been several onsite visits to Chase's headquarters and mortgage servicing offices, where the Independent Reviewer received a detailed briefing from Chase on the historical practices, procedures, and errors giving rise to the Settlement Agreement, observed the remedial operational practices implemented to date, discussed detailed procedures for testing, and reviewed data from Chase's system of record to understand the types of evidence that will be reviewed during the testing.

A. Testing Structure

The Work Plan. Subsequent to these briefings and meetings on the issues that led to the Settlement Agreement, the Independent Reviewer and Chase agreed on August 7, 2015, to a Bankruptcy Settlement Retention Agreement and Work Plan (the "Work Plan"). Among other details of the engagement, the Work Plan sets forth the testing standards, methodology, and procedures by which the Independent Reviewer and Chase will test Chase's compliance, and the time periods for testing and reporting. Should the Independent Reviewer need additional information or validation evidence that is outside of the Work Plan to perform her duties, the Work Plan may be modified from time to time by agreement of the Independent Reviewer and Chase, who will work together in good faith to make adjustments to the Work Plan as necessary and appropriate. The Work Plan is not intended to limit or negate any rights or responsibilities established under the Settlement Agreement. In the event of a conflict between the Work Plan's terms and the Settlement Agreement terms, the applicable provision(s) of the Settlement Agreement prevail.

The Bankruptcy Review Group (the "BRG"). Chase has formed the BRG that is responsible for performing the initial test work necessary to assess Chase's satisfaction of the requirements set forth in paragraph 92 of the Settlement Agreement to be assessed by the Independent Reviewer (the "testable requirements"). At all times, the BRG is and will remain independent from Chase's mortgage servicing business and from any other division or person who has operational responsibility in the mortgage banking line of business. The BRG is headed by an executive (the "BRG Executive") within Chase's Mortgage Banking Risk Group

that is an independent function from Chase's Mortgage Banking line of business. The BRG Executive reports directly to the Mortgage Banking Risk Executive and, through him, the Mortgage Banking Chief Risk Officer. These individuals similarly do not report to any executives in the Mortgage Banking business line. Moreover, none of the Chase employees working for the BRG include employees who were part of the Control Team referred to in the Settlement Agreement that initially validated the numbers of PCNs filed. (See SA ¶¶ 27-30).

The Independent Reviewer speaks and meets with the BRG Executive on a regular basis regarding the testing protocols and procedures. The Independent Reviewer, with guidance from BDO, has determined that utilizing the BRG to conduct the initial testing of Chase's compliance with the Settlement Agreement is the most efficient and effective way to proceed. The BRG will perform its testing according to agreed-upon Validation Protocols (described below) and report its results to the Independent Reviewer, together with detailed work papers documenting each step taken in the BRG's testing process. The Independent Reviewer, with the assistance of BDO, will independently review and test Chase's satisfaction of the testable requirements.

Borrower Complaints. In addition to BRG testing, Chase agreed to provide the Independent Reviewer access to borrower complaints received by its Executive Office that are relevant to the issues in the Settlement Agreement. While not required under the terms of the Settlement Agreement, Chase's review and escalation of borrower complaints provides an additional method of ascertaining whether the changes to the PCN and escrow procedures were effective, and an additional check on the BRG's testing. Accordingly, Chase has been and will continue to review, research, remediate (if necessary), and report to the Independent Reviewer any borrower complaints related to Mortgage Banking that are determined to be related to the Settlement Agreement and attributable to bank error. Chase will provide the Independent Reviewer with documentation of the investigation and resolution of such complaints.

B. Testing Methodologies - Validation Protocols

The Independent Reviewer and Chase have agreed to use 15 separate Validation Protocols that correspond with the testable requirements set forth in paragraph 92 of the Settlement Agreement. The Validation Protocols are documents that will establish the following testing parameters for each separate test:

- Population definition;
- Sampling approach, including statistical parameters;
- Error definitions and allowable error rates;
- Test questions corresponding to each testable requirement in the Settlement Agreement;
- Evidence used to substantiate the answer to each test question; and
- Criteria for passing or failing each test question.

The fifteen Validation Protocols and their corresponding testable requirements under the Settlement Agreement are:

	VALIDATION PROTOCOL	REQUIREMENTS
1	Population Validation	SA ¶ 92(b)-(c); ¶ 30(a)-(g); ¶ 60
2	Forgiveness/Lien Release for Substantively Inaccurate PCNs	SA ¶ 92(d); ¶¶ 38, 39, 41
3	Payment for certain DSI Loans	SA ¶ 92(d); ¶ 40
4	Reimbursement of attorneys' fees for identified trustee/debtor challenges to payment increases or related fees, charges, and costs	SA ¶ 92(d); ¶ 42
5	Policies and procedures governing late fees, certain other charges, and corrective action	SA ¶ 92(e); ¶¶ 44, 46
6	Credits or refunds for unfiled PCNs during the PCN Moratorium	SA ¶ 92(f); ¶ 54
7	Loans with Moratorium-delayed escrow analyses	SA ¶ 92(f); ¶¶ 55, 57
8	Credits or refunds for Untimely, Unfiled, or Substantively Inaccurate PCNs where Chase sought relief from stay	SA ¶ 92 (g); ¶¶ 47-49, 53
9 ¹⁶	Credits or refunds for Untimely, Unfiled, or Substantively Inaccurate PCNs where Chase filed Notice of Final Cure	SA ¶ 92(g); ¶¶ 50-53
11	Credits or refunds for loans in Pre-Moratorium Delayed Escrow Population	SA ¶ 92(h); ¶¶ 76, 77, 79
12	Payment for loans in Escrow Remediation Population	SA ¶ 92(h); ¶ 78
13A	Accuracy of PCNs filed after Moratorium (MSP)	SA ¶ 92(i)
13B	Accuracy of PCNs filed after Moratorium (VLS)	SA ¶ 92(j)
14	Review of escrow analyses filed after Moratorium	SA ¶ 92(k)
15	Historical review of whether PCNs were substantively reviewed	SA ¶ 92(a)

¹⁶ Validation Protocol 10 was intentionally removed from this chronological list. Validation Protocol 10 initially set forth the parameters for testing Chase's performance of a full account reconciliation in cases where Chase filed a Substantively Inaccurate PCN. (See SA ¶¶ 53, 92(g)). During negotiations concerning these parameters, the Independent Reviewer and Chase mutually concluded that the testable requirements reflected in Validation Protocol 10 would be tested most efficiently and accurately alongside the testable requirements described in Validation Protocols 8 and 9. Validation Protocol 10 therefore became part of Protocols 8 and 9 and ceased to be a stand-alone Protocol.

Prior to finalizing these Validation Protocols and related testing procedures, the Independent Reviewer and her team have the opportunity to conduct an on-site review of the proposed testing standards, methodologies, and procedures to ensure the rigor or thorough nature of each Validation Protocol.

Upon completion of the BRG's testing under each Validation Protocol, the BRG will provide the Independent Reviewer with all documentation and other evidence that the BRG reviewed or considered during its test work ("Work Papers"). The BRG's Work Papers will enable the Independent Reviewer to independently verify the test results and Chase's satisfaction of the testable requirements.

C. Next Steps Relating to Testing and Reporting

The Independent Reviewer and Chase have finalized all Validation Protocols 1 through 15, as well as corresponding testing procedures for many of these protocols. Accordingly, testing has begun on paragraph 30(b)-(g), and testing is imminent on paragraphs 40 and 60. The BRG will first ascertain the total population of PCNs filed during the PCN relevant period—approximately 53,000—as represented in paragraph 30(a) of the Settlement Agreement. Testing the substantial accuracy of the total PCN population is an essential starting point for testing the substantial accuracy of the remaining sub-populations of PCNs as represented in paragraphs 30(b)-(g). The Independent Reviewer will assess and verify the BRG's testing of the substantial accuracy of the total number of filed PCNs, as well as the accuracy of the numbers represented in paragraphs 30(b)-(g).

Simultaneous with the testing of paragraphs 30(b)-(g), 40, and 60, Chase and the Independent Reviewer are finalizing the remaining sets of testing procedures that correspond to each protocol. In addition, Judge Brown and the Independent Reviewer are working with Chase to answer several legal questions that have arisen relating to the obligation to file PCNs in various scenarios that may affect Chase's current and future filing obligations, as well as its compliance with certain paragraphs of the Settlement Agreement. The Independent Reviewer will report on the resolution of these legal issues and their effect on Chase's obligations under the Settlement Agreement in subsequent reports.

VII. Summary and Conclusion

The Independent Reviewer and her team have generally observed that Chase’s approach to fulfilling its obligations in the Settlement Agreement has been diligent and thorough to date. The Chase personnel responsible for various areas of oversight—including the BRG executive, in-house counsel, outside counsel, and Risk executives—appear to be capable and prepared, and have been cooperative with the Independent Reviewer and her team.

Based on the above information, the Independent Reviewer reports that Chase is well underway with its borrower remediation and operational enhancements, the applicable testing for which will be reported in the Independent Reviewer’s future reports.

The Independent Reviewer’s next report will be issued in mid-2016.