



July 12, 2011

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RE: Response to Consent Order No. 11-029-B-HC, Dated April 13, 2011: Submission of Written Plans

Dear Ms. White, Mr. Meyer, and Ms. Jensen:

I am writing on behalf of the Board of Directors (the "Board") of Bank of America Corporation ("BAC") in response to requirements of the Consent Order No. 11-029-B-HC, dated April 13, 2011, (the "Order") of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). The Order followed identification of supervisory concerns in the Home Loans business ("HL") of Bank of America, National Association (the "Bank") during an examination of residential mortgage servicing practices at a number of regulated institutions. This letter summarizes what we have done in response to the Order and our plans for strengthening BAC's control functions associated with mortgage servicing activities, particularly, in our default residential mortgage servicing operations which were segregated into a separate line of business, Legacy Asset Servicing ("LAS"), in February 2011, as well as our oversight of those control functions. We note that there is significant separate work for a risk assessment of our residential mortgage servicing activities that is underway pursuant to the Office of the Comptroller of the Currency ("OCC") Consent Order No. AA-EC-11-12, dated April 13, 2011, (the "OCC Order"), Article X, that may augment and supplement our conclusions herein.

We recognize the growing responsibilities in mortgage servicing control functions, which we believe represent long-term change in the requirements for conducting the residential mortgage servicing business. These changes are due in large part to:

- A credit cycle which has spawned an enormous need to change the business model, from one of operating a servicing platform constructed for origination, to one that must operate as a special servicing platform and address activities related to rising delinquency and defaults;
- A rapidly changing legal and regulatory landscape; and,
- A myriad of changing standards and practices in the mortgage servicing business.

These factors highlight the Board's need to enhance its oversight. The main areas of improvement relate to gaining greater visibility in these areas and thus being able to provide direction to manage the strategic risks presented by the breadth of changes in residential mortgages. Strengthening the effectiveness of the Enterprise Risk Management ("ERM"), Internal Audit, and Compliance programs, we believe, will move us toward this goal.

We are submitting as **Appendices** to this letter the four written plans, pursuant to the Order: Paragraph 2. Board Oversight; Paragraph 3. Risk Management; Paragraph 4. Compliance Program; and Paragraph 5. Audit.

We wish to assure you of our commitment and that of BAC's executive management to accomplish the actions required by the Order. We appreciate fully the seriousness of the issues we face in the residential mortgage business and the significant resources and effort that will be necessary to resolve those issues promptly and effectively. We will continue to provide those resources and to make every effort to ensure that our residential mortgage activities are properly staffed, sustainably managed, and carefully governed.

We describe below our approach for complying with the Order, developing the plans, and the key action steps contained relating to the requirements of the Paragraphs.

### **Our Approach**

Following the execution of the Order, the Board determined to use an established governance framework created under the OCC Order to deliver its obligations under the Order. The following organization chart (**Figure 1**) reflects this framework.

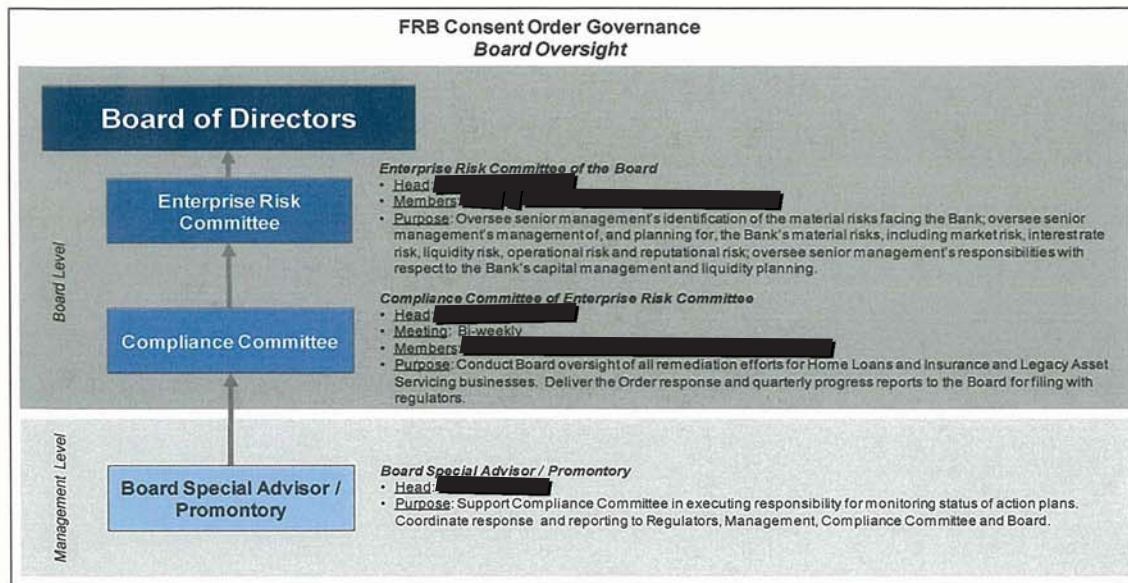


Figure 1

**Compliance Committee.** The Board's Compliance Committee, a subcommittee of its Enterprise Risk Committee, consisting solely of independent Board members, monitors the actions and obligations of BAC under the Order. [Redacted] serves as Chairman of the Compliance Committee. [Redacted] comprise the other Compliance Committee members. The Compliance Committee meets regularly to review the status of the four plans required under the Order and to monitor BAC's compliance with the Order.

The Board, through the Compliance Committee: (1) requires timely reporting by senior management of the actions directed by the Board and the Compliance Committee to be taken under the Order; (2) follows up on any non-compliance with these actions in a timely and appropriate manner; and (3) requires corrective action be taken in a timely manner for any non-compliance with these actions.

Upon submission of the plans, the Board will continue to use this governance structure to facilitate its continued compliance with Paragraphs 6 and 7 of the Order, including submitting within 30 days after the end of each quarter thereafter, to the Federal Reserve Bank of Richmond (the "Federal Reserve Bank"), a written progress report setting forth detail actions taken to comply with each Paragraph of the Order and the results and status of those actions. The Board will receive reports at its previously scheduled full meetings from the Compliance Committee or the Enterprise Risk Committee on the progress of the action plans.

**Special Advisor on Remediation Strategies.** In order to oversee development of the four plans with respect to residential mortgage servicing and foreclosure processes and to provide recommendations to senior management and the Board, BAC named Global Compliance Risk Executive [Redacted], as Special Advisor on Remediation Strategies (the "Special Advisor"). [Redacted] works with the Independent Consultant on Remediation Strategies (defined below) to support the Compliance Committee in executing

to strengthen Board oversight of those functions. In the case of the plans to enhance Risk Management, Compliance, and Internal Audit, the Order requires that they be based on an evaluation of the effectiveness of current practices with respect to residential mortgage servicing activities.

Despite a number of recent internal assessments of our control functions operating in the mortgage business and relevant self-identified audit issues, on April 13, 2011, we retained Promontory Financial Group, LLC ("Promontory") as *Independent Consultant on Remediation Strategies*. Promontory's role was to assist the Compliance Committee and the Special Advisor in overseeing BAC's efforts to comply with the requirements of the Order and the various plans and submissions prepared and approved pursuant to the Order. Promontory performed independent effectiveness evaluations of Risk Management, Compliance, and Internal Audit relative to residential mortgage servicing activities. These efforts supplemented and built on BAC's prior efforts, which began in late 2009 and early 2010, including management Transformation Plans in Compliance and Risk Management to strengthen these core control functions and formed the basis for many of the actions identified in our plans.

In conducting their reviews, Promontory evaluated our programs against relevant supervisory guidance published by the Federal Reserve and other recognized U.S. and international authorities. Promontory's evaluation also encompassed our Global Risk Management's Risk Framework ("Risk Framework"), adopted by the Board in 2009 and updated in December 2010. Because Promontory considered the Risk Framework to reflect effectively the applicable regulatory guidance and to be suitable for an institution of BAC's size and complexity, they evaluated our control functions against the Risk Framework as well.

Our Risk Framework specifies roles and responsibilities for the Risk Management and Compliance functions that are critical to BAC's ability to manage its activities within our established risk appetite. Providing independent oversight of lines of business requires not just sufficient numbers of Risk Management and Compliance personnel, but risk and compliance professionals with the stature appropriate to the critical roles in which they serve.

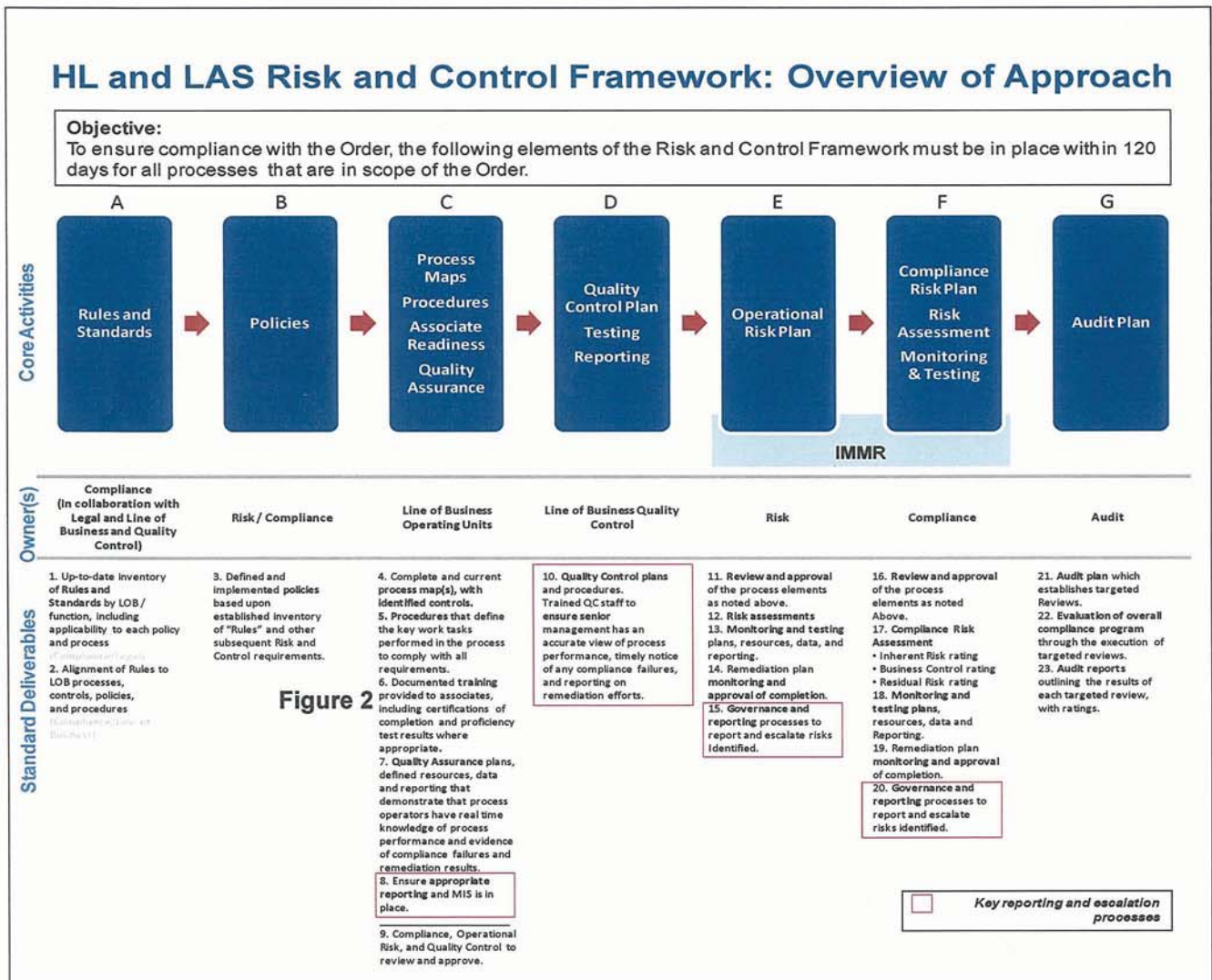
Accordingly, staffing the Risk Management and Compliance functions in the default mortgage servicing business in LAS with the number and quality of individuals required is one of two issues that deserve close oversight by the Board. Building out the Risk Framework and the Global Compliance Program in HL and LAS is the other. In this regard, HL and LAS have adopted a framework for risk and control as outlined below in *Figure 2*.

The plans to enhance our control functions reflect the incomplete portions of management’s own plans to strengthen our Risk Management, Compliance and Internal Audit programs affecting residential mortgage servicing activities and amended with Promontory’s recommendations.

**Paragraph 2. Plan to Strengthen Board Oversight**

Pursuant to Paragraph 2 of the Order, our plan to strengthen Board oversight of the control functions concerning mortgage servicing activities shall address and include:

- Board-adopted policies to ensure that Risk Management provides proper risk management



oversight;

- Policies and procedures to ensure that Risk Management provides proper risk management of third party service providers;
- Steps to ensure that the control functions have adequate levels and types of officers and staff; and
- Steps to improve the information the Board reviews regarding residential mortgage servicing activities.

Our Plan to Strengthen Board Oversight (attached as *Appendix 1*) addresses each of the foregoing elements and identifies remedial measures with respect to them, including the Board's consideration of an overarching Board policy and/or policy statement to provide specifically the Board's guidance, direction, and expectation for implementing risk management in the residential mortgage business. The Plan to Strengthen Board Oversight also provides for the Board to consider launching an internal communication process and strategy to draw attention to such a new policy to reiterate appropriate tone at the top.

With regard to ERM, Internal Audit, and Compliance there is a range of progress under the respective Transformation Plans to implement the Risk Framework: Internal Audit has achieved greater progress; Risk and Compliance are at earlier stages in their development. The successful execution of these Transformation Plans, and some additional enhancements, are critical to the effectiveness of the ERM, Internal Audit, and Compliance programs. Due to the sheer breadth of developments that are underway across the three areas and the potential for a lack of cohesive execution, Promontory has recommended that we also perform a review to identify duplications [REDACTED] and ensure successful achievement of the Board's objective to develop a strong and cohesive internal control framework.

Audit, Risk Management, and Compliance play a critical role in the success of BAC and we intend to provide oversight of them reflective of that criticality. We consider the information and reports that Risk Management and Compliance provide to the Board with respect to risk and compliance conditions affecting the residential mortgage servicing business to be clear, actionable, and timely. However, we intend to seek more information to enable us to judge the health and fitness of the Risk Management and Compliance functions overseeing those mortgage-related activities. Therefore, over the remainder of this year, we will evaluate how we oversee the development, maturation, and overall fitness of the Risk Management and Compliance functions. We will also review whether there are best practices in this area, such as Audit's annual assessment of its sufficiency of staff hours to complete the Audit Plan that may be implemented in other areas of Risk Management and Compliance. We believe that the profound changes affecting the mortgage servicing business and the associated increase in the responsibilities of our control functions – particularly Risk Management and Compliance – require that we consider enhancing our ability to provide the level of oversight we desire.

Finally, while in many cases these issues had already been self-identified by management and the efforts [REDACTED] had begun under the Transformation Plans, there is substantial work yet to be completed to implement effectively the Risk Framework and the Global Compliance Program. This work is critical and urgent, given the current risk profile of mortgage servicing activities. We will continue to evaluate closely how we oversee these important issues. Specifically, we will conduct a review to determine whether there are other improvements in our structure that are worthy of additional consideration. The Plan will serve to provide adequate oversight of the control functions pending completion of our organizational deliberations.

### Paragraph 3. Plan to Enhance the Enterprise-wide Risk Management Program

Promontory reviewed the HL and LAS Risk Management function to evaluate its effectiveness and to determine whether its practices comport with regulatory guidance and BAC's Risk Framework. Promontory's review notes that, in the months preceding the Order and Promontory's evaluation, BAC changed the management of the HL and LAS Risk Management function. HL and LAS Risk Management identified [REDACTED] between the existing Risk Management program and the practices required by BAC's Risk Framework. In order to address those [REDACTED] Risk Management developed and implemented a Risk Transformation Plan.

At the time of Promontory's evaluation, management had developed a number of task forces and work streams to focus on and develop the processes, tools, and reporting necessary to perform the requirements ascribed to the Risk Management Function by the Risk Framework. While Promontory noted progress toward building out the Risk Framework, much work remains. Pursuant to Paragraph 3 of the Order, we have developed a Plan to Enhance the Enterprise-Wide Risk Management Program (attached as *Appendix 2*).

#### *High Level Observations*

- Under the Risk Framework, the Risk Management function includes development of business level policies, prescribing parameters under which business activities are to be conducted. At the time of Promontory's review, Risk Management had established a work stream under the Risk Transformation Plan devoted to policy development. That work stream documented processes for policy development by Risk Management. [REDACTED]  
[REDACTED]  
[REDACTED]
- The Risk Framework specifies that Risk Management should conduct risk assessments on the business activities that it oversees. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The Risk Framework contemplates that the Risk Function will monitor and test the effectiveness of business controls, compliance with policies, successful remediation of regulatory issues, including satisfaction of actions required by consent orders, among others. The monitoring and testing capability remains a key component that will need continued efforts to complete.

#### *Associated Recommendations*

- While Risk Management progresses on its build out of the Risk Framework, Promontory recommended that management should adjust its mix of activities to focus greater attention on completing the plans and processes that will be necessary to *support its on-going activities* under the Risk Framework. The elevated risk conditions and high priority regulatory issues associated with residential mortgage servicing activities understandably are requiring management attention. Promontory recommends that building the capability to implement the Risk Framework more

rapidly, as contemplated in management's Risk Transformation Plan, be established as management's highest priority.

[REDACTED]

[REDACTED]

[REDACTED]

*High Level Observations*

- Many of the Risk Management staff who have worked in HL and LAS for some time are adapting [REDACTED] to that of the rigorous and independent oversight and escalation of significant issues contemplated by the Risk Framework.
- Promontory considers the more difficult challenge with staffing to be getting Risk Management Staff with the qualifications to perform effectively. At a minimum, those qualifications include solid knowledge of risk management principles and practices, understanding of Risk Management's role under the Risk Framework and knowledge of the business activities conducted in HL and LAS.
- In a business as usual environment, orienting and developing new staff members can frequently be accomplished without undue difficulty. Given the current risk profile of the HL and LAS mortgage servicing activities, however, and the significant number of new Risk Management Staff required, management faces a particularly significant challenge in fielding a team whose members have the requisite knowledge and stature necessary to perform risk management oversight effectively.

*Related Recommendations*

- Develop staffing plans based on estimates of the number of personnel and the skills necessary to perform the responsibilities of Risk Management in HL and LAS.
- Recruit for risk professionals and persons with mortgage servicing knowledge.
- Enlist the Global Learning Organization to develop training programs specific to the needs of the new Risk Management organization.
- Prior to deploying new personnel into lines of business, evaluate whether they possess basic understanding of the relevant business activities and know the risk protocols for which they are responsible.

**Paragraph 4. Plan to Enhance the Enterprise-wide Compliance Program**

Promontory reviewed the Compliance function in our mortgage servicing business to evaluate its effectiveness and to determine whether its practices comport with regulatory guidance and BAC's Risk Framework, as embodied in the Global Compliance Program. As was the case in Risk Management, Promontory's evaluation of Compliance notes that the Compliance organization undertook to perform its own evaluation of the Compliance Program in HL and LAS in the Fall of 2010. That evaluation noted [REDACTED] between the Compliance practices in our mortgage servicing area and those required by



the Global Compliance Program. Those findings, in turn, prompted changes in HL and LAS Compliance management responsibilities and development of a Compliance Transformation Plan to [REDACTED]. Pursuant to Paragraph 4 of the Order, we have developed a Plan to Enhance the Enterprise-wide Compliance Program (attached as *Appendix 3*).

#### *High Level Observations*

- Promontory's evaluation reported that, while Compliance staff has been increased significantly over the past two quarters, staffing levels are still challenged by the volume of compliance obligations that the Compliance function is responsible to oversee.
- Staff increases have been made on the basis of the judgment of Compliance Officers aligned to specific lines of business in HL and LAS, but staffing plans should be evaluated further based on analyses of:
  - Existing and emerging compliance issues affecting the business;
  - Progress on the Compliance Transformation Plan;
  - The increased inventory of requirements that must now be managed as compliance obligations;
  - The need to eliminate the compliance testing backlog and expand testing to encompass preventive controls; and
  - The need to align compliance risk levels with the Board's risk appetite.

#### *Related Recommendations*

- Increase the analytic rigor underpinning Compliance staffing needs. A large number of mortgage servicing requirements must now, pursuant to the OCC Order, be managed with the rigor required for compliance obligations triggers. This will require that, the processes required by the Global Compliance Program—risk assessments, policy development, procedures reviews, monitoring and testing—be performed more urgently and on a much broader scale. These additions to the inventory of risk obligations will necessitate additional Compliance personnel.

#### *High Level Observations*

- The compliance risk report provided to senior management and the Board focuses on line of business compliance and does not report issues or weaknesses potentially affecting or compromising the ability of the Compliance function to perform its responsibilities under the Global Compliance Program.

#### *Related Recommendations*

- For the period before completion of the Compliance Transformation Plan, augment HL and LAS compliance reporting with information about the status of the Compliance function, including status of key milestones in the Compliance Transformation Plan. Establish "health of Compliance

function” metrics that are routinely reported to the Board committee responsible for compliance oversight.

*High Level Observations*

- Under the Global Compliance program, the Compliance function is required to escalate significant compliance issues that arise in the line of business. The Compliance Executive for HL and LAS has discretion with regard to escalation of compliance issues. Due to the limited period of operations under the Global Compliance Program, there is not sufficient understanding of the sort of issues that warrant escalation and the factors that distinguish those issues from issues that do not warrant escalation.

*Related Recommendations*

- Develop written guidance that will inform the Compliance Executive’s exercise of discretion with regard to escalation of issues. Written guidelines, identifying the factors that influence the escalation decision and providing contrasting scenarios will assist management in establishing common values among the Compliance team and inform expectations among line of business and Compliance personnel alike.

**Paragraph 5. Plan to Enhance the Internal Audit Program**

Promontory evaluated the effectiveness of the Internal Audit program in HL and LAS, comparing its elements to published Federal Reserve and other regulatory guidance as well as to standards established by the Institute for Internal Auditors. After completing its review, Promontory concluded that the Internal Audit program was generally sound. More specifically, Promontory found that: Internal Audit appeared to meet standards for independence; the audit staff was experienced and reasonably credentialed; and audit planning, reporting, issue tracking and escalation were effectively managed.

Promontory recommended that Internal Audit develop standards (from published regulatory guidance, among other sources) for its forthcoming audits of the Compliance and Risk Management functions providing oversight to residential mortgage servicing activities. Promontory recommended additional matters to promote what it believes would constitute modest improvements to the existing Internal Audit program.

Pursuant to Paragraph 5 of the Order, we have developed a Plan to Enhance the Internal Audit Program (attached as **Appendix 4**), including, among others, recommendations to:

- Develop the standards against which the Risk and Compliance programs will be evaluated and the procedures and testing that will form the basis for conclusions;
- Consider augmenting the risk measuring methodology to incorporate the duration associated with identified risks; and,

- [REDACTED]

While we do not believe major changes in the existing Internal Audit function are warranted, the plan will help strengthen the overall capability.

**Conclusion**

We believe that the plans we enclose will strengthen the control functions in their oversight and audit activities with respect to mortgage servicing activities. We view the effectiveness of those functions – and their counterparts throughout BAC – to be vital to our success. We intend to strengthen and support them and to monitor their health and fitness on a regular basis.

We look forward to your response to our plans and to discussing them with you in the near future.

Sincerely,

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cc:

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Enclosures.