



September 6, 2011

[REDACTED]
Bank of America Corporation
[REDACTED]

Charlotte, NC 28255

Dear [REDACTED]:

This letter, if acceptable to and countersigned by you, and upon approval by the Office of the Comptroller of the Currency ("OCC"), will serve as the agreement (the "Agreement") between the Bank of America Corporation and Promontory Financial Group, LLC ("Promontory") governing Promontory's conduct of the Foreclosure Review required by Article VII of the Consent Order entered into by the Bank of America, National Association (together with Bank of America Corporation, "BAC") and the OCC on April 13, 2011 (the "Consent Order").

BAC and Promontory agree that the purpose of the Foreclosure Review is to carry out all the requirements of Article VII of the Consent Order and, in particular, to identify borrowers who suffered financial injury as a result of any error, misrepresentation, or other deficiency as set forth in the Consent Order. BAC and Promontory believe that the activities outlined in the Agreement represent a comprehensive and robust process to achieve this purpose, based on what both parties know prior to commencement of the Foreclosure Review. However, they recognize that, during the course of the review, Promontory will gather and analyze information that may lead it to conclude independently that it must conduct additional review to ensure that the Foreclosure Review accomplishes its purpose. While the Agreement cannot explicitly incorporate such potential additional review, BAC and Promontory intend the Agreement to authorize Promontory to provide the services necessary to complete the Foreclosure Review.

1. BACKGROUND

The Consent Order: On April 13, 2011, BAC and the OCC entered into the Consent Order, which relates to the conduct of BAC's mortgage servicing business. Article VII of the Consent Order requires BAC, within 45 days of the date of the Consent Order, to retain an independent consultant to review certain residential mortgage foreclosure sales, actions, or proceedings (including foreclosures that were in process or completed) for loans serviced by BAC that have occurred or been pending at any time from

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January 1, 2009 to December 31, 2010 (the “Foreclosure Review”) within 120 days following the OCC’s approval of the Agreement.

2. ORGANIZATION OF THE AGREEMENT

Section 3 of the Agreement sets forth the Agreement’s essential terms and conditions. Section 3.a sets forth an affirmative statement of the parties’ intent to comply with the terms of the Consent Order. Section 3.b identifies the project name. Section 3.c describes the scope and timing of services to be provided by Promontory pursuant to the Agreement. Section 3.d sets forth the performance period. Section 3.e identifies work sites. Section 3.f describes the fees that Promontory expects to charge BAC for services performed under the Agreement, as well as the costs for which BAC will reimburse Promontory. Section 3.g sets forth acceptance criteria. Sections 3.h and 3.i identify project managers. Section 3.j identifies subcontractors that Promontory intends to use. Section 3.k sets all other terms and conditions governing the conduct of the agreement.

Article VII(2) of the Consent Order requires the Agreement to include four items. The table below summarizes those items and indicates the section and page of the Agreement that responds to each of them.

REQUIREMENT	AGREEMENT SECTION	PAGE
Methodology for conducting the Foreclosure Review	Attachment A	1
Expertise and resources to be dedicated to the Foreclosure Review	Attachment B	1
Completion of the Foreclosure Review within one hundred twenty (120) days from approval of the Agreement ¹	Agreement Section 3.d.ii.1	12
Commitment that any workpapers associated with the Foreclosure Review be made available to the OCC immediately upon request	Agreement Section 3.c.v	11

Three attachments provide important supplemental information and are integral to the Agreement:

Attachment A sets forth the methodology Promontory intends to use in accomplishing the Foreclosure Review. In accordance with the terms of the Consent Order, Attachment A includes (i) a description of the information systems and documents that Promontory will review, including the selection of criteria for cases to be reviewed; (ii) the criteria Promontory intends to apply in evaluating the reasonableness

¹ The review will necessarily be concluded in greater than 120 days due to the size of the sample anticipated to be reviewed, and the final timeframe estimated in this letter.

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of fees and penalties; (iii) other procedures necessary to make the required determinations (such as a process for submission and review of borrower claims and complaints); and (iv) Promontory's proposed sampling techniques, including both a full description of the statistical basis for the sampling methods chosen, as well as procedures to increase the size of the sample depending on results of the initial sampling.

Attachment B describes the resources and expertise Promontory will use to complete the Foreclosure Review, including personnel and information systems. Attachment B further describes Promontory's plans for enlisting additional resources necessary to complete the Foreclosure Review in the event that the initial sampling identifies the need for more extensive file review.

Attachment C details Promontory's policy on conflicts of interest.

3. TERMS AND CONDITIONS

a. COMPLIANCE WITH CONSENT ORDER

BAC and Promontory intend the Agreement to comply fully with the requirements of Article VII of the Consent Order. In the event that the OCC requires further refinement of the Agreement as a condition of its approval, BAC and Promontory agree to work together in good faith to make refinements acceptable to the OCC.

b. PROJECT NAME

Foreclosure Review

c. SCOPE AND TIMING OF PROMONTORY SERVICES

i. Foreclosure Review.

Within 423 days² depending on the sample size reviewed (see Attachment B for details regarding resource estimates) and following the OCC's approval of the Agreement, as further described below, Promontory will conduct an independent review of certain residential foreclosure actions regarding individual borrowers with respect to BAC's mortgage servicing portfolio. Promontory's review shall include residential foreclosure actions or proceedings (including foreclosures that were in process or completed) for loans serviced by BAC, whether brought in the name of BAC, the investor, the mortgage note holder, or any agent for the mortgage note holder (including the Mortgage Electronic Registration System ("MERS")), that have been pending at any time from January 1, 2009 to December 31, 2010, as well as residential foreclosure sales that occurred during this time period.

² This assumes an initial ramp-up period of 45 days plus a file review period of 378 days based on a sample size range of 35,000 files, 200 File Reviewers, and an average file review time of ten hours. Detailed assumptions are included in Attachment B.

ii. Report of Findings.

Within thirty (30) days of completing the Foreclosure Review, Promontory will prepare a written report detailing the findings of the Foreclosure Review (“Foreclosure Review Report”). Upon completion, Promontory will simultaneously deliver the Foreclosure Review Report to the members of the Board of Directors of BAC (the “Board”), the Compliance Committee established in accordance with Article II of the Consent Order, the OCC’s Deputy Comptroller for Large Bank Supervision, and the OCC’s Examiner in Charge.

iii. Reporting.

1. Periodic Reports to Management.

Promontory will report to BAC at regular intervals and in a form to be mutually agreed upon, no less than every fourteen (14) days, concerning the status of its performance of services under the Agreement. At a minimum, Promontory’s reporting will identify any respects in which the accomplishment of milestones is at risk, any need(s) for assistance from BAC, and any findings or observations believed by Promontory likely to warrant inclusion in the Foreclosure Review Report.

2. Ad Hoc Reports to Management.

Managing Directors assigned by Promontory to this engagement shall be reasonably available to BAC management by telephone, e-mail, or in-person for ad hoc consultations and status reports throughout the period of the Agreement.

3. Reporting to the Board(s).

Upon reasonable notice, Promontory will report to the Board, the Compliance Committee of the Enterprise Risk Committee, or any other committee of the Board charged with oversight of BAC’s efforts to comply with the Consent Order, for the purpose of discussing the status of Promontory’s provision of services pursuant to the Agreement and any findings or observations Promontory may have made in the course of providing such services.

4. Reporting to the OCC.

If requested by BAC or the OCC, Promontory will meet with representatives of the OCC to discuss the status of the Foreclosure Review, the findings set forth in the Foreclosure Review Report, or any other matters germane to this engagement.

iv. Independence.

1. Independence of Consultant Conducting Foreclosure Review

Promontory has been retained to conduct the Foreclosure Review, an independent review of certain residential foreclosure actions regarding individual borrowers with respect to BAC's mortgage servicing portfolio. Promontory agrees that the Foreclosure Review will comply with all requirements set forth in Article VII of the Consent Order, and that Promontory will conduct the Foreclosure Review as separate and independent from any review, study, or other work performed by BAC or its contractors or agents with respect to BAC's mortgage servicing portfolio or BAC's compliance with other requirements of the Consent Order, as set forth below:

- 1.1. Conduct of the Foreclosure Review by Promontory shall not be subject to direction, control, supervision, oversight, or influence by BAC, its contractors or agents. Promontory shall immediately notify the OCC of any effort by BAC, directly or indirectly, to exert any such direction, control, supervision, oversight, or influence over Promontory, its contractors, or agents.
- 1.2. Promontory agrees that it is solely responsible for the conduct and results of the Foreclosure Review, in accordance with the requirements of Article VII of the Consent Order.
- 1.3. The conduct of the Foreclosure Review shall be subject to the monitoring, oversight, and direction of the OCC. Promontory agrees to promptly comply with all written comments, directions, and instructions of the OCC concerning the conduct of the Foreclosure Review, and that it will promptly provide any documents, workpapers, materials, or other information requested by the OCC, regardless of any claim of privilege or confidentiality.
- 1.4. Promontory agrees to provide regular progress reports, updates, and information concerning the conduct of the Foreclosure Review to the OCC, as directed by the OCC.
- 1.5. Promontory will conduct the Foreclosure Review using only personnel employed or retained by Promontory to perform the work required to complete the Foreclosure Review. Promontory shall not employ or use services provided by BAC employees, or contractors or agents retained by BAC with respect to the Consent Order or with respect to matters addressed in the Consent Order, in order to conduct the Foreclosure Review, except where the OCC specifically provides prior written approval to do so.
- 1.6. Subject to the requirements and restrictions of 1.5 above, including the requirement of specific approval by the OCC, Promontory may utilize documents, materials or other information provided by BAC, and may communicate with BAC, its contractors, or agents, in order to conduct the Foreclosure Review. For example, Promontory may communicate with BAC employees to obtain clerical assistance, to

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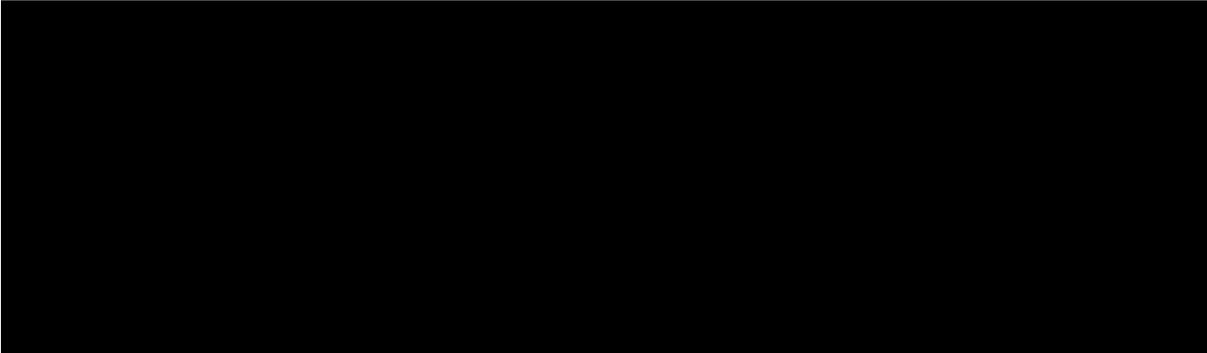
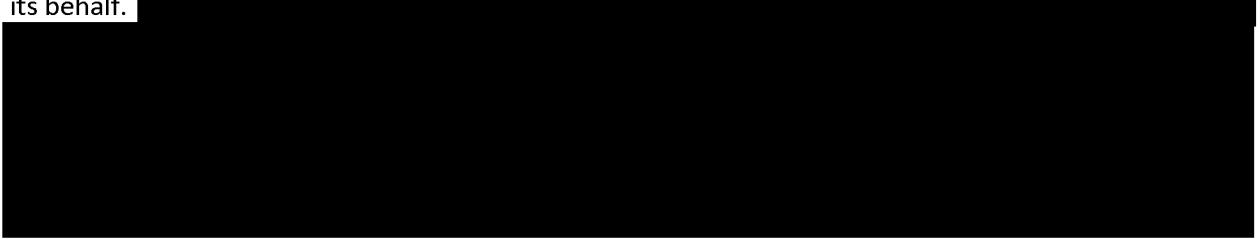
determine if information provided is complete or accurate, to verify or confirm information concerning specific case files, or to communicate with BAC employees regarding case files such that errors or omissions may be brought to Promontory's attention; however, BAC employees may not influence or attempt to influence determinations concerning the findings or recommendations of Promontory, whether regarding specific case files, categories of cases, or the Foreclosure Review more generally.

- 1.7. Promontory agrees that any legal advice needed in conducting the Foreclosure Review shall be obtained from the outside law firm whose retention for that purpose has been approved by the OCC. Promontory agrees not to obtain legal advice (or other professional services) in conducting the Foreclosure Review from BAC's inside counsel, or from outside counsel retained by BAC or its affiliates to provide legal advice concerning the Consent Order or matters contained in the Consent Order.
- 1.8. BAC and Promontory agree that if the OCC determines, in its sole discretion, that Promontory has not been fully compliant with the foregoing standards (nos. 1.1 to 1.7 above), the OCC may direct BAC to dismiss Promontory and retain a successor consultant, in which case BAC shall have no further obligation to Promontory other than for services performed up to that date for BAC.

2. Further Information Regarding Promontory's Independence

While the parties envision a consultative working relationship, as an independent consultant, Promontory will have sole responsibility for the methodology, findings, and observations set forth in the Foreclosure Review Report.

Promontory does not have an ongoing relationship with BAC, nor does it act in any advocacy capacity on its behalf.



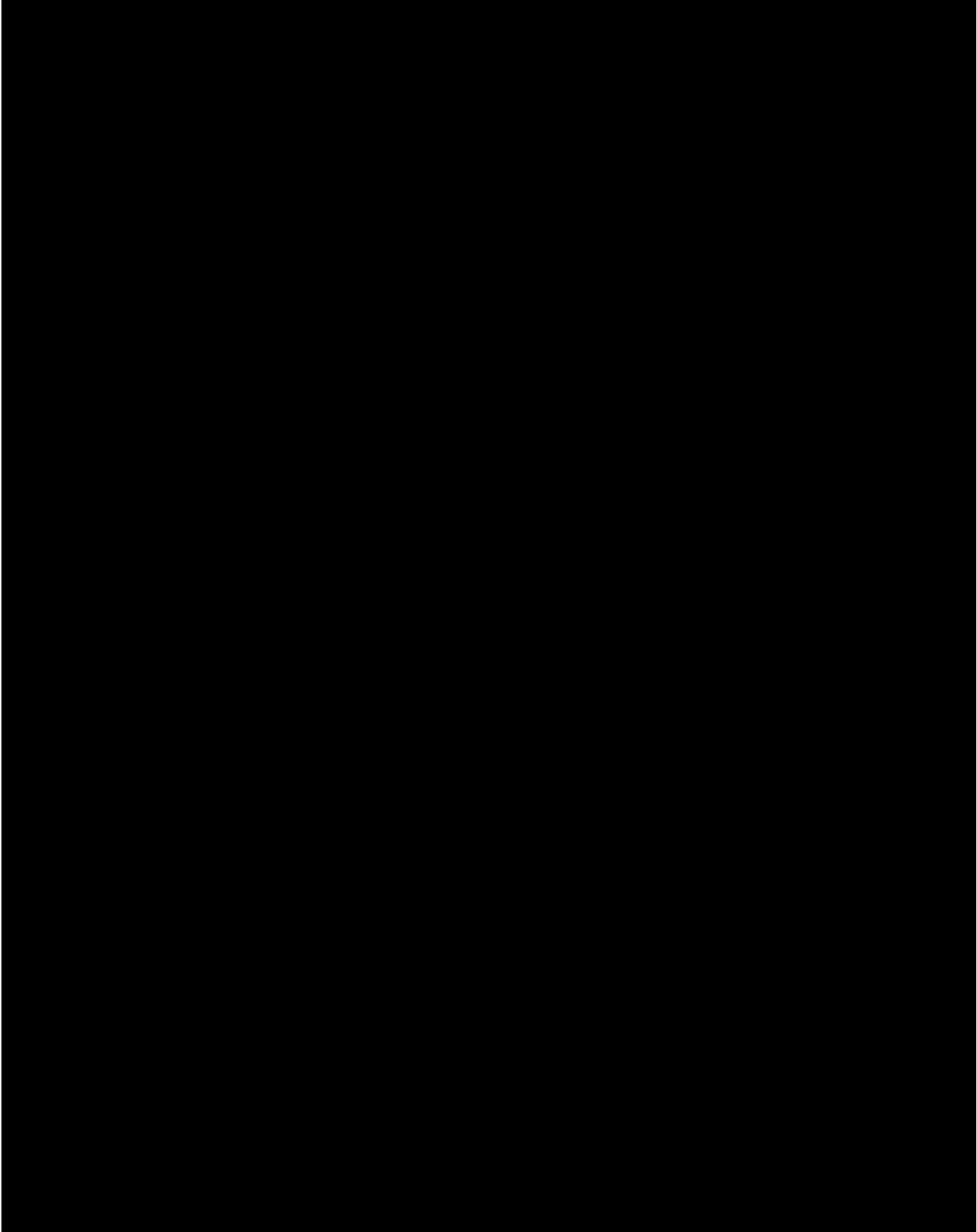
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None of Promontory's previous engagements with BAC relate closely to the subject matter of the Foreclosure Review. The Foreclosure Review will not require Promontory to evaluate or re-evaluate any of the findings and observations and recommendations it has made in prior engagements. Accordingly, Promontory's prior work with BAC will not affect Promontory's objectivity and thoroughness in performing the Foreclosure Review.

BAC has a history of engaging Promontory precisely for the purpose of providing independent advice. Promontory and BAC agree that the success of the Foreclosure Review will require Promontory to conduct itself with a high degree of independence.

3. Promontory's Past Work with BAC

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4. Actual or Potential Conflicts of Interest

Promontory has been engaged by multiple clients to perform a variety of advisory services relating to the April 13, 2011 consent orders issued by the OCC and FRB. Promontory believes these clients share a common interest in complying fully with the requirements of the OCC and the FRB consent orders, that their interests in this regard are not adverse, and that Promontory's work with them, accordingly, does not present a conflict of interest.

Promontory's Conflict of Interest Policy is attached to the agreement as Attachment C.

5. Promontory Subcontractors

Ernst & Young, LLP ("EY")

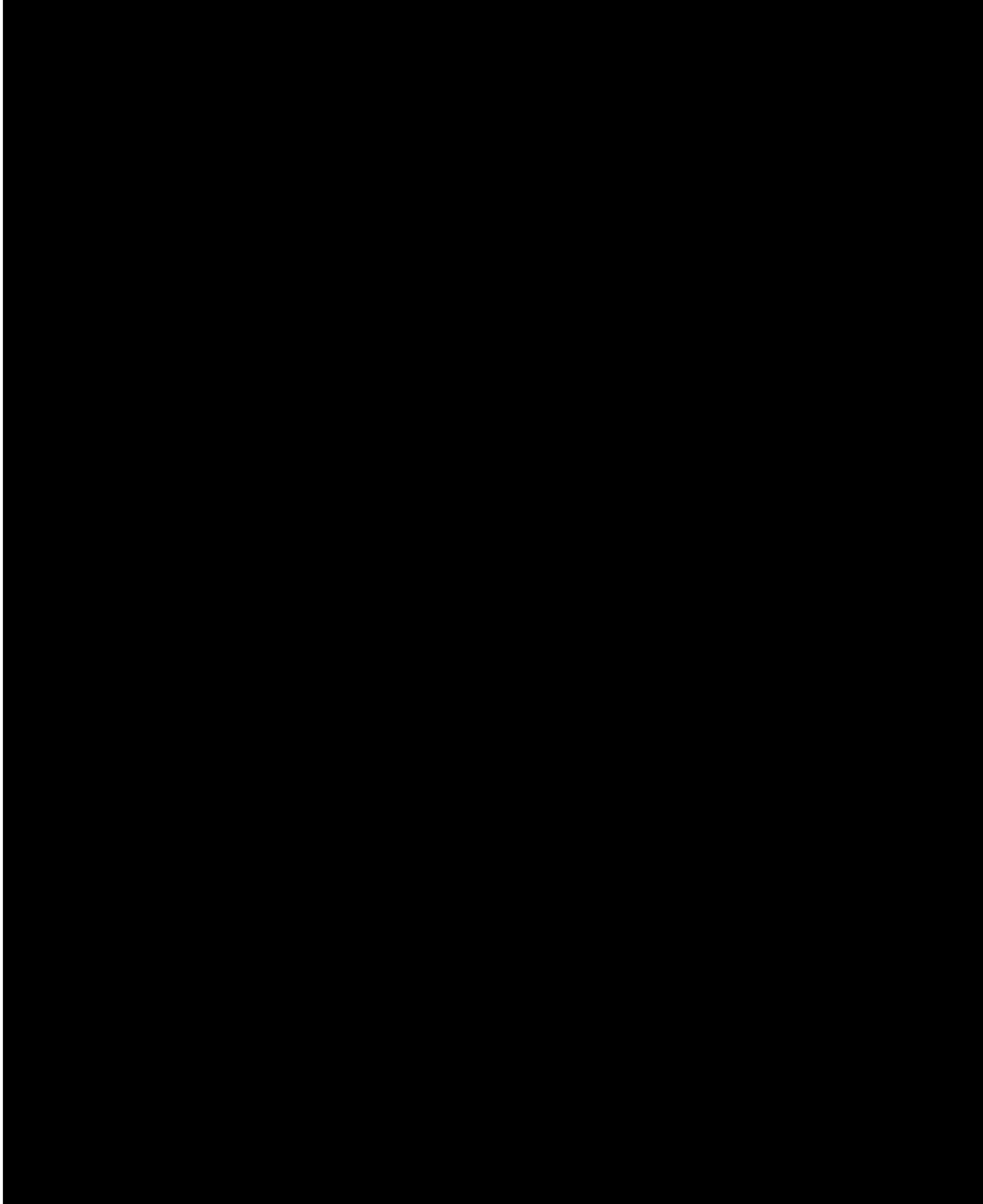
EY primarily provides advisory and tax services in areas that include global markets, wealth management, consumer banking, mortgage, finance, treasury, capital management, risk, compliance and technology. EY's client base is broad and global and EY is not dependent on BAC for its economic well-being, however, similar to other large firms providing professional services BAC is a significant client. EY performs professional services pursuant to the applicable rules and regulations of the SEC, Public Company Accounting Oversight Board, the American Institute of Certified Public Accountants, and other professional standards setting bodies.

EY has assisted BAC in a number of litigation and commercial conflict matters. EY work has consisted chiefly of assisting BAC and non-EY experts with fact finding and data gathering.

EY has also assisted BAC in preparing responses to regulatory inquiries in numerous cases. EY's role on these matters has consisted primarily of assistance with project management, data gathering, and fact-

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based analysis. EY has not offered an expert opinion or acted in an advocacy role on any of these regulatory inquiries.



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Hudson Cook LLP

Promontory legal counsel Hudson Cook, LLP (“Hudson Cook”) has represented BAC from time to time in connection with various related consumer finance compliance matters and a range of regulatory advice, including Regulation B, Regulation Z, state limitations on fees in connection with foreclosure MRAs, and CARD Act issues. Certain of these touch on mortgage servicing activities, although none of these has been in a representation or advocacy role for BAC on foreclosure issues. BAC has not retained Hudson Cook for any representation relating to the Consent Order or legal advice concerning BAC’s obligations under the Consent Order with respect to any corrective action that the Consent Order may require BAC to take. Further, Hudson Cook also represents other mortgage servicers from time to time in connection with similar types of consumer finance-related matters; however, none of these has been in a representation or advocacy role on foreclosure issues.

Fried, Frank, Harris, Shriver, & Jacobson LLP

Promontory legal counsel, Fried, Frank, Harris, Shriver & Jacobson LLP (“Fried Frank”), has represented BAC from time to time, although none of this work is of a nature that impacts Fried Frank’s ability to act independently. Specifically, Fried Frank has not engaged in any past work in a representation or advocacy role for BAC on foreclosure issues (even of a minimal nature), including:

- Conducting foreclosure re-filings or other foreclosure process remediation work for BAC.
- Representation of BAC in response to inquiries by the state attorneys general, the DOJ, or Bankruptcy Trustees on foreclosure matters.
- Representation of BAC in negotiations with the state attorneys general, the DOJ, or Bankruptcy Trustees on foreclosure matters.
- Representation of BAC in negotiation of the OCC and the FRB Consent Orders.
- Advising BAC regarding the OCC and FRB horizontal reviews from fall 2010.
- Acting as foreclosure counsel for BAC by filing foreclosure actions on BAC’s behalf.
- Advising BAC regarding limitation of liability for its foreclosure-related practices.
- Providing a legal opinion for BAC on a foreclosure-related matter at issue in the Foreclosure Review.

Additionally, in the past and presently Fried Frank has not undertaken, and is not now engaged in, a representation or advocacy role in work related to or for any other bank or financial institution with respect to foreclosure issues in any of the following:

- Representation of any such bank or financial institution in response to inquiries by the state attorneys general, the DOJ, or Bankruptcy Trustees on foreclosure matters.
- Representation of any such bank or financial institution in negotiations with the state attorneys general, the DOJ, or Bankruptcy Trustees on foreclosure matters.
- Representation of any such bank or financial institution in negotiation of the OCC and FRB Consent Orders.

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- Advising any such bank or financial institution regarding the OCC and FRB horizontal reviews from last fall 2010.
- Acting as foreclosure counsel for any such bank or financial institution by filing foreclosure actions on the bank's or financial institution's behalf.
- Advising any such bank or financial institution regarding limitation of liability for its foreclosure-related practices.
- Providing a legal opinion for any such bank or financial institution on a foreclosure-related matter at issue in the Foreclosure Review.

v. Workpapers

Promontory will make all workpapers associated with performance of the Foreclosure Review available to the OCC immediately upon request.

d. PERFORMANCE PERIOD

- i. **Start Date of the Engagement.** As of the date of the Agreement.
- ii. **Milestones.** As set out in the Agreement and the Consent Order:
 1. Promontory will complete the Foreclosure Review within an estimated 423 days³ depending on the sample size reviewed (see Attachment B for details regarding estimated resourcing) following the OCC's approval of the Agreement or such later date as the OCC may specify in response to a request for extension or otherwise;
 2. Promontory will complete the Foreclosure Review Report within 30 days following completion of the Foreclosure Review.
- iii. **End Date.** Upon the OCC's acceptance of or non-objection to the Foreclosure Review Report.

e. WORK SITE: Primarily at BAC locations in [REDACTED]

f. FEES:

For the services of a team of management, team leads, senior analysts, and analysts, to deliver a review of an estimated 35,000 files over a 14-month period, and related services, such as quality assurance activities (estimated 5,600 files subject to quality assurance), quantitative analysis, interpretation of sampling results, and Request for Information Team activities, Promontory will charge BAC a monthly amount based on the number and mix of professionals required to perform such services.

³ This assumes an initial ramp-up period of 45 days plus a file review period of 378 days based on a sample size range of 35,000 files, 200 File Reviewers, and an average file review time of ten hours. Detailed assumptions are included in Attachment B.

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As further detailed in Attachment B, and based on the working assumptions set forth therein, Promontory envisions that performance of necessary file review services will require it to field a File Review Team with significant experience in mortgage servicing, foreclosure and loss mitigation activities, or other relevant professional or educational backgrounds comprising approximately 274 FTEs (including an estimated 200 File Reviewers, 20 Senior File Reviewers, three File Review Team Leaders, ten Information Analysts, 20 File QA Reviewers, six Data Management specialists, and related management staff) on average over the course of the engagement.

For the services of a team of management, team leads, senior analysts, and analysts to deliver a 100 percent review and disposition of an estimated 253,500 complaints submitted through the Complaint Process (assuming a 20 percent response rate) and related quality assurance activities (estimated 31,700 complaints subject to quality assurance), Promontory will charge BAC a monthly amount based on the number and mix of professionals required to perform such services at both the Claim Intake Company and BAC sites.

As further detailed in Attachment B, and based on the working assumptions set forth therein, Promontory envisions that performance of necessary complaint review services will require it to field a complaint review team of analysts, professionals and management with appropriate experience and subject matter expertise comprising approximately 195 FTEs (including 145 Complaint Reviewers, 15 Senior Complaint Reviewers, four Complaint Team Leaders, 19 Complaint QA Reviewers, and related management staff) on average over the course of the engagement.

These monthly amounts incorporate general management of all services provided under the Agreement, management and leadership of each major workstream (file review, quantitative analysis and evaluation, quality assurance, complaints, data and documentation management), interviews of, liaison with and periodic and ad hoc reporting to and consultations with members of BAC's senior management and directors and representatives of the OCC, operation of a Project Management and Staffing Office, recruitment, screening, and oversight of qualified human resources, provision of an effective case management system and information technology expertise, process design and training activities, oversight and management of external counsel support, preparation of a final report and creation of a document repository that provides evidence of the performance of the Foreclosure Review at the conclusion of the Foreclosure Review, and similar services.

Regulatory direction, results of the File Review, and the actual response to the borrower complaint outreach process could require large adjustments in the number, qualifications, and cost of resources Promontory must devote to one or more of the types of services described above.

BAC will reimburse Promontory for costs associated with engaging independent legal counsel, Hudson Cook and Fried Frank, and for costs associated with populating and delivering appropriate review tools.

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BAC also agrees to reimburse Promontory for all reasonable out-of-pocket expenses incurred in the course of providing professional services under the Agreement, such as travel, telephone, lodging expenses, etc.

g. ACCEPTANCE CRITERIA

In addition to the terms of the Agreement, acceptance shall be subject to the Consent Order and any requirements placed on this engagement by the OCC.

h. BAC CONTACT

i. PROMONTORY CONTACT

[REDACTED] See Attachment B for additional team members.

j. PROMONTORY SUBCONTRACTORS

Ernst & Young, LLP

Hudson Cook, LLP

Fried, Frank, Harris, Shriver, & Jacobson LLP

k. OTHER PROVISIONS

Cooperation. BAC's cooperation with Promontory is essential to Promontory's ability to fulfill its responsibilities under this engagement. In particular, Promontory will expect BAC to make its officers, directors, and employees reasonably available to Promontory for interviews, meetings, or discussions as requested by Promontory, and to provide Promontory, pursuant to the terms of the Nondisclosure Agreement referenced below, with timely access to documents and other records Promontory may require to complete its work in a timely manner.

Intellectual Property. Promontory provides services to multiple clients and works on an ongoing basis to improve the Promontory Materials (as defined below) for the benefit of all clients. BAC acknowledges and agrees and the Agreement confirms that Promontory solely owns and will retain all right, title, and interest, including all Intellectual Property Rights (as defined below), in and to all Promontory Materials, whether conceived, developed, enhanced, reduced to practice, or otherwise created before or after the course of performing this engagement so long as the Promontory Materials do not incorporate BAC intellectual property or Work Product (as defined below). Promontory will not, however, use any Promontory Materials in a manner that reveals to an unauthorized third party any confidential information of BAC in violation of the Agreement.

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With the exception of any Promontory Materials incorporated therein, all information, data, materials, discoveries, inventions, drawings, works of authorship, documents, documentation, models, computer programs, software (including source code and object code), firmware, designs, specifications, processes, procedures, techniques, algorithms, diagrams, methods, and all tangible embodiments of each of the foregoing (in whatever form and media) conceived, created, reduced to practice, or prepared by or for Promontory at the request of BAC pursuant to the Agreement or within the scope of services provided under the Agreement, whether or not prepared on BAC's premises and all Intellectual Property Rights therein (the "Work Product"), shall be owned exclusively by BAC. To the extent that the Work Product incorporates any Promontory Materials, Promontory hereby grants to BAC a perpetual, worldwide, irrevocable, transferable, sub-licensable (on multiple levels), royalty-free, non-exclusive license to use, execute, reproduce, display, perform, distribute, and otherwise exploit any of the Promontory Materials incorporated into the Work Product for any business purpose. For the avoidance of doubt, "Work Product" shall not include Promontory's documentation of services (i.e., work papers), which includes the working papers as required by professional standards, internal records of services provided, internal quality control documentation, internal notes, internal records, internal emails, internal records related to employee management, internal work plans, and internal status trackers.

For purposes of the Agreement, "Intellectual Property Rights" means any and all copyrights, copyright registrations and applications, patents, patent applications, trade secrets, trademarks, service marks, trademark and service mark registrations and applications, rights in trade dress, trade names, other indicia or origin, domain names, and any other intellectual property or proprietary rights anywhere in the world in any form or medium now known or later devised. For purposes of the Agreement, "Promontory Materials" means any and all templates and other formats, checklists, methodologies, risk calculators, other diagnostic tools, and other information, inventions and works of authorship conceived, developed, enhanced, reduced to practice or otherwise created by or on behalf of Promontory, but specifically excluding any Work Product.

Limitation of Liability and Indemnification.



Confidentiality. The Agreement and all data, trade secrets, business information and other information of any kind whatsoever that BAC discloses, in writing (which shall include any electronic transfer of information by e-mail, over the Internet or otherwise), orally, visually, or in any other medium, to Promontory or to which Promontory obtains access and that relates to BAC shall be deemed “confidential information” under the Nondisclosure Agreement, dated January 28, 2010, by and between Promontory and BAC, and shall be subject to the terms and conditions of such Nondisclosure Agreement. Promontory shall not knowingly permit any of its representatives, consultants, affiliates and independent contractors (each a “Representative”) to have access to the confidential information, premises, records, or data of BAC when such Representative: (a) has been convicted of a crime or has agreed to or entered into a pretrial diversion or similar program in connection with: (i) a dishonest act or breach of trust, as set forth in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. 1829(a); or (ii) a felony; or (b) uses illegal drugs. Notwithstanding anything in the Agreement to the contrary, Promontory shall conduct at its expense background checks on its employees who will have access (whether physical, remote, or otherwise and whether on or off BAC premises) to BAC facilities, equipment, systems, or data and such background checks shall comply with BAC procedures and requirements. Promontory shall report to BAC on background checks done, prior to such employee being granted such access.

Recovery. Promontory agrees to establish, maintain, implement per the terms thereof, a Business Continuity Plan. The Business Continuity Plan must be in place and delivered to BAC within forty-five (45) calendar days after the effective date of the Agreement. The Business Continuity Plan shall be delivered annually thereafter and shall include, but not be limited to, the items called for in Schedule B entitled “Recovery,” as applicable. If BAC objects in writing to any provision of such plans and controls, Promontory shall respond in writing within thirty (30) calendar days, explaining, among other matters Promontory wishes to include in its response, the actions Promontory intends to take to cure BAC’s objection.

Subcontracting. BAC acknowledges that Promontory engages the services of its affiliates, as well as the services of consultants, such as EY, and law firms, such as Hudson Cook and Fried Frank, who are independent contractors to assist Promontory in the execution of engagements for its clients (Promontory affiliates, EY, and Promontory consultants, collectively “Approved Subcontractors”). BAC agrees that Promontory may engage the services of the Approved Subcontractors in connection with the services to be provided under the Agreement; provided, however, that with respect to subcontractors other than the Approved Subcontractors, Promontory shall obtain BAC’s prior written consent to their use, such consent not to be unreasonably withheld, and provided that the Approved Subcontractors and any such subcontractors are subject to the obligations contained within the Agreement and the Nondisclosure Agreement.

Not Law Firm or Lobbyist. BAC acknowledges and agrees that Promontory is not a law firm and that no part of the services to be performed pursuant to the Agreement shall constitute or is intended to constitute legal advice or the rendering of legal services. BAC further acknowledges that Promontory is not a registered lobbyist under any state or federal laws. BAC agrees that Promontory will not be called upon to engage in lobbying activities as part of its work on this engagement.

Standards. Promontory shall provide all services in accordance with the Agreement and with a high degree of care and skill, utilizing its best professional judgment and commercially reasonable and acceptable business practices. The services being performed under the Agreement are not intended to, nor do they, constitute a promise or guarantee of a particular outcome.

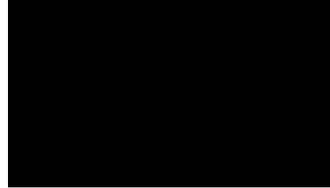
Acknowledgment. Promontory provides services to multiple clients within the financial services industry. BAC acknowledges that these clients may be direct or indirect competitors of BAC (including major residential mortgage servicers subject to the interagency horizontal examination) and that the services Promontory provides to such clients may be similar to the services provided to BAC hereunder (including assistance with enforcement actions based upon the findings of the interagency horizontal examination). Promontory anticipates that other similarly-situated mortgage servicers may retain it to assist with enforcement actions based upon the findings of the interagency horizontal examination. In such event, the Agreement envisions the creation of a central team, which will provide support to each engagement, including quality assurance, may share information regarding regulatory expectations, methodologies, project planning, reporting formats, etc., and, where appropriate, may communicate with regulators on behalf of these clients. However, Promontory will not share confidential information of BAC with its other clients, including similarly-situated mortgage servicers, nor will Promontory share confidential information of its other similarly-situated mortgage servicer clients with BAC. Promontory also provides certain services to MERScorp, Inc. and MERS, which services derive from an examination conducted by the banking agencies in conjunction with the interagency horizontal examination. Notwithstanding the foregoing, BAC consents to Promontory's work for such clients subject to the confidentiality obligations of the Agreement and waives any actual, potential, or perceived conflict of interest that may arise from Promontory's work on this engagement. Notwithstanding anything to the contrary in the Agreement and solely for purposes of the Agreement, "confidential information" shall not include information obtained from regulators that does not uniquely apply to BAC or its affiliates.

Termination. Either party may terminate the Agreement at any time upon written notice delivered to the other party; provided, however, that (i) BAC shall remain liable for fees and expenses payable to Promontory in respect of this engagement and accrued through the effective date of termination; (ii) termination of the Agreement will be without prejudice to any legal rights or obligations that may already have arisen; and (iii) the intellectual property, confidentiality, limitation of liability, and indemnification provisions of the Agreement shall survive termination.

[REDACTED]
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IN WITNESS WHEREOF, Promontory and BAC, by the signatures of their duly-authorized representatives below, intending to be legally bound, agree to all the provisions of the Agreement.

Sincerely yours,



Accepted for Bank of America

Name:

Title:

Date:

Attachment A

Foreclosure Review Methodology

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I. Introduction

This document outlines the proposed methodology for Promontory Financial Group, LLC (“Promontory”), acting as Independent Consultant, to perform a review of certain residential foreclosure actions by Bank of America (“BAC”) between January 1, 2009 and December 31, 2010, pursuant to Article VII of the Consent Order (AA-EC-11-12) (the “Consent Order”) of the Office of the Comptroller of the Currency (the “OCC”), dated April 13, 2011 (the “Foreclosure Review”). The primary purpose of the Foreclosure Review is to identify borrower financial injury as a result of operational issues that occurred during the course of foreclosure actions or proceedings, including foreclosures that were in process or completed over the relevant period.

Reviewers will conduct a detailed review, determining if exceptions and financial injury are present. Article VII(3) of the Consent Order specifies that the review at a minimum determine:

- (a) whether at the time the foreclosure action was initiated or the pleading or affidavit filed (including in bankruptcy proceedings and in defending suits brought by borrowers), the foreclosing party or agent of the party had properly documented ownership of the promissory note and mortgage (or deed of trust) under relevant state law, or was otherwise a proper party to the action as a result of agency or similar status;
- (b) whether the foreclosure was in accordance with applicable state and federal law, including but not limited to the SCRA and the U.S. Bankruptcy Code;
- (c) whether a foreclosure sale occurred when an application for a loan modification or other Loss Mitigation was under consideration; when the loan was performing in accordance with a trial or permanent loan modification; or when the loan had not been in default for a sufficient period of time to authorize foreclosure pursuant to the terms of the mortgage loan documents and related agreements;
- (d) whether, with respect to non-judicial foreclosures, the procedures followed with respect to the foreclosure sale (including the calculation of the default period, the amounts due, and compliance with notice periods) and post-sale confirmations were in accordance with the terms of the mortgage loan and state law requirements;
- (e) whether a delinquent borrower’s account was only charged fees and/or penalties that were permissible under the terms of the borrower’s loan documents, applicable state and federal law, and were reasonable and customary;
- (f) whether the frequency that fees were assessed to any delinquent borrower’s account (including broker price opinions) was excessive under the terms of the borrower’s loan documents, and applicable state and federal law;
- (g) whether Loss Mitigation Activities with respect to foreclosed loans were handled in accordance with the requirements of the HAMP, and consistent with the policies and procedures applicable to the Bank’s proprietary loan modifications or other loss mitigation programs, such that each borrower had an adequate opportunity to

apply for a Loss Mitigation option or program, any such application was handled properly, a final decision was made on a reasonable basis, and was communicated to the borrower before the foreclosure sale;

- (h) *whether any errors, misrepresentations, or other deficiencies identified in the Foreclosure Review resulted in financial injury to the borrower or the mortgagee.*

As required by the Consent Order, this proposal will be presented to the Deputy Comptroller and the Examiner-in-Charge for approval before the full execution of the Foreclosure Review.

II. Summary of the Foreclosure Review Process

As Independent Consultant, Promontory will lead the execution of the work plan described herein, with Ernst & Young (“EY”) assisting with technology and data support for testing and review of individual foreclosures. Specific testing will be driven by the requirements enumerated in Article VII(3)(a)-(h) of the Consent Order.

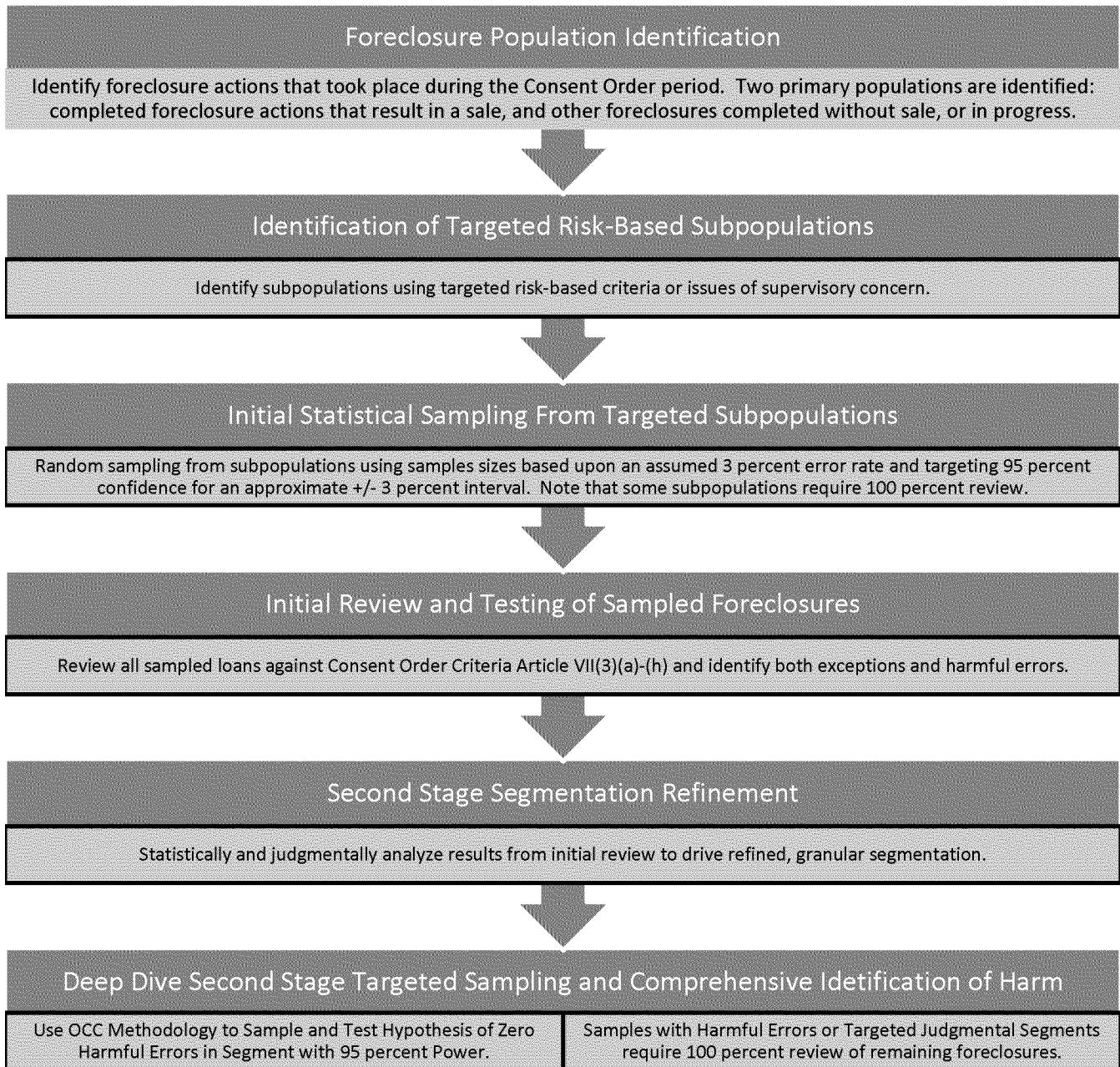
The Foreclosure Review will include an analysis of residential foreclosure actions or proceedings (including foreclosures that were in process or completed) for loans serviced by BAC, whether brought in the name of BAC, the investor, the mortgage note holder, or any agent for the mortgage note holder (including the Mortgage Electronic Registration System (“MERS”)), that have been pending at any time from January 1, 2009 to December 31, 2010. The Foreclosure Review will consider a population in excess of 1.27 million residential owner-occupied foreclosed loans from all loan portfolios, including first lien loans, reverse mortgages, and subserviced loans. A multi-stage segmentation and sampling process with subsequent focused reviews – to include representation from all states, the District of Columbia, and the three relevant U.S. territories – will be structured to discover foreclosure actions leading to borrower financial injury.

The Foreclosure Review will utilize targeted judgmental and statistical sampling methodologies to execute a sequential testing approach for completing the initial stage of the Foreclosure Review. Based upon the results from the initial segmentation, sampling, and loan review, it is expected that a refined, second-stage segmentation for the remaining population of loans will be developed, and that a “deep dive” review of additional foreclosures will take place. This process will be structured to provide that any foreclosures with characteristics specifically identified by the supervisors as requiring 100 percent review will be so treated.

The purpose of the second stage segmentation, review, and testing is to develop a final assessment of the existence and magnitude of financially injurious foreclosure exceptions in the population. The second stage segmentation will be designed using the results from the initial review to identify specifically targeted subpopulations of the overall population of foreclosures for selection, review, and testing per the OCC Sampling Methodology Guidance. The refined segmentation will be based upon judgmental and statistical analysis (e.g., risk scoring or classification tree) of the initial review results. Second stage testing will be based upon the types of exceptions and errors identified in the initial stage review.

A depiction of the overall Foreclosure Review process is presented in Figure 1:

Figure 1: Foreclosure Review Process Flow



At all levels of review, Promontory will rely on test standards drawn from a variety of sources. These standards will be encoded into the Foreclosure Review's case management system [REDACTED] and available in paper and/or soft copy formats to manual reviewers at all levels of the process.

Promontory will use a multi-level review process to promote accurate and consistent review of foreclosure files. Each level of the process will incorporate strong quality control procedures. In addition, a separate, dedicated Quality Assurance Team will audit every level of the review. Promontory, in its sole discretion, will ultimately determine whether an error, misrepresentation or other deficiency within the scope of Article VII of the Consent Order occurred, and, if so, whether it resulted in financial injury to the borrower.

At the initial level, reviewers recruited and trained by Promontory will review borrower data for sample files in the [REDACTED]. The [REDACTED] incorporates test standards based on legal and other research by Promontory and law firms Hudson Cook, LLC ("Hudson Cook") and Fried, Frank, Harris, Shriver & Jacobson LLP. The [REDACTED] will allow reviewers to evaluate data appropriate to the essential characteristics of the files under their review (e.g., for a file relating to a foreclosure filing in Florida, the [REDACTED] will direct the reviewer to review data essential to the analysis of compliance with applicable Florida law.)

Specific testing programs have been developed to address the exception risks identified in the Consent Order. Each time a test identifies such a potential exception, a reviewer will be prompted to confirm or otherwise clear the exception with detailed explanation. Where a reviewer cannot confirm a particular answer because information in the file is missing or insufficient, he or she will flag the file for escalation to the Request for Information Team, which will attempt to locate and supply the missing information. If the results of the review continue to indicate an exception when all information is present, the file will then flow to the review and Quality Assurance processes described below.

This level of review will also incorporate strong quality control procedures, administered by Senior File Reviewers responsible for reviewing files to confirm the accuracy of data entry and identify needs for further reviewer training. This review process will seek to eliminate from further consideration immaterial or erroneous exceptions arising from reviewer misunderstanding, data entry errors, etc. Promontory will consider errors, misrepresentations, or deficiencies evidenced by the files and confirmed by Senior File Reviewer review as "unvalidated preliminary exceptions."

Promontory will invite a designated BAC team to review each preliminary exception in order, as appropriate, to supply missing information or bring potential flaws in Promontory's preliminary analysis to Promontory's attention.

At the final stage of review, Promontory project leadership will consider each preliminary exception for which BAC, as a result of its review, has provided additional relevant information. If, upon consideration of BAC's supplemental information or analysis, Promontory continues to believe that file analysis correctly indicates the occurrence of an error, misrepresentation, or other deficiency within the scope of Art. VII(3)(a)-(h) of the Consent Order, Promontory will deem the exception determination validated and final.

Additionally, Promontory's Quality Assurance Team will oversee the File Review process to ensure that the established quality and accuracy standards are met within the Foreclosure Review. The Quality Assurance Team will manually and independently review a random sample of files to revalidate the conclusions of the File Review Team in regard to classification of an exception or not. The Quality Assurance section, below, provides further detail

concerning the role of the Quality Assurance Team.

On an ongoing basis and in no event later than 30 days of completion of the Foreclosure Review, including the comprehensive identification of harmful foreclosure errors, Promontory will provide a report of its findings (the “Foreclosure Report”) to the Deputy Comptroller, the Examiner-in-Charge, and the Board. Within 45 days of submission of the Foreclosure Report, BAC will develop and submit to the Deputy Comptroller and the Examiner-in-Charge a plan to remediate financial injury to borrowers identified in the Foreclosure Report (the “Remediation Plan”). According to the *OCC, OTS, and Federal Reserve Board Foreclosure Review Guidance*, financial injury to borrowers means “monetary harm to the borrower or the mortgagee or owner of the mortgage loan directly caused by errors, misrepresentations, or other deficiencies identified in the Foreclosure Review.” Within 60 days after the OCC provides supervisory non-objection to the Remediation Plan, BAC will make remediation payments and provide credits required by the Remediation Plan, and provide the OCC with a report detailing these payments and credits. BAC has established a governance process, including the chartering of a committee comprised of the Special Advisor on Remediation Strategies and the heads of Audit and Risk, among others, to oversee the payments under the Remediation Plan, and will monitor and test the Remediation Plan.

III. Detailed Discussion of the Foreclosure Review Process

This section provides detailed information on aspects of the Foreclosure Review Process as required by Article VII (2)(a)-(c) of the Consent Order.

A. Methodology

i. Information Systems and Documents to be Reviewed

The Foreclosure Review Team will evaluate and test information from several BAC systems, which will be used to (1) identify the target population of foreclosures subject to the Foreclosure Review, and (2) support the testing and determinations process conducted as part of the Foreclosure Review.

a) Data Sources

The major applications that will be used for the Foreclosure Review effort include, but will not be limited to:

- [REDACTED] – The central system for servicing that contains key data related to the loan. This includes information on payments, bankruptcy status, and key information on the loan.
- [REDACTED] – Modification support systems that track completion of a loan modification. The systems include information about the modifications as well as status and additional notes from the modification associates.
- [REDACTED] A sub-system for foreclosures that contains information related to foreclosure fees and captures workflow tracking.

- [REDACTED] – An image repository that contains key documents, including signed modification documents and modification solicitations to borrowers.
- [REDACTED] – A workflow system that contains data related to short sales and is the primary workflow system for the Short Sales group.
- [REDACTED] – A loan administration portal.

Additional input will be obtained from various databases and spreadsheets maintained by BAC's Business Area and Information Technology support personnel as well third party sources. Additional inputs in this category are expected to include, but may not be limited to, [REDACTED]
[REDACTED]

b) Initial Populations

The population of foreclosures subject to the Foreclosure Review per the Consent Order has been identified, using the [REDACTED], to include approximately 270,000 loans for which the foreclosure action was completed with a sale. These loans were identified by selecting all loans that were flagged as having been in the foreclosure process and which also had a flag indicating that the property had been sold.

The population of foreclosures that is in-process is also being determined using the [REDACTED]. The population is estimated to include approximately 996,700 loans. The in-process population is being identified by selecting all loans which were flagged as being in the foreclosure process as of January 1, 2009 or which entered the foreclosure process during the period specified by the Consent Order, but which did not result in, or have not yet culminated in, a foreclosure sale. These foreclosure proceedings may be ongoing or may have been resolved without a foreclosure sale.

c) Validation of Data

Validation of the identified foreclosures is being implemented, and will leverage comparative information from financial accounting systems of record or third party verifications. Beginning with an independent calculation of the various subpopulations, the Foreclosure Review Team consisting of personnel from EY, with assistance from BAC Subject Matter Experts, will calculate the individual subpopulation counts. These counts will then be compared to the original estimated population counts provided by BAC, with a secondary verification being conducted against the populations that have previously been reported to the OCC. As this represents an intensive endeavor, validation will be an ongoing effort and continue to be documented. Any material discrepancies and the associated reconciliation will also be documented.

Additionally, in cases where reliance must be placed on data maintained by the Business Area or third parties, alternative methods of verifying the integrity of the data will be employed where feasible. This may include, but not be limited to, reconciling the information contained in the Business Area or third party data to its original source data.

d) Data Integrity

We understand that backups of the Systems of Record are maintained in accordance with BAC policy. Snapshots of the source files used to create both the original population estimates and the independent calculations will be retained.

ii. Criteria for Evaluating Reasonableness of Fees and Penalties

Section VII(3)(e) of the Consent Order requires the Independent Consultant to determine whether any fees or penalties assessed were permissible, reasonable, customary, or if fees or penalties were excessive.

Promontory will make these determinations by testing files against defined exceptions, deeming an exception to have occurred when the file indicates that BAC charged one or more fees or penalties that failed one or more test conditions. Because Promontory will test identified loan files against all such conditions, a single file could include multiple exceptions.

e) Permissibility

Promontory will test permissibility of fees and penalties by reference to limits established by state law, federal law, and the borrower's mortgage instruments. Promontory will examine the identified files for impermissible charges under each of these authorities. If one or more of these authorities limit fees or penalties, or a particular type of fee or penalty, in the aggregate, Promontory will evaluate total fees and penalties, or total fees and penalties of that particular type, by reference to that limit.

Considering any limitations on fees or penalties established by the law of the state in which the residential property securing the loan is located, Promontory will test the identified loan files to determine:

- Whether the type(s) of individual fees and penalties charged to the account was permissible;
- Whether the amount(s) of individual fees and penalties charged to the account was permissible;
- Whether the sum(s) of individual fees and penalties charged to the account was permissible.

Considering limitations on fees or penalties established by federal law, Promontory will test each loan file to determine:

- Whether BAC impermissibly charged fees or penalties to the account during the pendency of a borrower's bankruptcy proceeding;
- Whether BAC impermissibly charged fees or penalties to the account of an active service member;
- Whether BAC impermissibly charged other fees and penalties.

Considering limitations on fees or penalties established by the mortgage instruments, Promontory will

test the identified loan files to determine whether fees and penalties individually or in aggregate exceeded amounts as provided for in the borrower's mortgage instruments.

f) Customariness

Promontory will evaluate the customariness of fees and penalties by reference to documented surveys of market rates for such fees conducted by BAC. In the absence of references on market rates for specific fees, Promontory will consult servicer guidance promulgated by the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Mortgage Loan Corporation ("Freddie Mac"), the Department of Housing and Urban Affairs ("HUD"), or the Veterans Administration ("VA") for their respective insured and investor-owned loans. Promontory expects to deem as "not customary" any fee or penalty inconsistent with a market rate reference or with guidance in type or amount.

For non-conforming, non-Federal Housing Administration and non-VA loans, Promontory will deem as "not customary" any fee or penalty inconsistent with Fannie Mae guidance in type or exceeding such guidance by more than ten percent in amount.

g) Reasonableness

Promontory will evaluate each fee or penalty for reasonableness. Promontory will deem as "unreasonable" any fee or penalty that:

- Is associated with the processing of a borrower request for loss mitigation, including loan modification;
- Was assessed to protect the interests of a secured party when the borrower had accepted and was in good standing under a temporary loan modification or Trial Period Plan;
- Was assessed for late payment when the borrower had made timely payment in an amount consistent with the terms of an accepted temporary loan modification;
- Was assessed to protect the interests of a secured party while the borrower was in good standing under a permanent loan modification;
- Was assessed for forced placement of insurance when appropriate insurance coverage was already in force; or
- Was assessed for forced placement of insurance in an amount exceeding the higher of the loan balance, property value, or cancelled policy coverage level.

h) Frequency

Article VII(3)(f) of the Consent Order requires the Independent Consultant to determine whether the frequency that fees were assessed to any delinquent borrower's account (including broker price opinions) was excessive under the terms of the borrower's loan documents, and applicable state and federal law.

In performing this evaluation, Promontory will consider whether BAC assessed the fee or penalty with a frequency that was:

- Impermissible under the law of the state of the residential property associated with loan;
- Impermissible under Federal law;
- Impermissible under the terms of the borrower's promissory note; or
- Uncustomary, based upon reference to the appropriate frequency of such fees as documented by BAC's market rate fee studies or documented in guidance promulgated by Fannie Mae, Freddie Mac, HUD, or the VA for their respective insured and investor-owned loans.

Specifically, the [REDACTED] will prompt reviewers for detail concerning the types of fees and penalties assessed and the frequency of their assessment. Preliminary determinations of potential exceptions will flow to Senior File Reviewers and Quality Assurance for further review.

iii. Other Procedures Necessary to Make the Required Determinations

a) *Testing for Potential Errors, Misrepresentations or Other Deficiencies*

The balance of this section discusses how testing and review will specifically address the required determinations in Article VII(3)(a)-(h) of the Consent Order.

1. Consent Order Section VII(3)(a) – Determining Proper Documentation of Ownership
The Consent Order requires the Independent Consultant to determine whether, at the time the foreclosure action was initiated or the pleading or affidavit filed (including in bankruptcy proceedings and in defending suits brought by borrowers), the foreclosing party or agent of the party had properly documented ownership of the promissory note and mortgage (or deed of trust) under relevant state law, or was otherwise a proper party to the action as a result of agency or similar status.

To make this determination, Promontory will test documentation of ownership against the standards of applicable state law. For assistance in identifying applicable state law standards, Promontory has obtained from Hudson Cook, a reputable law firm with experience in state foreclosure actions, a description of applicable state law in each of the 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands for the period 2007 to 2010.

Promontory will review loan file characteristics and documents to assess whether a particular foreclosure action is more likely to have an exception relating to the documentation of ownership. As applicable, Promontory will determine both (a) whether the pleading or affidavit on its face complies with applicable state requirements, and (b) whether the party asserted as owning the promissory note and mortgage (or deed of trust) was in fact the owner. Promontory expects to make this determination by comparing the pleading or affidavit to the foreclosure title report, the

copy of the recorded mortgage, recorded assignments, and note endorsements. In particular, reviewers will test and review identified files to determine, among other things, the following:

- Does BAC have a copy of the original mortgage note? If not, was there an affidavit of lost note filed?
- Is the note endorsed and signed by the originator of the loan?
- Is there a complete chain of endorsements reflected on the note (and signed by an authorized signor)?
- Is there a final endorsement on the note from the seller to "Blank"?
- If the endorsement chain is broken, is the foreclosure in a state where possession of the note is deemed to constitute an overriding establishment of title, and did BAC possess the note?
- Does the name of the lender or mortgagee on the mortgage or deed of trust match the note?
- Did the Trustee Sales Guarantee policy show anything that would indicate an issue with title that should have stopped foreclosure?
- Is the name in the "foreclosed in the name of" field of BAC's database supported by the review of the mortgage documentation?
- Is the name in the "foreclosed in the name of" field consistent with the documents filed to initiate the foreclosure proceedings?

The reviewers will also investigate whether there exist:

- Indications that the borrower asserted or complained that the foreclosing party or agent of the party had not properly documented ownership of the promissory note and mortgage (or deed of trust).

As appropriate, Promontory will also consider information external to the sample files. External sources of information may include:

- Correspondence among BAC personnel and foreclosure counsel relating to information concerning ownership of the promissory note and mortgage (or deed of trust); and
- Examination and audit reports evidencing weaknesses in the process of establishing ownership.

2. Consent Order Section VII(3)(b) and (d) – Determining whether the Foreclosure Complied with Applicable Law and Mortgage Terms

The Consent Order requires the Independent Consultant to determine whether the foreclosure complied with applicable state and federal law, including the Servicemembers Civil Relief Act (“SCRA”) and the U.S. Bankruptcy Code. The Consent Order also requires the Independent Consultant to determine whether, with respect to non-judicial foreclosures, the procedures followed with respect to the foreclosure sale (including the calculation of the default period, the amounts due, and compliance with notice periods) and post-sale confirmations were consistent with the terms of the mortgage loan and state law requirements.

In making these determinations, Promontory will apply test standards from a compilation of state foreclosure laws identified and warranted by Hudson Cook to describe applicable state law as that term is used in Article VII of the Consent Order (the “Foreclosure Survey.”) The Foreclosure Survey includes state law applicable to both judicial and non-judicial foreclosures, including “the procedures followed with respect to the foreclosure sale (including the calculation of the default period, the amounts due, and compliance with notice periods) and post-sale confirmations,” as contemplated by Article VII(3)(d) of the Consent Order. With respect to non-judicial foreclosures, Promontory will also consider the terms of the mortgage loan.

Promontory will consider applicable federal law to include the following:

- SCRA; and
- U.S. Bankruptcy Code.

Using the [REDACTED] Promontory reviewers will review identified sample files against applicable state and federal standards. The [REDACTED] will prompt Promontory’s reviewers to capture a range of specific information about the experience of the borrower, such as interest rate reductions, foreclosure stays, and fees assessed or paid. The [REDACTED] will also prompt Promontory’s reviewers with a number of questions depending on the state in which the foreclosure action was initiated, whether the foreclosure action was judicial or non-judicial, the time at which the foreclosure action was initiated, and other attributes.

In some instances, Promontory will supplement the file with additional information. For example, while a certificate of military service or other information in the file may establish a borrower’s eligibility for relief under the SCRA, Promontory expects that the Department of Justice and the Department of Defense will provide assistance by checking borrowers against available databases of active military duty personnel to identify additional borrowers who might qualify for the protections of the SCRA .

3. Consent Order Section VII(3)(c) – Determining Appropriateness of the Timing of Foreclosure
The Consent Order requires the Independent Consultant to determine whether a foreclosure sale occurred when an application for a loan modification or other Loss Mitigation (as defined in the Consent Order) was under consideration; when the loan was performing in accordance with a trial or permanent modification; or when the loan had not been in default for a sufficient period of time to authorize foreclosure pursuant to the terms of the mortgage loan documents and related agreements.

Promontory will make these determinations through (1) a targeted query of data extracted from BAC's systems; and (2) reviewer examination of contents of identified sample files. Reviewers will record any exceptions in the [REDACTED] for review by a Senior File Reviewer and Quality Assurance. Where a reviewer cannot answer a particular question because file information is missing or insufficient, the reviewer will flag the file for escalation to the Request for Information Team, which will attempt to locate and supply the missing information.

4. Consent Order Section VII(3)(g)- Determining whether Loss Mitigation Activities were Properly Conducted

The Consent Order requires the independent consultant to determine whether Loss Mitigation Activities (as defined in the Consent Order) with respect to foreclosed loans were handled in accordance with the requirements of the Home Affordable Modification Program ("HAMP"), and were consistent with the policies and procedures applicable to BAC's proprietary loan modifications or other loss mitigation programs, such that each identified borrower in the sample had an adequate opportunity to apply for a Loss Mitigation option or program, any such application was handled properly, a final decision was made on a reasonable basis, and the final decision was communicated to the borrower before the foreclosure sale.

Promontory will make these determinations through review of the contents of each identified sample file. Specifically, the [REDACTED] will prompt reviewers for detail concerning the applications for loan modification programs and Loss Mitigation programs, and related actions and communications by BAC. [REDACTED] will then prompt reviewers to apply predetermined test standards to reach a preliminary determination. The test standards include HAMP requirements for eligibility, solicitation, and qualification. In addition, these standards will direct reviewers to examine how the bank collected, possibly adjusted and then used borrower and loan financial information to construct tests for modification eligibility (including HAMP and any proprietary tests such measuring debt-to-income (DTI) or Net Present Value (NPV)). In instances where reviewers determine that the inputs to such tests have been incorrectly calculated by the bank, reviewers will perform the test again, using corrected inputs applied to the bank's own independently validated models, to alternative models validated by the independent consultant, or to widely accepted models provided by the US Government or by a Government Sponsored Entity (GSE). If input errors are found to have led to a modification denial or to a modification being

granted on less favorable terms for the borrower, an exception will be identified.

Any exceptions thus identified and captured in the [REDACTED] will flow to a Senior File Reviewer for review and validation, and results will also be forwarded to Quality Assurance for their review. Where a reviewer cannot answer a particular question because file information is missing or insufficient, the reviewer will flag the file for escalation to the Request for Information Team, which will attempt to locate and supply the missing information.

5. Consent Order Section VII(3)(h) - Determining whether Errors, Misrepresentations or Other Deficiencies Resulted in Financial Injury to the Borrower

Article VII(3)(h) of the Consent Order requires a determination of whether the borrower has suffered financial injury. The OCC and the Board of Governors of the Federal Reserve System (the “FRB”) issued *OCC and FRB Guidance - Financial Injury or Other Remediation* (the “Financial Injury Guidance”) defining financial injury to the borrower as “monetary harm directly caused by errors, misrepresentations or other deficiencies identified in the Foreclosure Review.” The Financial Injury Guidance clarifies that “monetary harm does not include physical injury, pain and suffering, emotional distress or other non-financial harm or financial injury that did not result as a direct consequence of errors, misrepresentations, or other deficiencies identified in the Foreclosure Review.” Further, the Financial Injury Guidance states that “financial injury does include monies actually expended by the borrower or mortgagee that directly relate to the foreclosure action, proceeding, or sale and otherwise would not have been required but for the error, misrepresentation or other deficiency by the servicer identified in the Foreclosure Review.”

In evaluating financial injury to the borrower, Promontory will adhere to the Financial Injury Guidance, and as it may be modified from time to time by the regulatory agencies. In conducting this evaluation to assess whether a borrower was subject to financial injury, Promontory will consider whether investor servicing agreements and/or investor servicing guidance, including those of the government sponsored enterprises, required BAC to proceed in a certain manner with respect to a loan. In addition, Promontory will seek the advice of independent legal counsel in order to take into account relevant legal and administrative precedent and interpretations in determining whether financial injury to the borrower occurred.

b) *Quality Assurance*

Promontory’s Quality Assurance Team will oversee the processes within the Foreclosure Review. The Quality Assurance Team will inspect 100 percent of all case files until it determines, through revalidation, that the File Review Teams have achieved a 90 percent accuracy rate, in terms of the Quality Assurance Team’s agreement with their conclusions. Then, Promontory’s Quality Assurance Team will continue to ensure that standards are met through manual and independent review of a random sample of files decisioned by the File Review Teams. Quality Assurance will also review 100 percent of those exceptions determined to merit financial injury and will reserve the right to apply discretionary sampling.

c) Prompting and Reviewing Customer Complaints

a. **Introduction**

Promontory, as the Independent Consultant, will work with BAC to develop a robust borrower outreach complaint process (the “Complaint Process”) as outlined below and ensure, through ongoing quality control testing and other oversight measures, that the Complaint Process is functioning to meet its requirements and objectives. Annex A-1 (attached hereto) sets forth the contemplated end-to-end process flow of the Foreclosure Complaint Process.

Independent, fair, transparent, and well-documented review of borrower complaints is essential to accomplishing the goals of the Foreclosure Review. Accordingly, the Foreclosure Review will include both careful analysis of files associated with complaints during the Foreclosure Review period and a process to prompt and resolve additional borrower complaints while the Foreclosure Review is underway. In particular, as further described below, under Promontory’s independent oversight and control, BAC will solicit, review, and propose complaint resolutions to Promontory from the relevant borrower population.

The goals of the Complaint Process are to:

- Find and remediate financial injury to borrowers within the scope of the Foreclosure Review; and
- Enhance the effectiveness and credibility of the Foreclosure Review effort through implementation of another strategy (in addition to statistical and judgmental sampling) that allows borrowers who believe they have been harmed to identify themselves.

b. **Scope**

The Complaint Process will include review of 100 percent of in-scope complaints received from borrowers through any channel since January 1, 2011, and all complaints received through the borrower outreach process.¹ “In-scope complaints” are defined as complaints regarding residential mortgage foreclosure actions against a borrower’s primary residence that were initiated, pending, or completed in 2009 or 2010. Complaints for borrowers in active litigation will be included if they are otherwise in-scope. For all in-scope complaints received through the borrower outreach process or through any other channel since January 1, 2011, the Foreclosure Review will be conducted so as to analyze and resolve the specific complaint raised by the borrower. In cases where the borrower submits a more generalized complaint (i.e. “my foreclosure was mishandled”), a review of all criteria under Article VII(3)(a)-(h) of the Consent Order will be performed. All in-scope complaints received through this borrower outreach process, from the launch date of the outreach to the cut-off date 120 days later will

¹ Complaints received include those complaints received directly by BAC or through other channels, including, but not limited to: state Attorneys General, state banking agencies, all other regulatory agencies, housing counselors, and BAC’s Executive Customer Relations group.

be subject to the Foreclosure Review.

Promontory will validate the list of in-scope borrowers prepared by BAC to ensure reliability.

c. Plan for Promoting Complaint Opportunities to Potentially Harmed Borrowers

At Promontory's request, BAC is developing a proactive outreach plan for promoting the Complaint Process to in-scope borrowers consistent with the objective of reaching as many members of the in-scope borrower population as practicable. The borrower outreach process will be a distinct, separate process from BAC's existing customer service channel.

BAC is participating in an industry consortium effort to maximize consumer awareness of the Complaint Process, accelerate speed to market and operational execution, simplify messaging and avoid consumer confusion, and ensure eligible complaints are expeditiously routed to the correct servicer for review. This solution involves all participating servicers using an experienced and qualified third-party vendor, Rust Consulting, Inc ("RUST") under a process developed and approved by Promontory and the other Independent Consultants, subject to the OCC's review and non-objection.

Under the oversight of Promontory and other Independent Consultants, the RUST will perform outreach activities, including direct mail and an outbound/inbound call center, skip tracing or address location services, and establishing and maintaining a website capable of accepting all complaints and a client portal to allow servicers to retrieve their respective complaints for processing. A consolidated approach will minimize borrower confusion by avoiding servicer-specific campaigns in markets simultaneously while maximizing the impact of mass market advertising.

The third-party solicitation and complaint handling services would be jointly developed and funded by the participating servicers, under the oversight of the Independent Consultants, and subject to approval by the OCC. These channels will display notification from all participating servicers versus individual servicers in order to increase third-party impartiality.

Borrower communication will be conducted through a variety of methods and be multi-lingual where this will increase effectiveness:

- **Targeted communication:** A mix of targeted channels, including direct mail (subject to review by the OCC) and outbound calling, will be used to communicate to these borrowers directly. "Skip tracing" and other contact management best practices will be employed, including the National Change of Address database, to improve contact rates. Also, RUST may consider transmittal of recorded telephone messages to in-scope borrowers informing them of the Complaint Process and providing a toll-free number and website contact information. Given previous campaign performance, this approach is expected to reach most impacted borrowers.
- **Mass channels:** Various channels will be used to drive overall awareness of the program and

support targeted efforts. This will involve advertisements in national newspapers and prominent publications based on the geographic concentration of relevant borrowers, and incorporating the data patterns from the statistical sampling. In order to maintain a clear message and avoid borrower confusion and misdirection, these placements will present a consolidated message from all participating servicers versus being specific to any single servicer. BAC is working with other participating servicers to develop a common print advertisement. It is anticipated that print advertisements will encompass major U.S. media markets representing a substantial percentage of the borrower population. National media would be utilized to drive awareness across geographies and participating servicer footprints. National publications, such as People Magazine and TV Guide, will provide broad and large scale support to responses to drive direct components of the campaign. Additionally, servicers might purchase incremental media in local markets with a high concentration of eligible and difficult to contact borrowers. This would likely focus on cities in California, such as Riverside, Sacramento, Los Angeles, San Diego, cities in Florida, such as Miami, Fort Lauderdale, Orlando, and Tampa, and Phoenix, Detroit, and Las Vegas.

- **Grassroots Awareness:** BAC will conduct outreach to neighborhood and not-for-profit groups so that they can spread awareness of the program, educate their constituents of the Complaint Process, and so encourage impacted and more difficult to reach borrowers to file a complaint. This outreach will be selective based on historical performance and the market potential and BAC would work with entities such as NeighborWorks, Affordable Housing Centers of America, National Coalition of Asian Pacific, American Community Development (National CAPACD), National Council of La Raza, and National Urban League.
- **Communication Content:** The content of the communication to borrowers will be designed to include the relevant information including, but not limited to, the following:
 - Why the borrower is being contacted;
 - How eligibility will be determined (i.e., based on in-scope status);
 - Necessary information that BAC needs from the borrower when the borrower responds;
 - Channels available to them to contact BAC (including telephone and internet contacts);
 - Timeframe for filing a complaint with BAC and what to expect from the process, including when to expect an acknowledgment of the receipt of the complaint.

BAC's proposed messaging methods are as follows:

Sample 1

Targeted Messaging: Targeted messaging would describe specific eligibility requirements, the process and steps the borrower should follow, along with instructions on how to submit the required information and deadlines for submission.

Borrower contact information acquired via: Existing and up-to-date contact information available from BAC's systems of record; Borrower providing forwarding address; Skip tracing and/or national change of address information.

Communication Tactics: Direct mail escalating to skip tracing as needed.

Sample 2

Mass/Non-Profit Messaging: An advertisement would describe the eligibility requirements and encourage anyone who believes they are "In-Scope" to respond.

Communication Tactics: Online: Develop website that applies to all participating servicers that contains all relevant information for impacted borrowers and the functionality to complete and submit complaint form. **Publications:** Placements in national publications to supplement the direct mail program.

BAC's anticipated response channels would include the following:

Industry-wide toll-free number: Borrower information would be collected, including dates they were in the foreclosure process, name of servicer and loan number, and other pertinent information to assist in the screening process. Borrowers will be screened, and borrowers passing the screening questions would either be mailed a complaint form that they can return to file the complaint or be provided the URL to complete the form online. Data will be compiled by RUST for processing.

Industry-wide website: Borrowers would complete basic screening questions online and if they pass, they would be prompted to complete a complaint form online. Data would be compiled by RUST for processing.

Dedicated P.O. Box: A dedicated P.O. Box will be established to receive mailed responses.

In addition, a dedicated webpage within BAC's distressed borrower website domain will be set up where borrowers can submit a claim online. The website will provide borrowers with relevant background information and the process for submission of complaints electronically, with email acknowledgment of the receipt of the complaint.

BAC is already working with other participating servicers to develop a standardized complaint form that will facilitate the collection of required information and any documentation in an efficient manner. The

intention is to follow a similar format to that used by borrowers registering complaints via the OCC's Customer Assistance Group and maximize complaint rates by providing borrowers a simple and effective means of registering a complaint. The Complaint Form will provide a consistent set of questions to be answered by borrowers, including the current contact information, eligibility determination questions, the specific nature of the issue, and previous complaint details (if any). A sample Complaint Form is attached hereto as Annex A-2.

Borrower communication will begin no later than the launch date agreed upon by the servicers and the OCC. Tactical executions will begin with direct mail, followed by mass media support the following the direct mail program. In addition, for targeted communication, skip tracing, and re-mailing, will follow the initial wave of direct mail in an effort to contact borrowers for whom BAC receives returned mail. A clearly defined return mail process (incorporating a dedicated P.O. Box, skip tracing, and reasonable attempts to locate and contact the borrower) subject to review and approval by Promontory and the OCC will be established to effectively handle all returned mail and to trace the borrower's current address.

BAC will equip its extensive retail branch network with appropriate materials and training to support the outreach and awareness process and ensure they are able to address inquiries from walk-in or phone-in borrowers.

BAC's outreach plan will be subject to Promontory's review and approval, which Promontory expects to provide in consultation with the OCC. Promontory, at its sole discretion, may require BAC to adjust the plan in order to better achieve the objectives of the Foreclosure Review.

d. Complaint Intake Process

BAC's outreach communications will alert the targeted population to the Complaint Process, explain the process of submitting complaints, and provide a mail and website response channel. A sample borrower correspondence is attached hereto, as Annex A-3. The channels will have a unique address to identify and segregate Foreclosure Review complaints from other complaints. As outlined above, BAC will use a standard complaint form, approved by Promontory, to promote relevant scope and uniform capture of essential data to investigate complaints effectively. RUST, under the oversight and control of Promontory, will perform intake processing involving direct mail and call center, skip tracing, or address location services, and will establish and maintain a website capable of accepting complaints and a client portal to allow servicers to retrieve their respective complaints for processing.

Comprehensive training will be developed for the call center agents to effectively handle and document the complaints, including key information to be collected, information on forwarding/transferring in-scope complaints from the normal customer service processes, and relevant foreclosure complaint scripts, frequently-asked-questions documents, and other materials.

All complaints received through the borrower outreach process will be logged by RUST. A written

acknowledgement will be provided to the borrower within seven calendar days of receipt of a complete complaint form by RUST. A sample acknowledgement letter is attached hereto, as Annex A-4. This intake process will involve screening of the complaint to confirm that it is in-scope and bona fide. After validation by Promontory, complaints deemed out of scope will be forwarded to BAC via a clearly defined transfer process to address through BAC's established complaint processes. Promontory's validation process for out-of-scope complaints includes 100 percent review of RUST's determination, coupled with a third level review, performed on a sampling basis, by Promontory's Quality Assurance Team. Stated another way, Promontory will validate each complaint deemed out of scope by RUST. Promontory's Quality Assurance Team will review a sample of the complaints where Promontory concurred with RUST's determination that the complaint was out of scope.

Promontory will track the nature and resolution of each complaint received and periodically report data to the OCC regarding: (i) complaints received through the borrower outreach process; (ii) exclusions of complaints from the Foreclosure Review and the reason for exclusion; (iii) resolution of the complaint; and (iv) other data specified in section (h) below.

e. **Case Management**

Each incoming complaint or claim and any supporting documentation provided by a borrower will be logged and captured by RUST under Promontory's oversight. RUST will then forward all complaints to BAC. BAC will prepare the case file utilizing a case management system and conduct the initial review of the complaint. This system will be the repository for the Complaint Process information received from borrowers, records of BAC's investigation of in-scope claims and complaints, Promontory's review notes, and the final claim or complaint disposition letter sent to the borrower.

All complaints will be documented and stored in a database that will be archived according to BAC's existing policies.

f. **Complaint Review Process**

Review of complaints received will take place in three stages. In the first stage performed by RUST, under Promontory's oversight, for complaints that are within scope, the borrower will, if necessary, be sent an "Incompleteness Letter" to request additional information. Borrowers who do not respond to the "Incompleteness Letter" will be sent a resolution letter based on an incomplete complaint.

Second, actionable complaints that are within scope will be passed by RUST to BAC. BAC will determine whether the complaint was resolved previously and:

- If the borrower's same complaint was resolved previously, BAC will pass the original complaint, supporting resolution documentation, and report of its findings to Promontory for review; or

- If the complaint was not resolved previously, or still in the process of resolution, BAC will process the complaint and provide the complaint, supporting resolution documentation, report of its findings, and proposed resolution to Promontory for independent review and decision concerning the complaint at issue. Processing of the complaint by BAC will involve direct borrower contact where necessary to ensure the complaint is fully understood and assessed.

Third, Promontory will review 100 percent of in-scope borrower complaints and claims, together with BAC's recommended resolution and supporting documentation, and provide a decision on the complaint. If Promontory's review requires additional information, Promontory will request such information from BAC. There are four logical outcomes to a completed initial complaint review:

- If Promontory concurs with borrower and BAC resolution and assessment of financial injury, Promontory logs complaint and resolution for inclusion in the Foreclosure Review Report;
- If Promontory disagrees with borrower, concurs with BAC resolution and assessment of borrower harm, Promontory logs complaint and resolution for inclusion in the Foreclosure Review Report;
- If Promontory concurs with borrower but not with BAC resolution and assessment of borrower harm, Promontory notifies BAC; or
- If Promontory disagrees with the borrower and also disagrees with BAC's resolution and assessment of borrower harm (e.g., file review indicates BAC responded inappropriately because borrower was unclear or mistaken in describing the issue), Promontory will notify BAC.

If a disagreement remains, Promontory will make the final determination and log the complaint and borrower financial injury for inclusion in the Foreclosure Review Report.

All complaints will receive a written response within the period indicated in the written acknowledgement. In the response, borrowers will be provided information that outlines the results of the analysis ensuring it adequately addresses all issues the borrower raised in the complaint. If the analysis/investigation determines remediation is required, the borrower will be so informed in the written response, which will state that remediation is forthcoming within a specified time period following approval by the OCC of the Remediation Plan.

g. **BAC Foreclosure Review Group**

BAC will create a dedicated Foreclosure Review Group to manage proactively the execution of any immediate actions resulting from review of the borrower complaint. This may involve stopping a foreclosure in process, adjusting loan modification agreements, processing rescissions, or any other action required to promptly address any errors or deficiencies identified and limit any identified borrower harm. Any such action will be subject to subsequent review by Promontory and any additional

requirements of the Remediation Plan approved by the OCC.

h. Complaint Reporting and Metrics

BAC has developed, and will further extend in coordination with RUST, for review and approval by the Promontory, a detailed suite of complaint metrics and reporting that will facilitate robust management and oversight by Promontory and the OCC. This will include extensive daily and weekly volume, production, and pipeline statistics and measures for the Complaint Process.

Throughout the Complaint Process, Promontory will publish bi-weekly reports covering at a minimum:

- Total complaints and claims received;
- Number of in-scope complaints and claims;
- Number of exclusions of complaints and the reason for exclusion;
- Number of in-scope complaints and claims pending BAC investigation;
- Number of in-scope complaints and claims pending Promontory review; and
- Number of closed cases.

In addition, BAC will report monthly (internally and to the OCC, in a standardized format to include loan level and aggregate numbers) on the following:

- Number of complaints received;
- Type or nature of complaint received;
- Number of complaints in-scope and out-of-scope;
- Number of exclusions of complaints and the reason for exclusion;
- Number of complaints acknowledged;
- Number of complaints in process;
- Number of complaints not yet analyzed;
- Number of complaints responded to;
- Complaints disposition;
- Number of complaints requiring remediation;
- Number of complaints remediated;
- Aging reports as warranted; and
- Comments section to provide for other pertinent information.

i. Technology Configuration

The infrastructure and technology to support the handling of complaints is anticipated to include a call center, web-site and web-form, and a case management system and database. Extensive capacity and critical testing will be performed to ensure the infrastructure can handle the anticipated high complaint intake volumes.

j. Validation

In addition to Promontory's 100 percent review of in-scope complaints, Promontory's Quality Assurance Team will perform random sampling of the Complaint Process, including out-of-scope complaints,

incomplete complaints, and in-scope complaints to revalidate the conclusions of the Complaint Process.

k. Timeline

The Complaint Process is anticipated to launch on a date agreed upon by the servicers and the OCC, with a cut-off date for complaints 120 calendar days after mailing the final batch of direct mail solicitations.

iv. Proposed Sampling Process and Criteria for Selection of Cases

a) *Identification of the overall population of foreclosures and of targeted subpopulations.*

The overall population for the Foreclosure Review is specified in the Consent Order. It consists of residential foreclosure actions or proceedings (including foreclosures that were in process or completed) for loans serviced by BAC, whether brought in the name of BAC, the investor, the mortgage note holder, or any agent for the mortgage note holder (including MERS), pending at any time from January 1, 2009 through December 31, 2010 as well as residential foreclosure sales that occurred in this period.

Specifically, the overall population is determined by identifying the foreclosures from two **primary populations:**

1. Foreclosure actions that were completed with a property sale -- **the foreclosure sales population,** and
2. Foreclosure actions that completed without a sale (e.g., the borrower entered a loan modification program) or were in progress at the end of the period identified in the Consent Order – **the foreclosure no-sale or in-progress population .**

To improve the efficiency of the review, Promontory will divide the two primary populations into targeted subpopulations, designed to support two objectives:

- Ensure that the statistical sampling methodology is applied to subgroups of loans for which there is reason to believe that foreclosure exception types or frequency differ; and
- Allow for the further file review in targeted subpopulations where sampling reveals evidence of foreclosure exception rates in excess of specified tolerance levels.

Targeted subpopulations are identified based upon supervisory or BAC-identified targeted risk-based criteria (as appropriate for each primary population) and based upon geographic location of the collateral.

The characteristics used to target subpopulations have been (i) identified through previous analysis to be associated with potential operation deficiencies in the foreclosure process, (ii) deemed to be indicative of factors (a) that might affect the complexity of the loan file, or (b) that might result in different treatments of loan files.

*Within the **foreclosure sales population**, the following targeted subpopulations will be **100 percent reviewed**:*

- **SCRA-Related:**

1. Loans where the borrower(s) had identified themselves as qualifying for SCRA protection.

- **Complaint-Related:**

2. Loans with any type of escalated complaint referred to BAC by a state or federal authority.

- **Bankruptcy-Related**

3. Foreclosure sales that potentially took place while a bankruptcy may have been active.

4. Loans with a foreclosure sale, referred for review by the U.S. Bankruptcy Trustee (Note that presently, no in-scope referrals have been found for the foreclosure sales population).

- **Modification-Related**

5. Loans that were declined for a HAMP modification due to ineligible financial criteria (e.g. the borrower's DTI was already below 31 percent, an NPV test yielded negative return, or an excessive forbearance would be required in order to reduce the DTI to below 31 percent).

6. Loans that were declined for a non-HAMP modification due to ineligible financial criteria (e.g. the borrower's DTI was already below a target value, an NPV test yielded negative return, or an excessive forbearance would be required in order to reduce the DTI to a target value).

- **Other**

7. Rescinded foreclosures.

8. Loans where the borrower had an active borrower protection plan or filed a claim under such a plan at any time during the review period.

*and the following subpopulations will be **initially sampled**:*

- **Complaint and Litigation-Related:**

9. Loans with complaints of any type submitted subsequent to the initiation of foreclosure actions, other than complaints referred by state or federal agencies.

10. Loans where the borrower has brought a litigious claim against BAC.

- **Bankruptcy-Related**

11. Instances where a foreclosure referral took place while a bankruptcy may have been active.

12. Loans for which a bankruptcy case was identified sometime within 2009-2010, but where the foreclosure referral or sale occurred outside of active bankruptcy.

- **Modification and Workout-Related**

13. Loans with HAMP modifications that were denied for reasons other than ineligible financial criteria (e.g. investor denial, borrower rejection or failure to submit documentation, ineligible mortgage characteristics, failed trial mod performance).

14. Loans with non-HAMP modifications that were denied for reasons other than ineligible financial criteria (e.g. investor denial, borrower rejection or failure to submit documentation, ineligible mortgage characteristics, failed trial mod performance).

15. Loans where the borrower has submitted a HAMP modification appeal.

16. Loans that were declined for a short sale prior to the foreclosure sale date.

17. Short Sales Declines that were not considered for any Mod.

18. Short Sales Declines that were accepted for a Mod.

19. Short Sale Declines that were declined for a HAMP Mod.

20. Short Sale Declines that were declined for a Non-HAMP Mod.

21. Loans that were modified in the first quarter of a loan modification program.

22. Loans that completed a workout within 120 days prior to the foreclosure sale date, through any time after the foreclosure sale date. Workout categories include Repayment Plans, Modifications (HAMP and Non-HAMP), Short Sales or Deeds-In-Lieu.

- **Other**

23. Sub-serviced foreclosures.

24. Cases handled by law firms known to have significant deficiencies related to foreclosure activities, were delisted by any of the GSEs, or discontinued by the institution.

25. Legacy BAC loans originated prior to Countywide acquisition and system conversion (MSP).

26. Loans where BAC processed a standard mortgage payment within 30 days prior to or anytime following the foreclosure sale date, but within the lookback period.

23. Reverse mortgages for which a foreclosure sale occurred.
24. An additional targeted population, representing foreclosure sales not captured by any of the above risk criteria.

Within the **foreclosure no-sale or in-progress population**, the following targeted subpopulations will be **100 percent reviewed**:

- **SCRA-Related:**

25. Loans where the borrower had identified themselves as qualifying for SCRA protection.

- **Complaint and Litigation-Related**

26. Loans with any type of escalated complaint referred to BAC by a state or federal authority.

- **Bankruptcy-Related**

27. Loans with a foreclosure action (other than sale), referred for review by the U.S. Bankruptcy Trustee.

and the following subpopulations will be **initially sampled**:

- **Complaint and Litigation-Related:**

28. Loans with escalated complaints of any type submitted subsequent to the initiation of foreclosure actions, other than complaints referred by state or federal agencies.

29. Loans where the borrower has brought a litigious claim against BAC.

- **Bankruptcy-Related**

30. Foreclosure referrals that took place while a bankruptcy was active.

31. Loans for which a bankruptcy case was identified sometime within 2009-2010, but where the foreclosure referral occurred outside of active bankruptcy.

- **Modification and Workout-Related**

32. Loans that were declined for a HAMP modification due to ineligible financial criteria (e.g. the borrower's DTI was already below 31 percent, an NPV test yielded negative return, or an excessive forbearance would be required in order to reduce the DTI to below 31 percent).

37. HAMP Mod financial criteria related declines that did not apply for a Non-HAMP Mod.

38. HAMP Mod financial criteria related declines that were also declined for a Non-HAMP Mod.
 39. HAMP Mod financial criteria related declines that were not declined for a Non-HAMP Mod.
 33. Loans with HAMP modifications that were denied for reasons other than ineligible financial criteria (e.g. investor denial, borrower rejection or failure to submit documentation, ineligible mortgage characteristics, failed trial mod performance).
 34. Loans that were declined for a non-HAMP modification due to ineligible financial criteria (e.g. the borrower's DTI was already below a target value, an NPV test yielded negative return, or an excessive forbearance would be required in order to reduce the DTI to a target value).
 35. Loans with non-HAMP modifications that were denied for reasons other than ineligible financial criteria (e.g. investor denial, borrower rejection or failure to submit documentation, ineligible mortgage characteristics, failed trial mod performance).
 43. Loans where the borrower has submitted a HAMP modification appeal.
 44. Loans that were declined for a short sale.
 45. Short Sales declines that were not considered for any Mod.
 46. Short Sales declines that were accepted for a Mod.
 47. Short Sale declines that were declined for a HAMP Mod.
 48. Short Sale declines that were declined for a Non-HAMP Mod.
 49. Loans that were modified in the first quarter of a loan modification program.
 50. Loans that completed a HAMP Modification within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date.
 51. Loans that completed a Non-HAMP Modification within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date.
 52. Loans that completed a Short-Sale or Deed-in-Lieu within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date.
 53. Loans that completed a Repayment or Other type of workout within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date.
- **Other**

54. *Foreclosure referrals where the borrower had an active borrower protection plan or filed a claim under such a plan at any time during the review period.*
55. *Sub-serviced foreclosures.*
56. *Cases handled by law firms known to have significant deficiencies related to foreclosure activities, were delisted by any of the GSEs, or discontinued by the institution.*
57. *Legacy BAC loans originated prior to Countywide acquisition and system conversion (MSP).*
58. *Reverse Mortgages in the process of a foreclosure.*
59. *An additional targeted population, representing in progress or no-sale foreclosures not captured by any of the above risk criteria.*

b) Alignment of Targeted Subpopulations with Supervisory Guidance

The identification of the targeted subpopulations reflects the *OCC, OTS, and Federal Reserve Board Foreclosure Review Guidance* provided by the OCC at a meeting held with servicers and independent consultants on May 20, 2011 (the “May 20, 2011 Guidance”). The May 20, 2011 Guidance identified that some of the targeted subpopulations will be 100 percent reviewed, while others initially will be statistically sampled and reviewed, with both reviews performed per the complete set of Consent Order criteria.

For instance, per the May 20, 2011 Guidance, 100 percent of cases related to SCRA-protected borrowers (subpopulations #1 and #29) as well as loans with complaints referred by state or federal agencies (#2 and #30), will be reviewed and tested per the criteria established in the Consent Order. Loans associated with complaints submitted by an entity other than a state or federal agency (#9, #32), or foreclosures where the borrower has filed a litigious claim against BAC (#10, #33) will be sampled and reviewed.

Other segments have been identified for 100 percent review by BAC, including selected cases related to borrower bankruptcy. In light of the high number of bankruptcy cases where there exist dismissals, discharges prior to foreclosure, or where relief is not granted per the mortgage, it is prudent to initially consider for 100 percent review those cases where BAC may have violated the stay required by an active bankruptcy (#3). Cases referred for review by the U.S. Bankruptcy Trustee (#4, #31) will also be subjected to 100 percent review. Foreclosures actions associated with other types of bankruptcy behavior (#11, #12, #34, and #35) will be initially statistically sampled, reviewed, and tested per the full set of criteria identified in the Consent Order.

The concern for exceptions in the modification process had led Promontory to target for 100 percent review modification denials resulting from a failed test of financial criteria (#5, #6) in the foreclosure sales population. In the in-progress population, denials related to failed tests for financial criteria will be sampled (#36, #37, #38, #39, and #41.) In addition, several subpopulations focusing on other types of modifications will be sampled and tested, including modifications that were denied for reasons other than failed financial criteria including cases where the borrower did not apply for, or was declined for, a non-HAMP modification (#13, #14, #40, #42), and modifications whose proximity relative to either the start of a modification program (#21, #49) or proximity relative to foreclosure sale or referral date (#22, #50, #51, #52, #53) gives rise to a concern for exceptions. Lastly, loans with HAMP modification appeals (#15, #43) or short-sale declines (#16 - #20, #44 - #48) will also be sampled and reviewed.

The May 20, 2011 Guidance indicates that the characteristics considered for targeting subpopulations should include the presence of rescinded foreclosures (#7) and borrower protection plans (#8) when there has been a foreclosure sale. These populations will be 100 percent reviewed. Promontory has also identified a population, where there is a potential for regular payments being processed within 30 days before or anytime after a foreclosure (#26), that will be sampled and reviewed. Loans with active borrower protection plans, but which have not experienced a foreclosure sale (#54) will be sampled and reviewed.

The subpopulations of foreclosure actions that were subserviced by third parties (#23, #55) or that were handled by law firms known to have significant deficiencies (#24, #56), will be sampled and reviewed. However, at BAC, the role played by “large volume foreclosure firms” or “Document Execution Service Providers” is minimal, and consequently these two types of May 20, 2011 Guidance-identified characteristics are not represented in Promontory’s list of targeted subpopulations.

There are some segmentation characteristics mentioned in the May 20, 2011 Guidance that have not been incorporated into the above initial list of targeted subpopulations. In particular, Promontory has not been able to identify metrics that would allow for the identification of foreclosures where there was a potential for “pyramiding fees.” If the testing for the permissibility, customariness, reasonableness, and frequency of fees should identify instances of such pyramiding fees, then Promontory will attempt to identify characteristics of these foreclosures that will allow us to implement second stage segmentation specifically targeting these loans for a deep dive.

Similarly, the foreclosure servicing process and operations at BAC have not been implemented in a manner that would suggest pools of loans with foreclosure documentation or process errors could be associated with different processing centers, units or management groups. Promontory has, however, identified two targeted subpopulations (#25, #57) relating to loans originated by legacy BAC (before the conversion to the Countrywide servicing system). Should it become apparent following Promontory's initial review that deficiencies are indeed associated with particular operating units or centers, Promontory will again construct a second stage refined segmentation to facilitate a deep dive for these associated types of errors.

In response to guidance provided in late August 2011, Promontory has identified two additional targeted subpopulations, respectively comprised of reverse mortgages that experienced a foreclosure sale during the Foreclosure Review period (#27) and reverse mortgages that were in the foreclosure process during the Foreclosure Review period, but which did not experience foreclosure sales (#58). Both these subpopulations will be sampled and reviewed per criteria in the Consent Order.

Finally, Promontory has identified two targeted subpopulations of loans (#28 and #59) which, while part of either the foreclosure sale or no-sale/in-progress populations, were not otherwise identified as a member of the other targeted groups. Again, both these subpopulations will be sampled and reviewed per criteria in the Consent Order.

Documentation: Populations, Methodology, and Verification

Table A-1 in the attached appendix lists the targeted subpopulations and their size. It also indicates how the targeted subpopulations that will be sampled are distributed geographically across the two largest states for BAC's foreclosure activity (California and Florida) and then across all other states. Consistent with the May 20, 2011 Guidance, the targeted subpopulations that will be statistically sampled will have samples drawn from each of these two subsegments. The samples will include a representative distribution of both states within the first group, and of the judicial and non-judicial populations within the second group. If required, follow-up sampling will be conducted to ensure that the overall sample is representative and includes case files for every state in which foreclosures were conducted by BAC.

The methods used to identify the primary foreclosure populations and to identify targeted subpopulations are described in Tables A-2 and A-3 presented in the attached Appendix. These tables document the rationale for selecting the criteria used to identify the populations, discuss how appropriate conservatism was employed in the face of management information system or data challenges, and finally, document how data verification and reconciliation processes were implemented to ensure the integrity of the methods

used to identify the targeted subpopulations and reconcile counts to totals of foreclosure activity previously reported to supervisors.

c) Constructing Statistically Sound Samples for Targeted Subpopulations

Random samples will be selected from each of the targeted subpopulations for which 100 percent review is not initially required, the purpose being to review and analyze these foreclosures to identify patterns of foreclosure process exceptions that may be associated with borrower financial injury, and to provide a broad representative sample of analytical results to drive a second, focused “deep dive” segmentation and review. In order to ensure that the initial samples are representative, Promontory has determined the initial sample size using a binomial formula which assumes the true exception rate in a targeted subpopulation is 3 percent, and which allows 95 percent confidence that the error rate is within approximately plus or minus 3 percent of the hypothesized error rate—sometimes called a “95/3/3” sampling rule². **The resulting initial sample size is 124 per targeted subpopulation.** If the harmful exception rate for a sample exceeds the upper bound of the corresponding confidence interval (8.1 percent,) Promontory proposes to sample that population more intensively to determine the harmful exception rate for that segment.

d) Population and Projected Initial Review Counts

Table A-1 in the attached Appendix also presents the size of the loan samples to be initially reviewed. Using a sample size of 124 per targeted regional subpopulation (or the regional subpopulation size, if less than 124), the table lists the total counts of foreclosures that will be initially reviewed at a 100 percent rate or though sampling (the right most column of the table). Targeted subpopulations requiring 100 percent review are identified in blue; sampled subpopulations are indicated in red. **The total initial review count is expected to be approximately 29,623 foreclosed loans, of which 18,066 are in 100 percent review subpopulations. These totals exclude the review of complaints generated pursuant to the process specified in the Consent Order.**

e) Reviewing, Testing and Analyzing the Samples from the Initially Targeted Subpopulations

During the review of foreclosure files sampled under initial segmentation described above, reviewers will record the presence of several indicative characteristics of the foreclosure, including characteristics relating to loan structure, foreclosure or modification actions, borrower actions, fees, etc. In addition, record will be made of indicators characterizing the presence of any exceptions or financially injurious exceptions. Upon completion of the review of the initial sample, statistical techniques (including risk scoring and decision tree analysis) along with expert judgment will be used to identify which reviewer-recorded indicators are associated or correlated with the propensity for an exception or financially injurious exception.

² The confidence interval for the normal approximation used to construct the symmetric +/- 3 percent interval is actually inaccurate when the sample size “n” and the error rate “p” are small (i.e., if $n \times p < 5$). In such circumstances, a better approximation to the asymmetric confidence interval is given by an approximation based upon Wilson’s(1927) score test; for implementation see Agresti and Coull (1998) “Approximate is Better than “Exact” for Interval Estimation of Binomial Proportions” *The American Statistician*, Vol 52, No. 2, pp 119-126. Note that the selection of an appropriate sample size is not significantly impacted by the approximation issue, since Promontory is not testing a hypothesis in the first stage of its review – Promontory is only attempting to get a sufficiently large sample to facilitate analysis.

f) Second Stage Segmentation

If evidence of potential financial injury is found amongst the initially sampled foreclosures, then a second stage, focused “deep dive” review will be undertaken to test and fully identify cases with the type of injury in question. The second “deep dive” segmentation would be based upon results from the initial review, with a focus on isolating those foreclosures with financially injurious exceptions into well-defined segments – separate from those foreclosures without such injury. This segmentation should be designed to use the first stage analysis to specifically identify risk-based segments of foreclosures that may be reviewed and tested per the OCC Sampling Methodology; the purpose being to develop a comprehensive and complete final assessment of the existence and magnitude of financially injurious foreclosure exceptions in the foreclosure population.

As an example of how the second stage of segmentation might work, consider the further analysis of instances where a foreclosure sale followed a loan modification within 120 days (#22). Based upon first stage analysis, Promontory may find that there exist instances of fee errors in the subset of these sampled foreclosures, and that all instances of fee error were associated with a particular law firm that handled the sale in a particular state. In such an instance, Promontory would proceed to define a narrow “second stage segment” consisting of all such foreclosure sales (following a modification by 120 days or less) that were handled by the identified law firm in the particular identified state. A 100 percent deep dive review of all such foreclosures in the population, testing for the particular fee error found in the initial stage, will be conducted.

g) Constructing Statistically Sound Samples in Second Stage Segments

Promontory’s second stage statistical sampling methodology will use statistical techniques developed for quality control testing. Here, the quality that Promontory is seeking to test is whether BAC’s loan servicing was consistent with avoidance of the exception criteria mentioned above and in the Consent Order. Statistical quality control tests recognize that quality failures, foreclosure exceptions in the present case, will potentially occur – but that in a “quality process”, the rate at which such errors occur will be below a pre-defined critical level. The testing procedures that Promontory uses are consistent with those articulated in the OCC Comptroller’s Handbook on Sampling Methodologies (August 1998).

We will test hypotheses about the rate of financially injurious foreclosure exceptions; financially injurious exceptions will constitute a subset of, and therefore occur less frequently than, all foreclosure exceptions.³ The hypothesis to be tested—the null hypothesis—is that there are no financially injurious foreclosure exceptions in a segment of the population. Accordingly, Promontory’s statistical sampling process will focus on testing for the risk that financially injurious foreclosure exceptions in the underlying population exceed an exceptionally small, albeit non-zero level.⁴

³ Indeed, the individual types of foreclosure exceptions will potentially occur at different rates even if these rates were all low.

Promontory's sampling and testing rule is designed to use the smallest appropriately determined sample, that allows for a powerful (reliability = 95 percent) rejection of the initial hypothesis when one or more financially injurious errors are found in the sample and when the alternative hypothesis (as specified by the precision rate) is actually true.

For purposes of the Foreclosure Review, Promontory proposes to apply this "power" test to the second stage segments of foreclosure files using segment level sample sizes consisting of the lesser of:

- All of the files in the segment; or
- The number of files required to test the hypothesis that the level of financially injurious foreclosure exceptions in the underlying population segment exceeds a precision of 3 percent with 95 percent reliability; **this number is 99 foreclosures per segment.**

h) Testing each Second Stage Segmentation Sample

Reviewers will conduct a targeted review and testing of the random samples of files from each of the second round segments, determining if exceptions and financial injury are present. The targeted review and testing for any given segment will be based upon analyzing the results from the initial review and testing, the latter determining which tests are indicative of borrower harm and appropriate for the segment.

i) Evaluating the Need for Further Review of the Underlying Population Segment

Promontory's decision whether to conduct additional file review in each population segment will depend on whether Promontory's testing of the associated segment sample identifies one or more financially injurious foreclosure exceptions. **Note that Promontory has constructed its sample sizes such that if the sample contains ANY financially injurious exceptions, Promontory will need to conclude that the entire segment will require review for the same injurious exceptions.**

Analytically, by virtue of the sample design, the absence of any foreclosure exceptions in a given segment sample will indicate, at a high level (95 percent) of reliability, that the incidence of financially injurious foreclosure exceptions in the underlying population segment is consistent with the initial hypothesis of being exceptionally low (i.e., zero).

Table 1, below, summarizes the decision rule Promontory will apply in determining whether to conduct

⁴ Statistical tests give rise to two types of errors. The first entails incorrectly rejecting a maintained hypothesis when it is true, and is known as a Type I error. Alternately, a Type II error entails failing to reject a maintained hypothesis when it is false. Quality controls tests like those Promontory intends to implement are focused on the Type II error rate; this is reasonable, since the consequences of serious errors are significant and Promontory wants a test that is powerful enough to lead us to reject the null hypothesis when the latter is truly false. The smaller the Type II error, the more useful the quality control test, or the more powerful the test. In statistical terminology, "Power" is defined as 1 minus the Type II error. The OCC Sampling Methodology uses the term **reliability** to specify the Power of the test, to be chosen by the user of the Methodology. Assessing a test's power requires specifying an alternative hypothesis. The alternative hypothesis in this quality control example is a financially injurious foreclosure error rate that is higher than the null hypothesis. The OCC Sampling Methodology defines the notion of **precision** to articulate an alternative hypothesis about the financially injurious foreclosure error rate. The Sampling Methodology is designed to find the smallest sample size that is consistent with a test of the chosen Power and precision.

additional file review activity based on the outcome of testing in each segment sample.

Table 1 Decision Rule for Further File Review

Initial Sample Testing Outcome	Implication for Further Review
No financially injurious exceptions identified in tested segment sample	No further review of population segment
One or more financially injurious exceptions identified in tested segment sample	All files in population segment reviewed for presence of financially injurious exceptions identified in segment sample.

j) Total Review Projections

The second stage “deep dive” sampling and review process is expected to result potentially in up to an additional 5,779 loans being sampled reviewed – or 50% of the loans expected to be sampled and reviewed initially (and as presented in Appendix Table A-1) – **for a total review of approximately 35 thousand foreclosures**. Note that these projections exclude any foreclosure reviews that are contemplated under the Complaint Process specified in the Consent Order.

B. Appendix: Population and Targeted Subpopulation Tables

Table A-1: Targeted Populations and Initial Review Counts

Foreclosure Counts for Various Targeted Subpopulations		Subpopulation Counts			Initial Sample Size
		Total	CA & FL	Other States	
Foreclosure sales population (270,468)	100% Review	SCRA-Related			
		1 Borrowers identified as qualifying for SCRA protection	292		292
	Initially Sampled at 124 per Targeted Cell (italicized counts)	Complaint-Related			
		2 Federal or State Regulatory Referred Complaints	1,436		1,436
		Bankruptcy Related			
		3 Foreclosure sale possibly during active bankruptcy	1,967		1,967
		4 Loans referred by US Bankruptcy Trustee	0		0
		Modification-Related			
	Initially Sampled at 124 per Targeted Cell (italicized counts)	5 HAMP Mod Declines due to ineligible financial criteria	1,246		1,246
		6 Non-HAMP Mod Declines due to ineligible financial criteria	214		214
		Other			
		7 Rescinded Foreclosures	2,313		2,313
		8 Borrower Protection Plan	532		532
		Complaint- and Litigation-Related			
		9 Complaints not referred by state or federal agency	2,699	941	1,758
		10 Litigation	8,093	2,345	5,748
		Bankruptcy-Related			
		11 Foreclosure referral possibly during active bankruptcy	3,737		124
		12 Foreclosure occurred outside of active bankruptcy	49,598	11,226	38,372
		Modification- and Workout-Related			
		13 HAMP Mod Declines other than ineligible financial criteria	16,094	4,933	11,161
		14 Non-HAMP Mod Declines other than ineligible financial criteria	54,483	16,776	37,707
		15 HAMP Mod Appeals	1,494	533	961
		16 Short Sale Declines	49,440	17,805	31,635
		17 Short Sales Declines that were not considered for any Mod	15,165	4,552	10,613
		18 Short Sales Declines that were accepted for a Mod	2,496	837	1,659
		19 Short Sale Declines that Were Declined for a HAMP Mod	5,544	2,095	3,449
		20 Short Sale Declines that Were Declined for a Non-HAMP Mod	9,987	4,248	5,739
		21 First Quarter Loan Mods	45,669	13,457	32,212
		22 Workouts completed 120 days prior to or any time after foreclosure sale date. (HAMP and Non-HAMP)	2,072	378	1,694
		Other			
		23 Sub-Serviced Loans	25	7	18
		24 GSE Delisted Lawfirms	11,768	8,488	3,280
		25 MSP Loans	10,264	2,081	8,183
		26 Standard mortgage payment within 30 days prior or any time after foreclosure date.	1,906	459	1,447
		27 Reverse Mortgages	1,537		248
		28 Loans not captured in any other category	88,448	21,933	66,515

Table A-1 (continued): Targeted Populations and Initial Review Counts

Foreclosure Counts for Various Targeted Subpopulations		Subpopulation Counts			Initial Sample Size	
		Total	CA & FL	Other States		
Foreclosure completed without sale or in process population (996,666)	Initially Sampled at 124 per Targeted Cell (italicized counts)	SCRA				
		29 Borrowers identified as qualifying for SCRA protection	2,131		2131	
		Complaint- and Litigation-Related				
		30 Complaints referred by state or federal authority	7,872		7872	
		Bankruptcy-Related				
		31 Loans referred by US Bankruptcy Trustee	63		63	
		Complaint- and Litigation-Related				
		32 Complaints not referred by state or federal agencies	21,933	8,836	13,097	
		33 Litigation	47,804	21,020	26,784	
		Bankruptcy-Related				
		34 Foreclosure referral possibly during active bankruptcy	24,744	8,040	16,704	
		35 Foreclosure referral outside of active bankruptcy	187,657	59,090	128,567	
		Modification- and Workout-Related				
		36 HAMP Mod Decline due to ineligible financial criteria (FC)	44,293	15,131	29,162	
		37 HAMP Mod FC Declines that did not Apply for a Non-HAMP Mod	10,674	3,234	7,440	
		38 HAMP Mod FC Declines that were Declined for a Non-HAMP Mod	25,415	9,441	15,974	
		39 HAMP Mod FC Declines that were Not Declined for a Non-HAMP Mod	10,269	2,832	7,437	
		40 HAMP Mod Declines other than for ineligible financial criteria	129,413	48,857	80,556	
		41 Non-HAMP Mod Declines due to ineligible financial criteria	2,147	840	1,307	
		42 Non-HAMP Mod Declines other than for ineligible financial criteria	315,774	117,180	198,594	
		43 HAMP Mod Appeals	38,704	13,861	24,843	
		44 Short Sale Declines	216,387	96,932	119,455	
		45 Short Sales Declines that were not considered for any Mod	36,275	15,300	20,975	
		46 Short Sales Declines that were accepted for a Mod	32,987	12,308	20,679	
		47 Short Sale Declines that Were Declined for a HAMP Mod	79,059	30,584	48,475	
		48 Short Sale Declines that Were Declined for a Non-HAMP Mod	82,643	36,893	45,750	
		49 First Quarter Loan Mods	174,930	57,836	117,094	
		50 HAMP Mods within 120 days prior or any time after the foreclosure referral date	37,642	12,935	24,707	
		51 Non-HAMP Mods within 120 days prior or any time after the foreclosure referral date	76,821	21,552	55,269	
		52 Short sales within 120 days prior or any time after the foreclosure referral date	69,670	33,384	36,286	
		53 Repayment within 120 days prior or any time after the foreclosure referral date	8,708	1,360	7,348	
		Other				
		54 Borrower Protection Plan	4,478	1,975	2,503	
		55 Sub-serviced foreclosures	490	183	307	
		56 Lawfirm Delisted by GSEs	39,803	30,830	8,973	
		57 MSP Loans	14,943	5,277	9,666	
		58 Reverse Mortgages	4,939		248	
		59 Loans not captured in any other category	255,138	76,435	178,703	
Subtotal 100% Reviewed (blue cells)					18,066	
Subtotal Sampled and Reviewed (red cells)					11,557	
Total Initial Review					29,623	
Expected 2nd Stage Sampled					5,779	
Total Review					35,402	

Table A-2: Criteria Identifying Primary Populations

Population	Criteria	Information Systems / Data Sources
Foreclosure actions related to SCRA cases	Any residential loan that has been qualified or reviewed for SCRA benefits through 12/31/2010	
Foreclosure actions that completed with a property sale during the review period	Residential loans with foreclosure sales having a warning code 5 (foreclosure in process) and lockout code 3 (foreclosure, property has been conveyed) or lockout code 9 (foreclosure sale held, loan not conveyed) recorded by BAC during the 1/01/2009 - 12/31/2010 time period.	
Foreclosure actions that were completed without a sale or were in progress at the end of the lookback period identified in the Consent Order	Loans in foreclosure in process status at the beginning of 2009 and loans that entered into foreclosure in process status during the time period of 1/1/2009-12/31/2010, excluding loans with Completed foreclosure sales.	

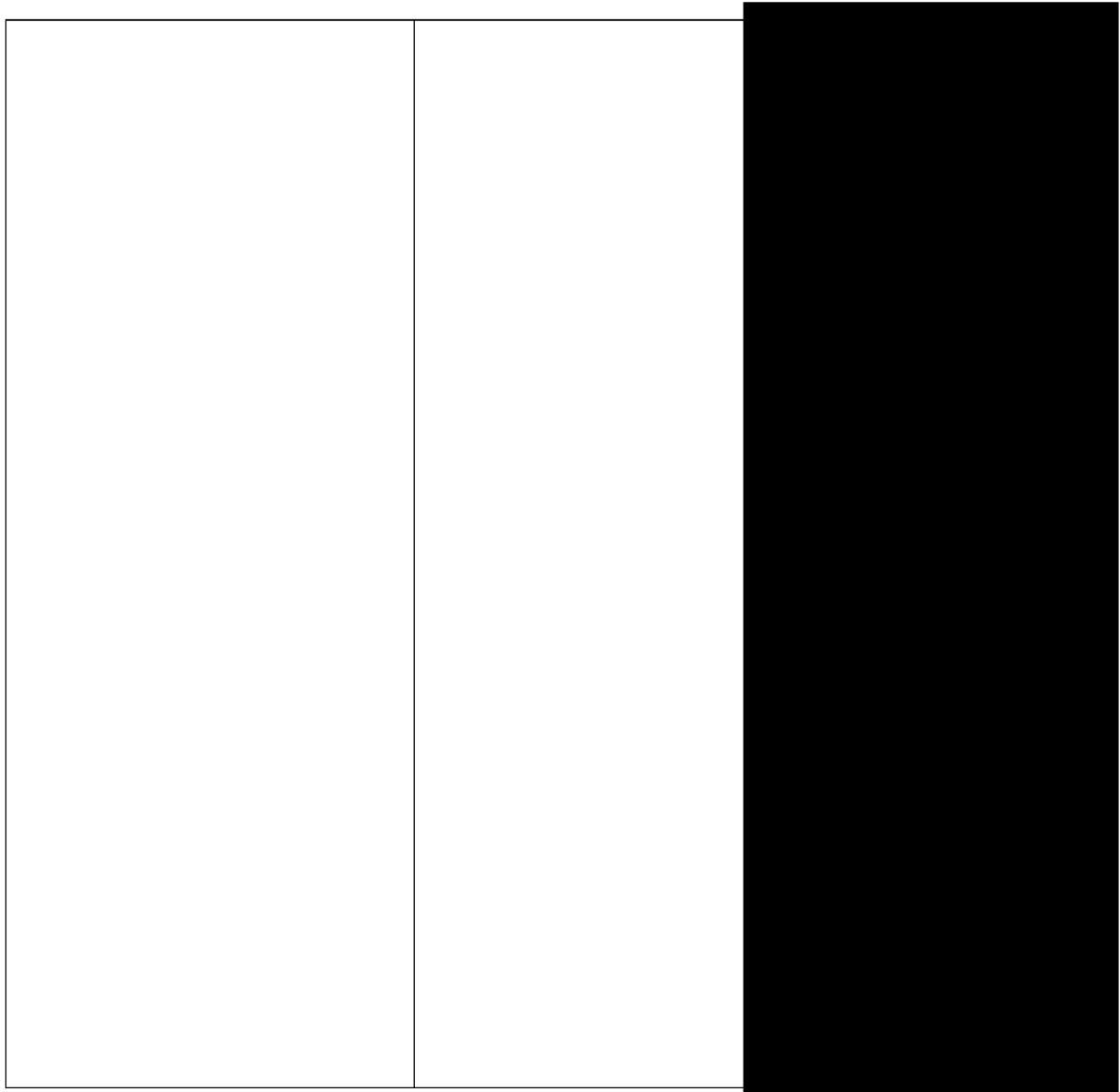


Table A-3: Criteria Identifying Targeted Subpopulations

Control Number	Category	Targeted Population	Criteria	Information Systems / Data Sources
1	SCRA-Related	Borrowers identified as qualifying for SCRA protection		
2	Complaint-Related	Federal or State Regulatory Referred Complaints	State or Federal Authority, Including U.S. Bankruptcy Trustee Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	
3	Bankruptcy-Related	Potential population where a foreclosure sale that potentially took place during active bankruptcy	Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	
4	Bankruptcy-Related	Foreclosure sale referred by U.S. Bankruptcy Trustee (Note: Presently, no in-scope referrals have been found for the foreclosure sales population)	Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	

5	Modification-Related	HAMP Mod Decline due to ineligible financial criteria	Identify loans that were ever declined for a HAMP modification	
6	Modification-Related	Non-HAMP Mod Decline due to ineligible financial criteria	Identify loans that have a non-HAMP proprietary modification during the lookback period	
7	Other	Rescinded Foreclosures	Identify loans from the foreclosure sale population where the foreclosure was	

			rescinded	
8	Other	Borrower Protection Plan	Identify loans where the borrower had an active Borrower Protection Plan ("BPP") or where the borrower had filed an actual BPP claim	
9	Complaint- and Litigation- Related	Complaints not referred by state or federal agency	Identify loans with complaints submitted subsequent to the initiation	

			of foreclosure actions, for categories related to foreclosure action.	
10	Complaint-and Litigation-Related	Litigations	Identify loans that had an active litigation during the lookback period	
11	Bankruptcy-Related	Instances where a foreclosure referral took place for loans in active bankruptcy	Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	
12	Bankruptcy-Related	Foreclosure occurred outside of active bankruptcy	Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	

13	Modification and Workout-Related	HAMP Mod Declines other than ineligible financial criteria	Identify loans that were ever declined for a HAMP modification.	
14	Modification and Workout-Related	Non-HAMP Mod Declines other than ineligible financial criteria	Identify loans that were ever declined for a Non-HAMP modification.	

15	Modification and Workout-Related	HAMP Mod Appeal		
16	Modification and Workout	Loans that were declined for a short sale prior to the foreclosure sale date		
17	Modification and Workout	Short Sales Declines that were not considered for any Mod		
18	Modification and Workout	Short Sales Declines that were accepted for a Mod		
19	Modification and Workout	Short Sale Declines that were declined for a HAMP Mod		
20	Modification and Workout	Short Sale Declines that were declined for a Non-HAMP Mod		
21	Modification and Workout-Related	First Quarter Loan Mods	Identify loans that were handled in the first quarter of a loan modification program. This segment comprises loans solicited and modified in the first quarter of the	

			MHA trial modifications and the FHA HAMP Loan population.	
22	Modification and Workout-Related	Workouts completed 120 days prior to or any time after foreclosure sale date. (HAMP and Non-HAMP)	Loans that had a completed workout from 120 days prior to the foreclosure sale date through any time after the foreclosure sale date. Workout categories include repayment plans, modifications, short sales, deeds-in-lieu, and SCRA.	
23	Other	Sub-Serviced Loans	Identify the populations of sub-serviced loans for [REDACTED]	
24	Other	GSE Delisted	Identify loans handled by the following law firms: [REDACTED]	

		GSE Delisted	[REDACTED]	[REDACTED]
25	Other	MSP Loans	<p>Legacy BAC loans were serviced on the [REDACTED] until they were onboarded to the [REDACTED] in Nov. 2009 at which time servicing was converted to the [REDACTED]. These loans were identified from the [REDACTED] reporting cumulative foreclosure sales data table</p> <p>[REDACTED]</p>	[REDACTED]
26	Other	Loans where BAC processed a standard mortgage payment within 30 days prior to or anytime following the foreclosure sale date, but within the lookback period		[REDACTED]
27	Other	Reverse Mortgages for		[REDACTED]

	Other	Reverse Mortgages for which a foreclosure sale occurred		
28	Other	Foreclosure sales not captured in any other category	Identify loans not captured in any other category	
29	SCRA-Related	Borrowers identified as qualifying for SCRA protection		
30	Complaint and Litigation Related	Complaints referred by state or federal authority	Identify loans with complaints submitted subsequent to the initiation of foreclosure actions, for categories related to foreclosure action.	
31	Bankruptcy-Related	Loans referred by U.S. Bankruptcy Trustee	U.S. Bankruptcy Trustee identified loans with foreclosure sales and in process foreclosures that also have bankruptcies	
32	Complaint-	Complaints not	Identify loans with	

	and Litigation-Related	referred by state or federal agencies	complaints submitted subsequent to the initiation of foreclosure actions, for categories related to foreclosure action that were not referred by federal or state agencies.	
33	Complaint- and Litigation- Related	Litigation	Identify loans that had an active litigation during the lookback period	
34	Bankruptcy- Related	Foreclosure referrals that took place during active bankruptcy	Identify loans with foreclosure sales and in process foreclosures that also have bankruptcies	
35	Bankruptcy- Related	Foreclosure referral was outside of active bankruptcy		
36	Modification- Related	HAMP Decline Mod due to ineligible financial criteria	Identify loans that were declined for a HAMP modification due to ineligible financial condition.	

37	Modification	HAMP Mod Financial Criteria-Related Declines that did not Apply for a Non-HAMP Mod	Identify loans that were declined for a HAMP modification due to ineligible financial condition that did not apply for a Non-HAMP mod.	
38	Modification	HAMP Mod Financial Criteria-Related Declines that were Declined for a Non-HAMP Mod	Identify loans that were declined for a HAMP modification due to ineligible financial condition that were declined for a Non-HAMP Mod	

39	Modification	HAMP Mod Financial Criteria-Related Declines that were Not Declined for a Non-HAMP Mod	Identify loans that were declined for a HAMP modification due to ineligible financial condition that were not declined for a Non-HAMP Mod	

		HAMP Mod Financial Criteria-Related Declines that were Not Declined for a Non-HAMP Mod	Identify loans that were declined for a HAMP modification due to ineligible financial condition that were not declined for a Non-HAMP Mod	
40	Modification-and Workout-Related	HAMP Mod Declines other than for ineligible financial criteria	Identify loans that were ever declined for a HAMP modification for reasons other than ineligible financial condition.	

	Modification-and Workout-Related	HAMP Mod Declines other than for ineligible financial criteria	Identify loans that were ever declined for a HAMP modification for reasons other than ineligible financial condition.	
41	Modification-and Workout-Related	Loans that were declined for a non-HAMP modification due to ineligible financial criteria (e.g. the borrower's DTI was already below a target value, an NPV test yielded negative return, or an excessive forbearance would be required in order to reduce the DTI to a target value).		
42	Modification-and Workout-Related	Non-HAMP Mod Declines other than for ineligible	Identify loans that have a non HAMP proprietary modification during the	

	Modification-and Workout-Related	Non-HAMP Mod Declines other than for ineligible financial criteria	Identify loans that have a non-HAMP proprietary modification during the lookback period	
43	Modification-and Workout-Related	HAMP Mod Appeal	Identify loans where the borrower has submitted a HAMP modification appeal before or after the foreclosure sale date.	
44	Modification-and Workout-Related	Short Sale declines	Identify loans that were declined for a short sale during the lookback period	
45	Modification-and Workout-Related	Short Sales declines that were not considered for any Mod	Identify loans that were declined for a short sale during the lookback period that were not considered for any Mod	

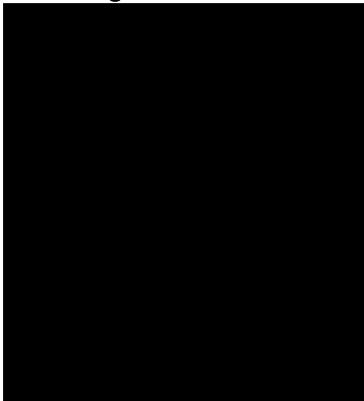
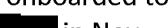
	Modification-and Workout-Related	Short Sales declines that were not considered for any Mod	Identify loans that were declined for a short sale during the lookback period that were not considered for any Mod	
46	Modification-and Workout-Related	Short Sales declines that were accepted for a Mod	Identify loans that were declined for a short sale during the lookback period that were accepted for a Mod	

	Modification-and Workout-Related	Short Sales declines that were accepted for a Mod	Identify loans that were declined for a short sale during the lookback period that were accepted for a Mod	
47	Modification-and Workout-Related	Short Sale declines that were declined for a HAMP Mod	Identify loans that were declined for a short sale during the lookback period that were declined for a HAMP Mod	

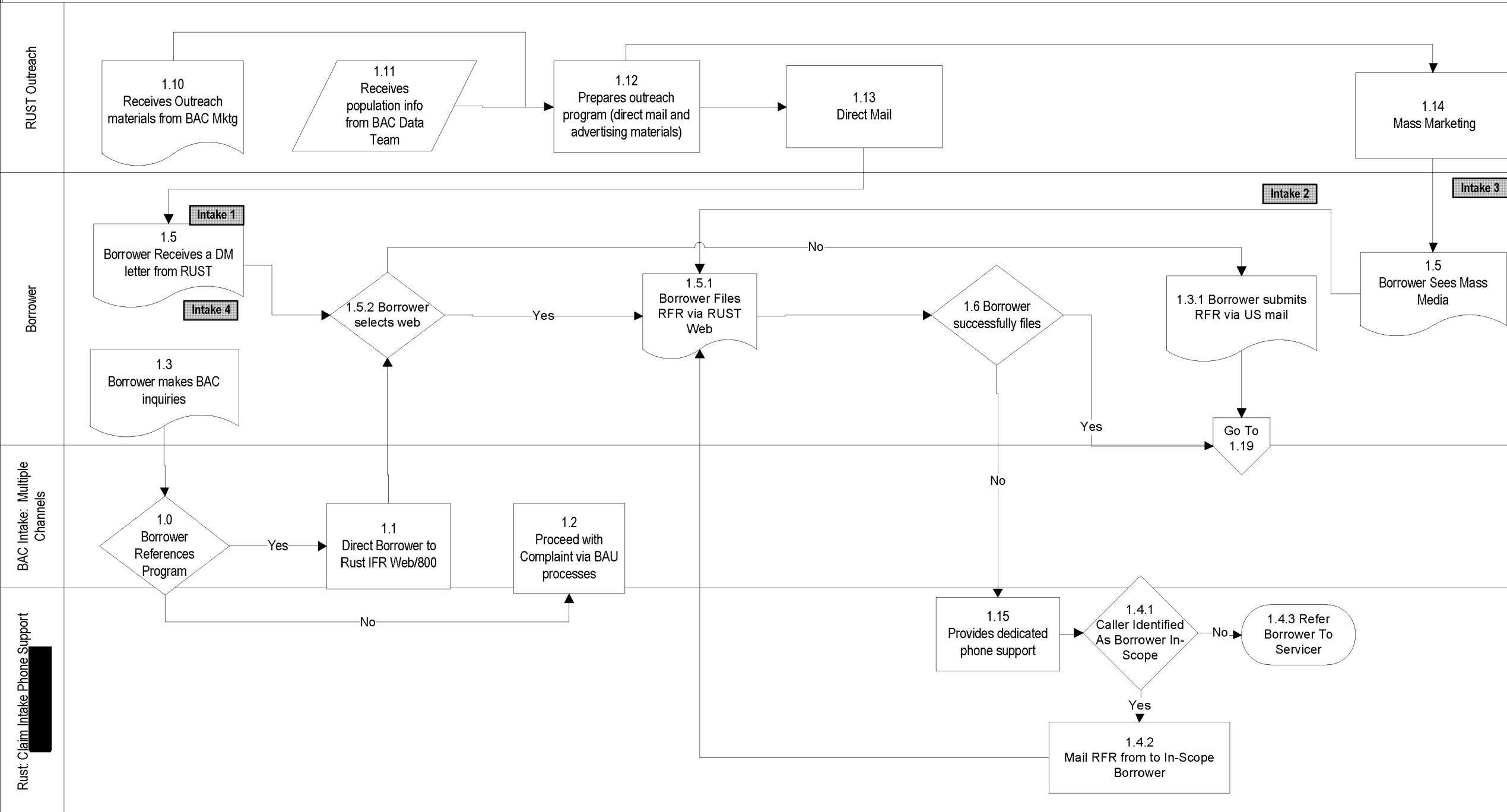
	Modification-and Workout-Related	Short Sale declines that were declined for a HAMP Mod	Identify loans that were declined for a short sale during the lookback period that were declined for a HAMP Mod	
48	Modification-and Workout-Related	Short Sale declines that were declined for a Non-HAMP Mod	Identify loans that were declined for a short sale during the lookback period that were declined for a Non-HAMP Mod	

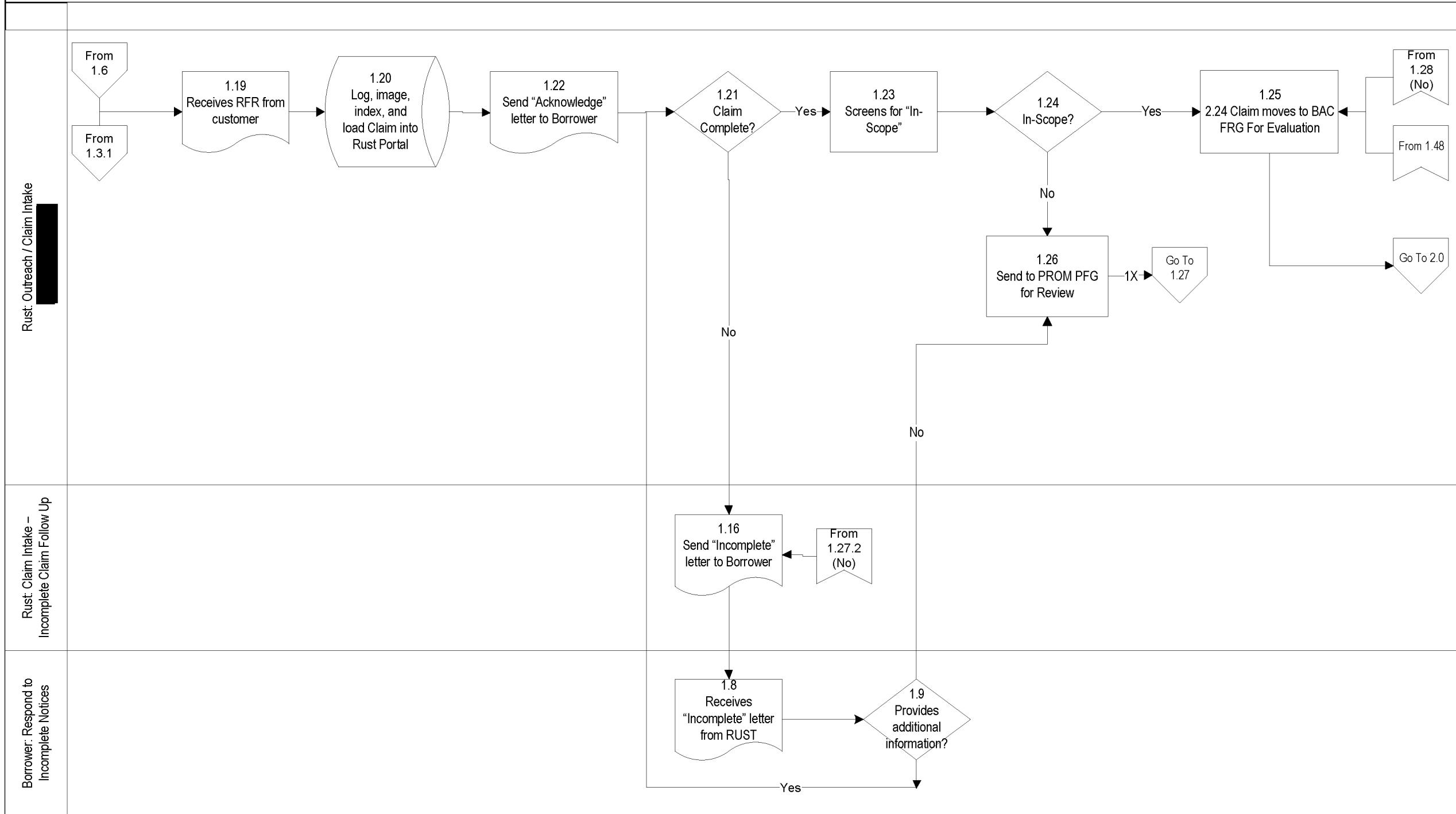
	Modification-and Workout-Related	Short Sale declines that were declined for a Non-HAMP Mod	Identify loans that were declined for a short sale during the lookback period that were declined for a Non-HAMP Mod	
49	Modification-and Workout-Related	Loans that were modified in the first quarter of a loan modification program		
50	Modification-and Workout-Related	Loans that completed a HAMP Modification within 120 days prior to the foreclosure referral date, through any time		

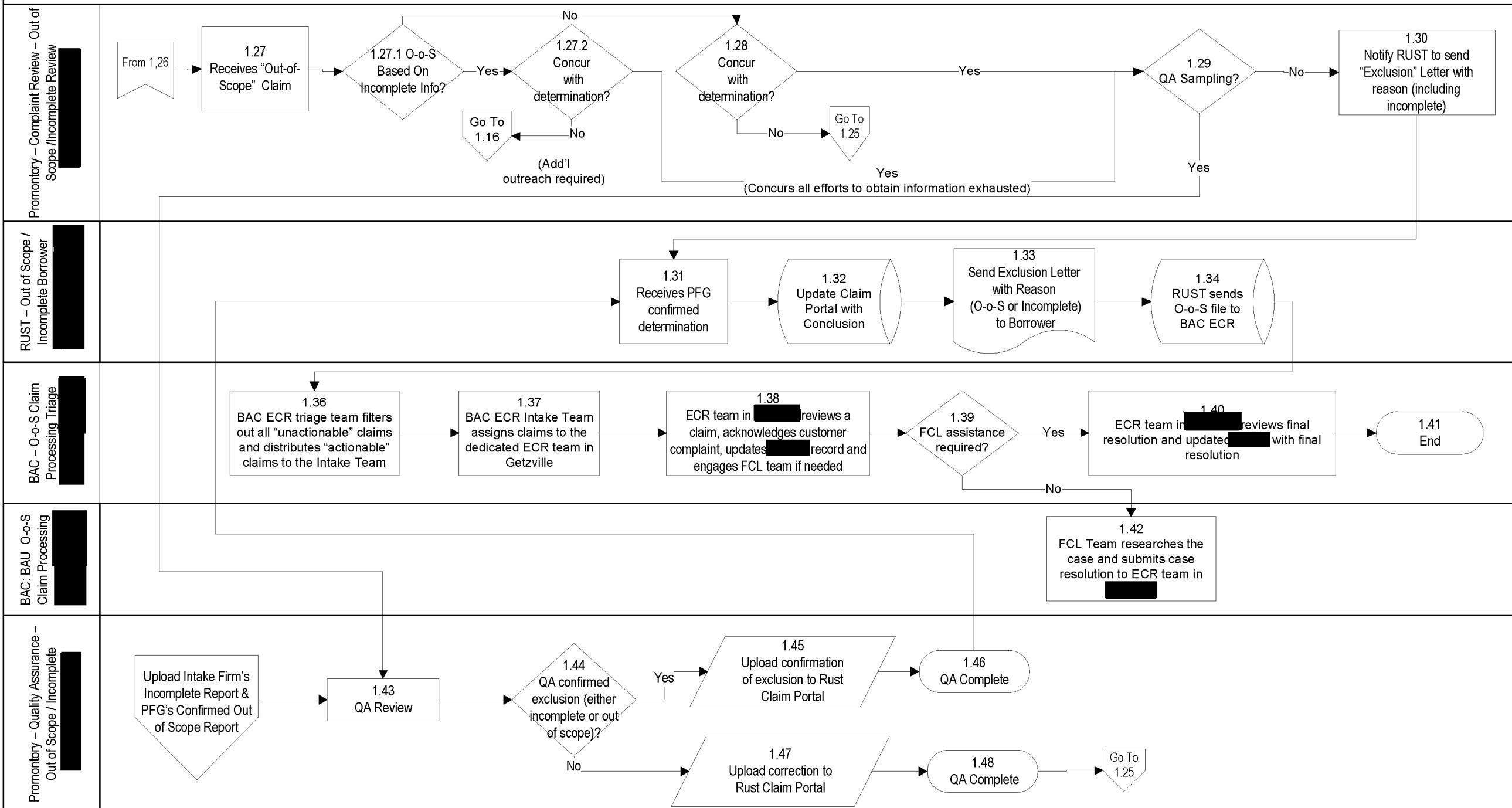
	Modification-and Workout-Related	Loans that completed a HAMP Modification within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date		
51	Modification-and Workout-Related	Loans that completed a Non-HAMP Modification within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date		
52	Modification-and Workout-Related	Loans that completed a Short-Sale or Deed-in-Lieu within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date		
53	Modification-and Workout-Related	Loans that completed a Repayment or other type of workout within 120 days prior to the foreclosure referral date,		

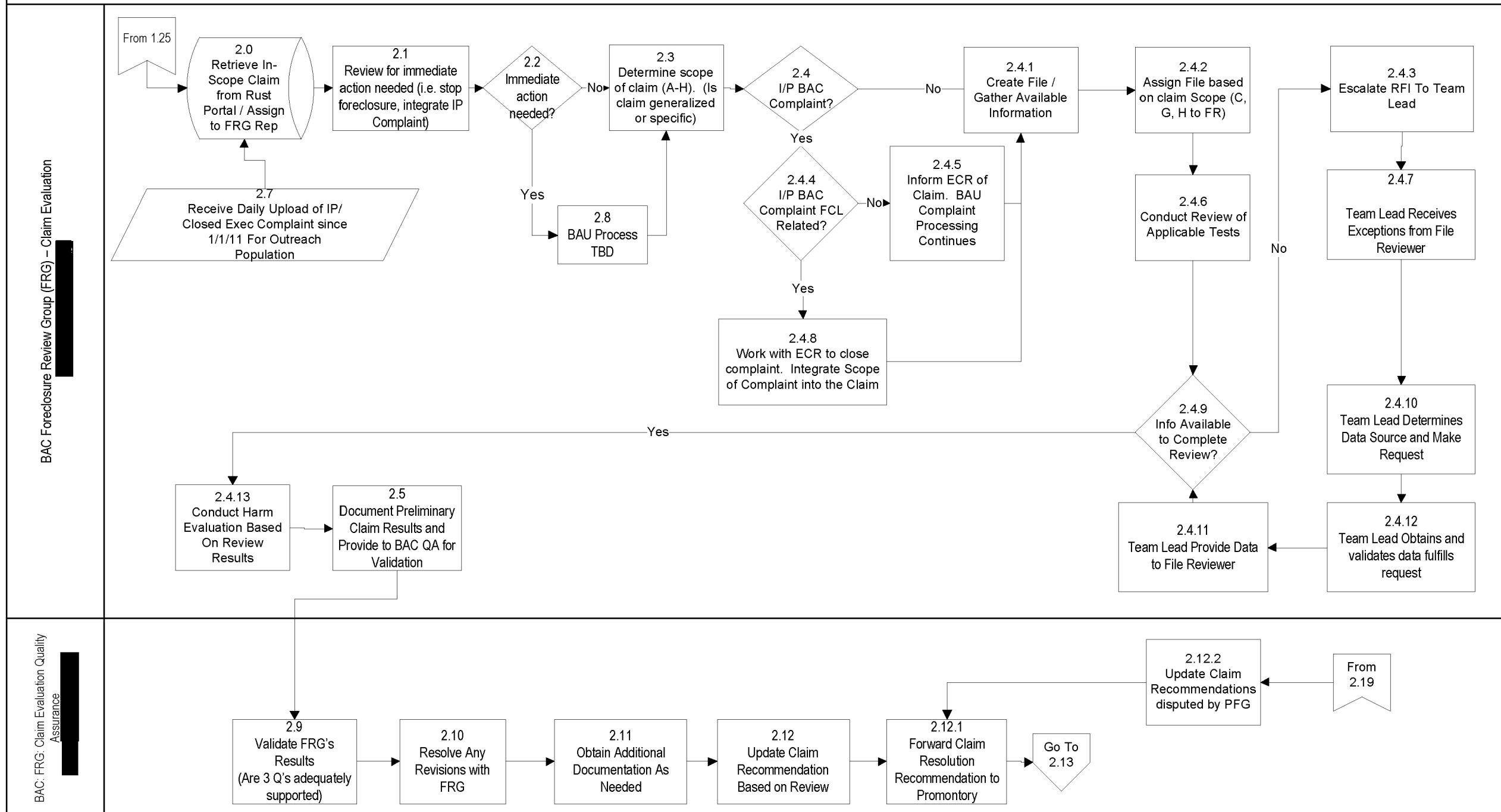
	Modification-and Workout-Related	Loans that completed a Repayment or other type of workout within 120 days prior to the foreclosure referral date, through any time after the foreclosure referral date		
54	Other	Borrower Protection Plan	Identify loans where the borrower had an active BPP or where the borrower had filed an actual BPP claim	
55	Other	Sub-serviced foreclosures	Identify the populations of sub-serviced loans for Greentree and PHH	
56	Other	Delisted by GSEs	Identify loans handled by the following law firms: 	
57	Other	MSP Loans	Legacy BAC loans were serviced on the  system until they were onboarded to the  in Nov. 2009 at which time servicing was converted to the Redact system.	
58	Other	Reverse Mortgages exposed to a		

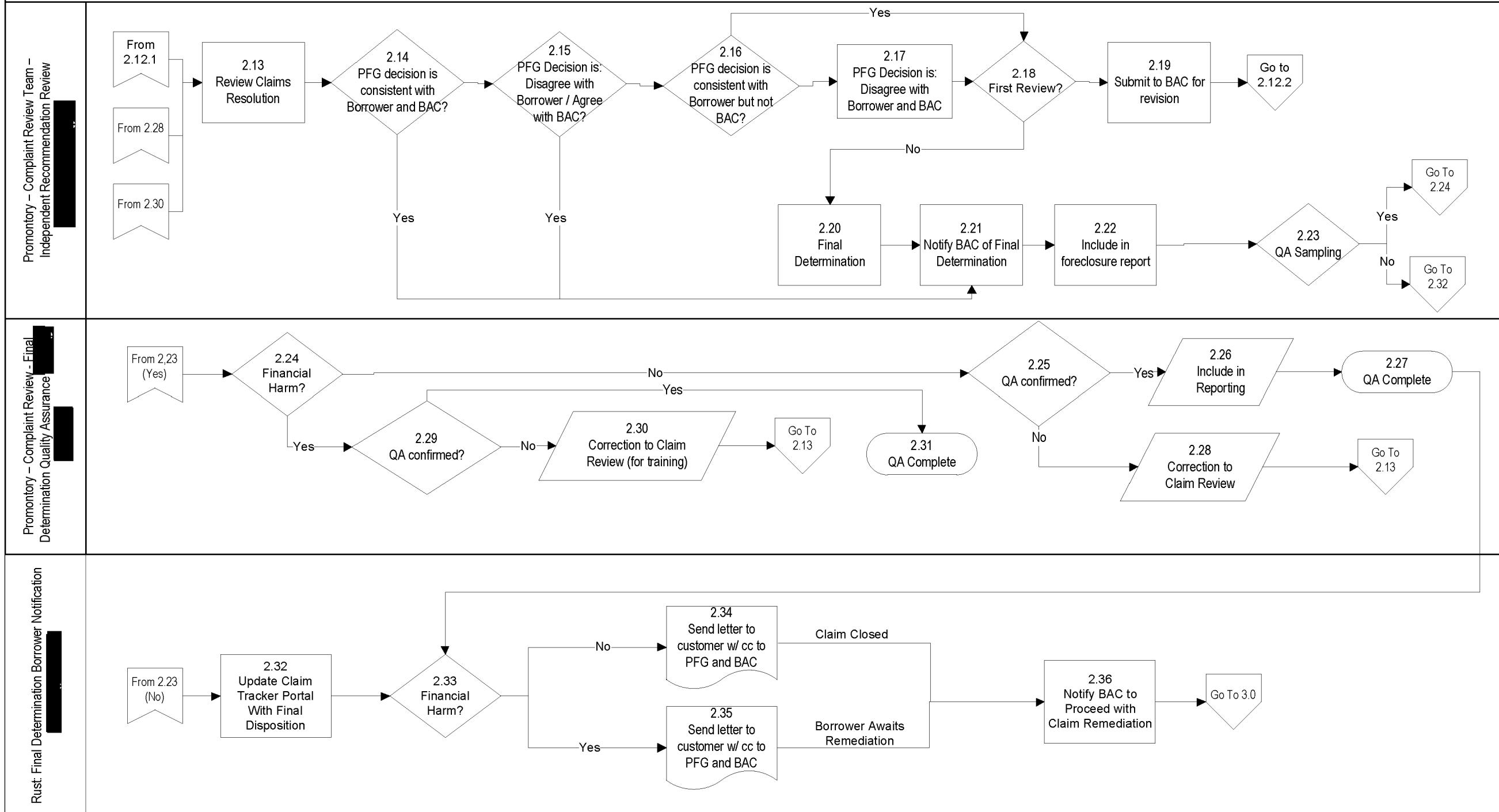
	Other	Reverse Mortgages exposed to a foreclosure process, but for which no foreclosure sale has taken place		
59	Other	Loans not captured in any other category	Identify loans not captured in any other category	

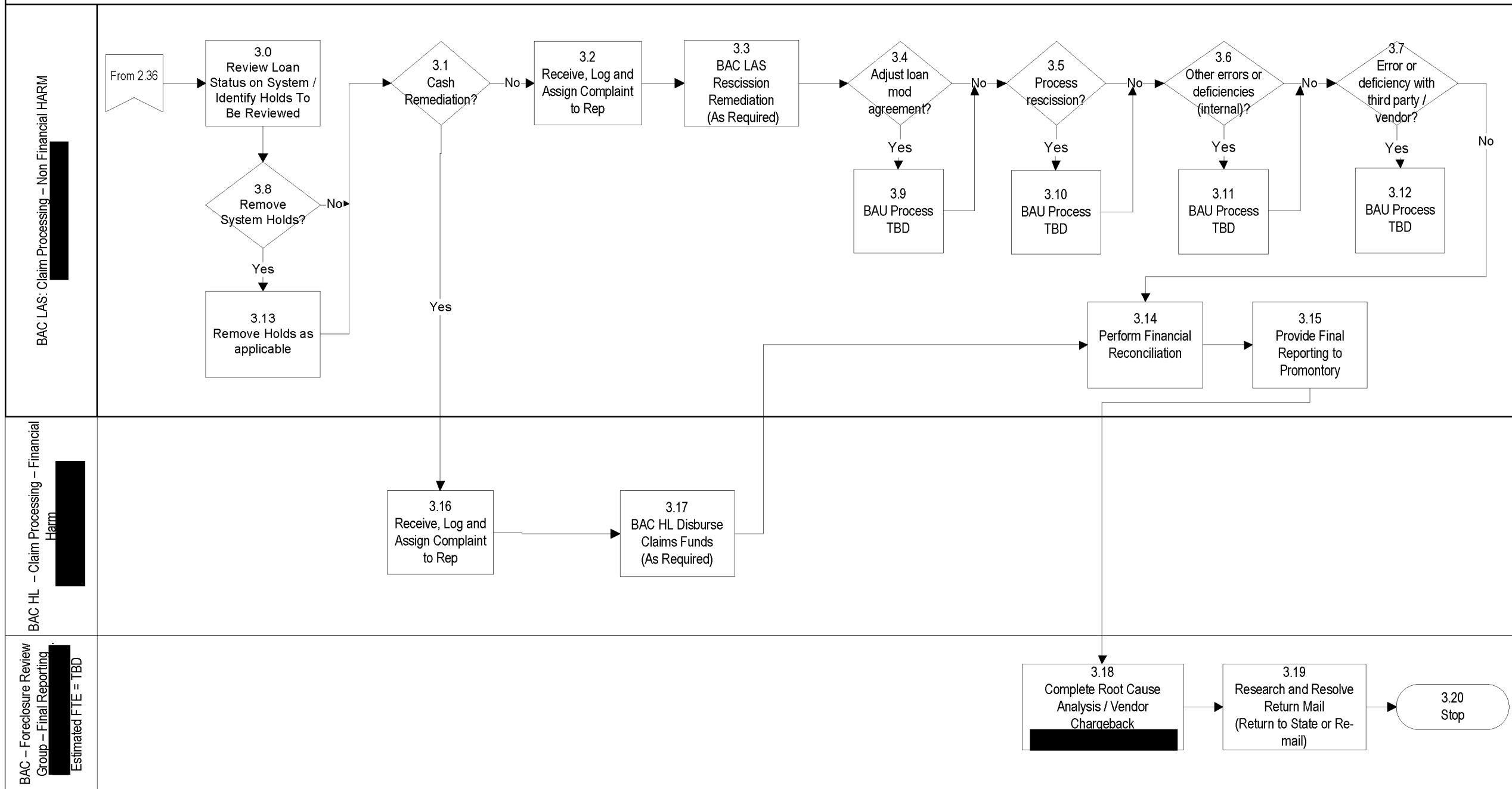












BAC HL – Claim Processing – Financial Harm

BAC – Foreclosure Review Group – Final Reporting
Estimated FTE = TBD

Independent Foreclosure Review

Independent Foreclosure Review

BOA-EL-00000091

BOA-EL-00000092

BOA-EL-00000093

September 6, 2011

Attachment B

RESOURCES AND EXPERTISE

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September 6, 2011

Attachment B

RESOURCES AND EXPERTISE

This attachment describes the resources and expertise Promontory Financial Group, LLC (“Promontory”) will dedicate to perform a review of certain residential foreclosure actions by Bank of America (“BAC”) between January 1, 2009 and December 31, 2010, pursuant to Article VII of the Consent Order (AA-EC-11-12) (the “Consent Order”) of the Office of the Comptroller of the Currency (the “OCC”), dated April 13, 2011 (the “Foreclosure Review”), including personnel and information systems. It further describes Promontory’s plans for enlisting additional resources necessary to complete the Foreclosure Review in the event that initial sampling identifies needs for more extensive file review.

1. About Promontory Financial Group

Former Comptroller of the Currency Eugene Ludwig founded Promontory in 2001. Promontory’s senior professional team has unusually deep experience in the management, direction, and leadership of major financial institutions, financial regulatory agencies, and policymaking bodies. In the United States, members of Promontory have served as senior executives or directors of numerous leading financial institutions and financial regulatory agencies, including, to name but a few, the New York State Banking Department, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System (the “Federal Reserve”), the United States Treasury Department, and the OCC.

Promontory works with the leadership of financial institutions throughout the world to identify, evaluate, and resolve issues of actual or potential concern to their directors, senior executives, and regulators. Promontory provides them with a wide range of services, including evaluation and assistance in strengthening risk management units and practices, compliance, corporate governance, and risk reporting; forensic reviews and reports; due diligence reviews; policy development; and strategic advice relating to the establishment or acquisition of new financial services businesses.

Promontory is headquartered in Washington, D.C. and maintains additional U.S. offices in New York, Atlanta, and San Francisco. We also have a substantial international practice, with affiliate offices in Brussels, Dubai, Hong Kong, London, Milan, Paris, Singapore, Sydney, Tokyo, and Toronto.

Promontory has significant experience and expertise working with mortgage lenders and servicers to meet the requirements of regulatory enforcement actions, strengthen risk management or compliance, or enhance corporate governance. The firm has successfully concluded several engagements related to mortgage origination and servicing and is deeply experienced in forensic

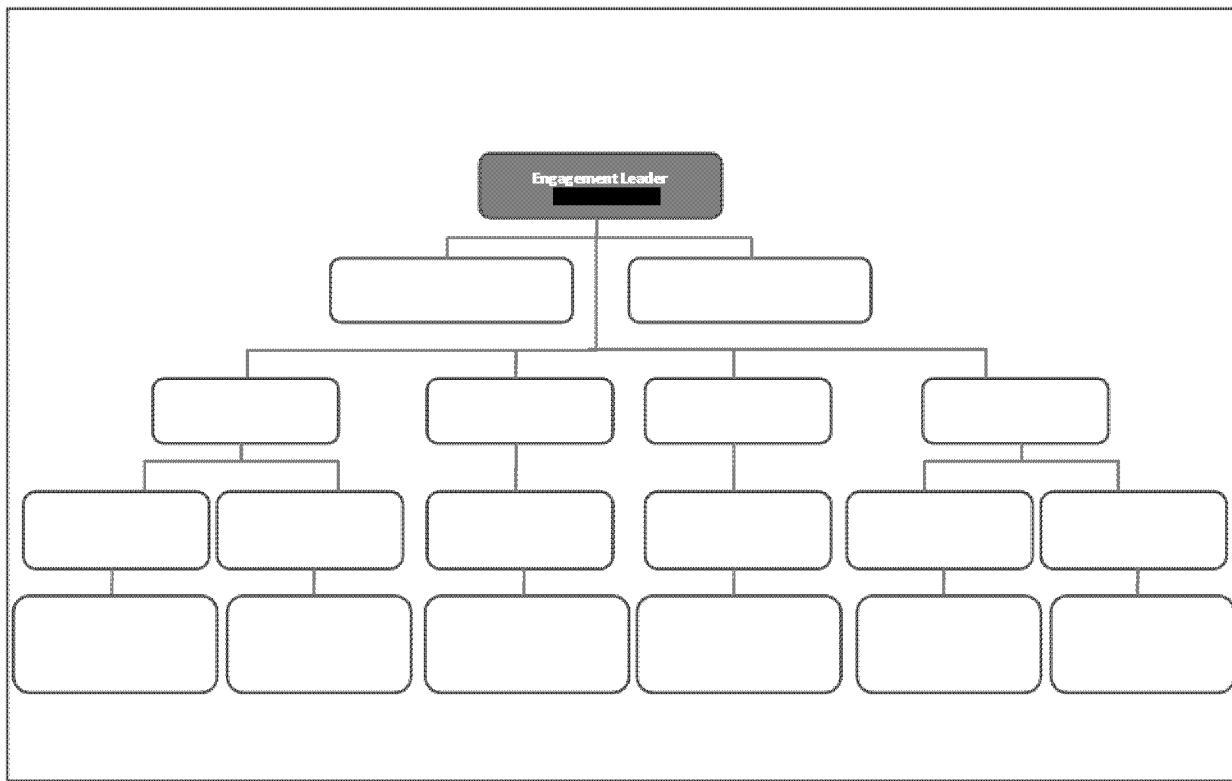
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and look-back reviews and statistical analysis. Several members of Promontory's leadership and numerous members of its professional staff have spent significant portions of their careers in the mortgage sector, in regulatory supervision and examination of mortgage lenders, or both.

2. Organizational Structure

a. Overview

The chart below reflects the proposed structure of Promontory's BAC Foreclosure Review Team. The individuals and roles reflected in the chart should be considered representative and may be subject to change as roles and responsibilities are further developed.



b. Project Leadership

Promontory's project leadership will provide the project team with strategic direction, supervision of project management and quality assurance ("QA"), liaison with OCC and BAC senior executives and directors, and quality control of the Foreclosure Review. [REDACTED]

[REDACTED] will lead the project, dedicating significant time to its oversight. [REDACTED]

[REDACTED] will be supported by [REDACTED]

[REDACTED] who

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will lead the File Review workstream.

[REDACTED] will oversee

the Complaint Review workstream.

[REDACTED] will serve as Analysis Manager.

Also,

[REDACTED] will manage reporting and the

external counsel relationship.

Roles & Responsibilities of Promontory's BAC Foreclosure Review Leadership Team

Title	Roles & Responsibilities	Person
Engagement Leader	Overall management of the engagement; primary point of contact with senior BAC management and OCC	[REDACTED]
PMO & Staffing Manager	Manages project reporting, MIS, and staffing logistics.	[REDACTED]
Methodology and QA Management	Oversees development of the methodology for the Foreclosure Review, as well as QA review process and team of QA reviewers.	[REDACTED]
Quantitative Analysis Management	Oversees statistical analysis and execution of sampling methodology; evaluates results of Foreclosure Review to determine when expanded sampling and testing is required.	[REDACTED]
File Review Manager	Manages primary File Review execution; manages team of reviewers; manages File Review logistics.	[REDACTED]
Complaint Review Manager	Oversees complaint receipt and evaluation process; manages team of Complaint Reviewers.	[REDACTED]
Documentation & Data Management	Manages the delivery of data and documentation to the File and Complaint Review teams. Ensures integrity and accuracy.	[REDACTED]

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Reporting & External Counsel Manager	Manages reporting and relationship with external counsel.	
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c. File Review

Promontory's File Review will be conducted principally from BAC's [REDACTED] facilities. The File Review Team will consist of nearly 230 team members, including a Team Leader, three Site File Review Managers, and 20 Senior File Reviewers.

Table B-1 shows the key working assumptions underlying Promontory's resource planning in connection with the File Review.

Table B-1

File Review Resource Planning: Preliminary Estimates & Assumptions

Average File Review Time	10 hours
Production Hours/Day (net of training, vacation, etc.)	6.5
Number of Files to be Reviewed	35,000
Person-Days to Complete File Review	54,000
Estimated Number of File Reviewers	200
Work Days per Week	5/week
Work Weeks	10,800
Estimated Elapsed Time for File Review	54 weeks
Total Days for File Review	378 days
Senior File Reviewer/File Reviewer Ratio	1:10
Team Lead/Senior File Reviewer Ratio	1:5

i. Senior File Reviewers and Team Leads

Senior File Reviewers will provide oversight and review of work performed by File Reviewers, and will further investigate foreclosure files as needed. Senior File Reviewers will typically have three or more years of servicing experience in loss mitigation and/or foreclosure. Based on a planned staffing ratio of one Senior File Reviewer for every ten File Reviewers, Promontory expects to deploy approximately 20 full-time equivalent ("FTE") Senior File Reviewers on average to complete the Foreclosure Review. These Senior File Reviewers, in turn, will report to Team Leaders having extensive mortgage and supervisory experience. Team Leaders will perform frontline supervision,

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and will prepare and provide daily exception and production reports. Based on a planned staffing ratio of one Team Leader for every five senior analysts, Promontory expects to need four Team Leaders to complete the Foreclosure Review.

ii. Foreclosure File Reviewers

The primary responsibilities of File Reviewers will include ensuring the receipt of documentation, reviewing documentation and extracting critical data, entering necessary data into the Foreclosure Review case management system [REDACTED], and identifying conditions of potential errors, misrepresentations, or other deficiencies. Promontory has estimated a team of 200 FTE analysts on average to complete the File Review. Promontory will review these assumptions and adjust analyst staffing levels appropriately as it gains actual experience conducting the review of BAC files.

iii. Request for Information Team

The Request for Information Team will consist of 11 professionals – one manager and 10 FTE Information Analysts with skill sets and experience levels similar to those of the File Reviewers.

d. Complaint Review

A separate Complaint Review Team will be established to review foreclosure-related borrower complaints. This Team will have similar qualifications to the File Review Team. During complaint intake Promontory will review and validate all complaints deemed out of scope. It is then anticipated that BAC will review and provide a proposed resolution for all in-scope complaint cases. Promontory will then complete a 100 percent review of all such cases processed.

Table B-2 shows the key working assumptions underlying Promontory's resource planning in connection with the Complaint Review.

Table B-2

Complaint Review Resources: Preliminary Estimates & Assumptions

	In-Scope	Out-of-Scope
Average Complaint Review Time	1 hour	0.25 hour
Estimated Number of Complaints to be Reviewed (assumes 20% response rate, of which 60% in-scope/40% out of scope)	152,100	101,400
Work Days per Week/Hrs per Day	5 days/6.5 hrs	5 days/6.5 hrs
Person-Days to Complete Complaint Review`	23,400	3,900

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Work Weeks Required	4,680	780
Estimated Number of Complaint Reviewers	100	45
Estimated Elapsed Time for Complaint Review	47 weeks	17.5 weeks
Estimated Days for Complaint Review	329	123
Senior Complaint Reviewers/Complaint Reviewers	1:10	1:10

Promontory expects to establish an in-scope Complaint Review Team averaging 100 FTE Complaint Reviewers, ten FTE Senior Complaint Reviewers, and two Team Leaders, and an out-of-scope team of 45 Complaint Reviewers, five Senior Complaint Reviewers and one Team Leader.

e. Quality Assurance and Validation

The QA Team will provide independent oversight of the File and Complaint Review Teams. The QA Team's objectives will include:

- Providing third party validation of findings noted by the File Review and Complaint Review Teams;
- Ensuring that the File Review and Complaint Review processes adhere to established quality and accuracy standards; and
- Identifying areas of weakness through errors detected, and providing feedback to the File Review and Compliant Review leadership teams.

Table B-3 shows the key working assumptions underlying Promontory's resource planning in connection with QA dedicated to the File Review.

Table B-3

File Review Quality Assurance Resourcing: Preliminary Estimates & Assumptions

Average File Review Time	6 hours
QA Coverage of Files	
• System Break-in Period (initial 4% of files)	100% - 1,400 files
• Thereafter	12.5%
Estimated Files Subject to QA	5,600
Estimated Number of QA Reviewers	20
Work Days per Week/Hrs per Day	5 days/6.5 hrs

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Person- Weeks Required	1034
Estimated Elapsed Time for File Review QA	52 weeks

Promontory estimates that the QA Team for File Review will consist initially of approximately 20 FTE QA Reviewers on average, two Team Leaders, and one On-site QA Manager to provide effective oversight of File Review activities. Promontory will adjust QA staffing levels based on actual experience.

The QA Team will also apply the same oversight and sampling process to the Complaint Review as will be employed for the File Review. QA will review out-of-scope or incomplete complaints, as well as in-scope complaints.

Table B-4 shows the key working assumptions underlying Promontory's resource planning in connection with the QA Team dedicated to the Complaint Review.

Table B-4

Complaint Review Quality Assurance Resourcing: Preliminary Estimates & Assumptions

	In-Scope	Out-of-Scope
Number of Excluded/Incomplete Complaints	152,100	101,400
Review Time	1 hour	0.25 hour
QA Coverage of Complaints	12.5%	12.5%
Work Days per Week/Hours per Day	5 days/6.5 hrs	5 days/6.5 hrs
Work Weeks Required	585	98
Estimated Number of Complaint QA Reviewers	13	6
Estimated Elapsed Time for Complaint QA	45 weeks	16.5 weeks

Based on these assumptions, Promontory estimates that the QA Team for the Complaint Review will consist initially of six QA Reviewers (and one Team Leader) to perform review of complaints classified as out of scope during intake, and 13 QA Reviewers (and one Team Leader) for in-scope complaints.

The QA Management will review and make hiring decisions for candidates for QA Reviewer positions. Typical qualifications for the QA Reviewer will include several years of experience in foreclosure, mortgage servicing, or quality control. All QA Team members will receive one week of training and orientation, as discussed below, but will also receive hands-on experience in

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foreclosure file and complaints reviews, as well as in-depth training on the QA process and sampling methodology.

f. Training

Promontory will provide a standardized one-week of training to all personnel, whether they are acting in the capacity of File Review, Complaint Review, QA. The required training will include:

- An introduction to the Foreclosure Review;
- Detailed information on the File Review process which outlines the file review flow chart, work flow, and review tests to be utilized in the evaluation of case files;
- Overview of subject matter topics, such as Borrower Protection Plans, loan modifications, and the Servicemembers Civil Relief Act;
- In-depth review of the BAC systems involved in loan servicing and default management; and
- Review of the Foreclosure Review System.

Training will be continuously enhanced to provide targeted instruction in support of the File Review, Complaint Review, and QA efforts as well as to incorporate feedback received over the course of the engagement.

3. Information Systems

Promontory will utilize the [REDACTED] an automated case management system, for the performance of Foreclosure Review services consistent with the requirements of Article VII of the Consent Order. The [REDACTED] has the ability to automatically load data from BAC's systems; prompt the application of test rules drawn from legal and other research for use by analysts; support file review and QA by multiple parties; and provide flexible, customizable reports.

4. External Resources and Sourcing

Promontory maintains substantial in-house expertise on many aspects of financial services compliance, including in the mortgage field. Promontory has been engaged by multiple clients to perform a variety of advisory services relating to the Consent Orders and related orders of the same date issued by the Federal Reserve. To ensure it has adequate resources to staff these engagements simultaneously, Promontory has retained knowledgeable subcontractors, such as Ernst & Young, LLP ("EY"), and made contingency arrangements with other talent and staff augmentation providers. Also, Promontory has contracted with Hudson Cook, LLP to obtain additional expertise in state-by-state application of mortgage law and with Fried, Frank, Harris,

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Shriver & Jacobson LLP to provide legal advice relating to the Foreclosure Review. Promontory expects that the Foreclosure Review may require it to supplement its own resources with additional legal expertise specifically knowledgeable about applicable law in particular jurisdictions from time to time in the course of conducting the Foreclosure Review. Promontory expects to meet this need by relying on its extensive network of associations throughout the financial services, regulatory, and legal fields to obtain the necessary resources. Promontory will require any attorney or firm that may be retained for the provision of such advice to advise Promontory of any actual or potential conflicts of interest, will consult with the OCC regarding any such actual or potential conflicts prior to engaging such attorney or firm, and will consult with BAC legal counsel; although Promontory, in its independent capacity, will make the final decision.

Promontory expects to initiate on-boarding of its team members, QA, and complaint teams immediately, and to complete the staffing process in a measured and deliberate manner over the course of approximately three months. Based on preliminary recruiting efforts, Promontory believes it will be able to recruit appropriately experienced analysts from resources available in or reasonably proximate to [REDACTED] and [REDACTED], where review locations are expected to be established.

5. Contingency Plans for Analyst Recruitment

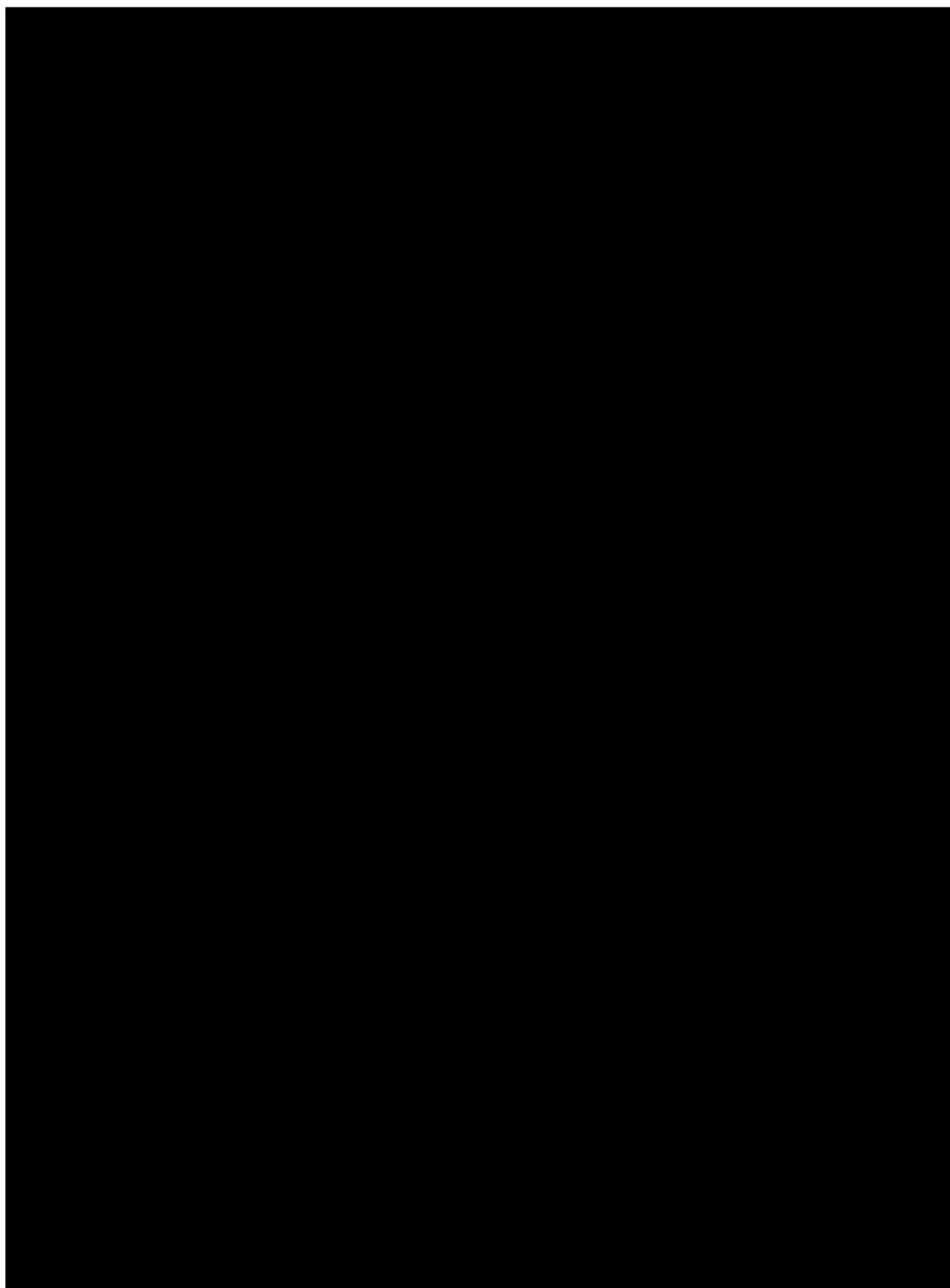
While Promontory believes it can meet the staffing needs of this assignment, a variety of circumstances may present staffing challenges. For example, the OCC could require substantial increases in our proposed initial sample; results of initial sampling could indicate needs for more extensive file review than currently contemplated; or the volume of responses to the complaint process could prove unexpectedly large.

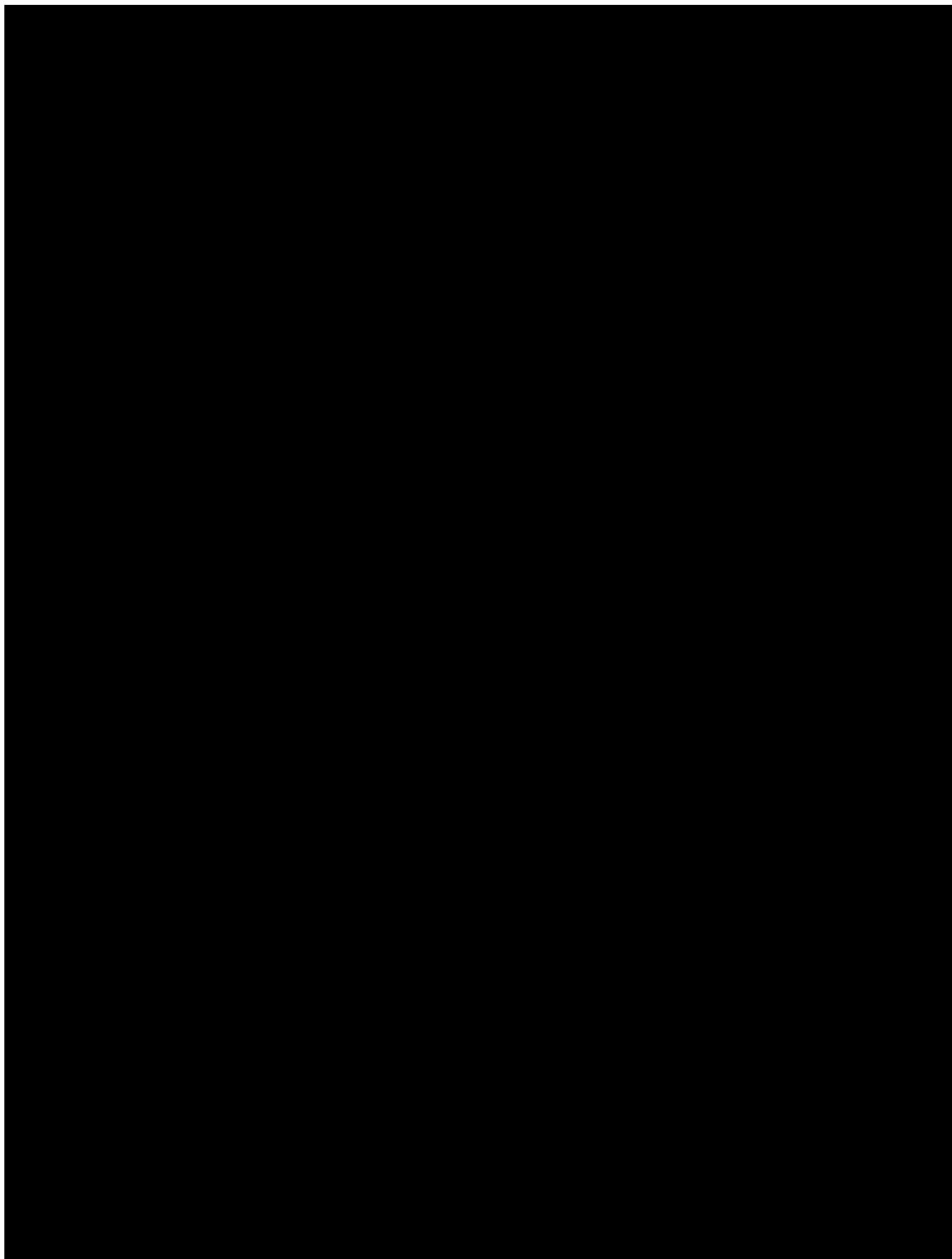
If Promontory is for any reason unable to recruit the resources necessary to perform the Foreclosure Review, Promontory would expect to follow one or more of two contingency plans:

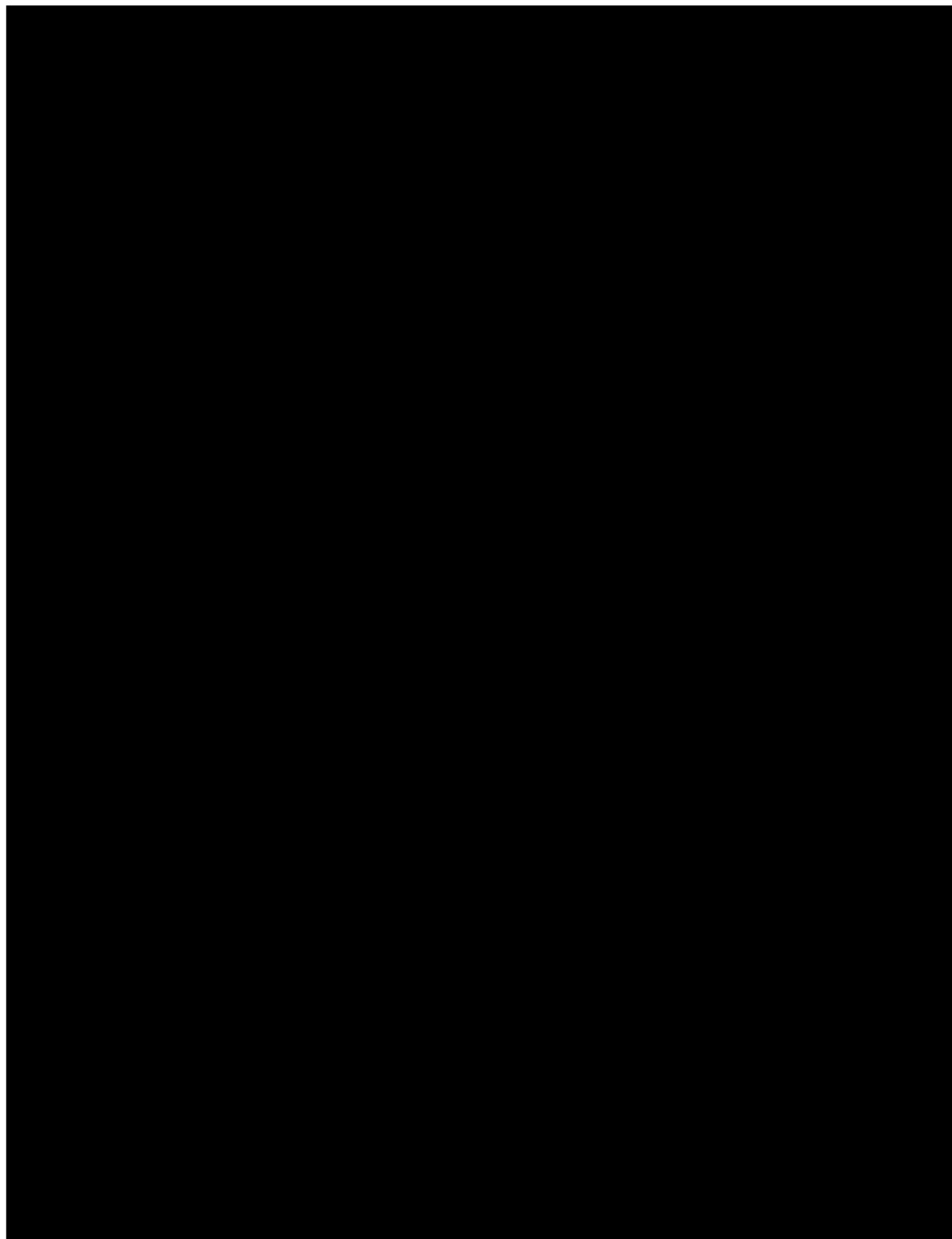
- Bring in additional resources as necessary from one or more firms with which Promontory has established agreements precisely for the provision of such additional resources;
- Open an additional temporary file review facility in another metropolitan area with concentrated and available servicing talent, and source additional resources from that labor market. In that regard, working with Robert Half, Promontory has recently conducted a successful test of the market for qualified resources in the [REDACTED] labor market.

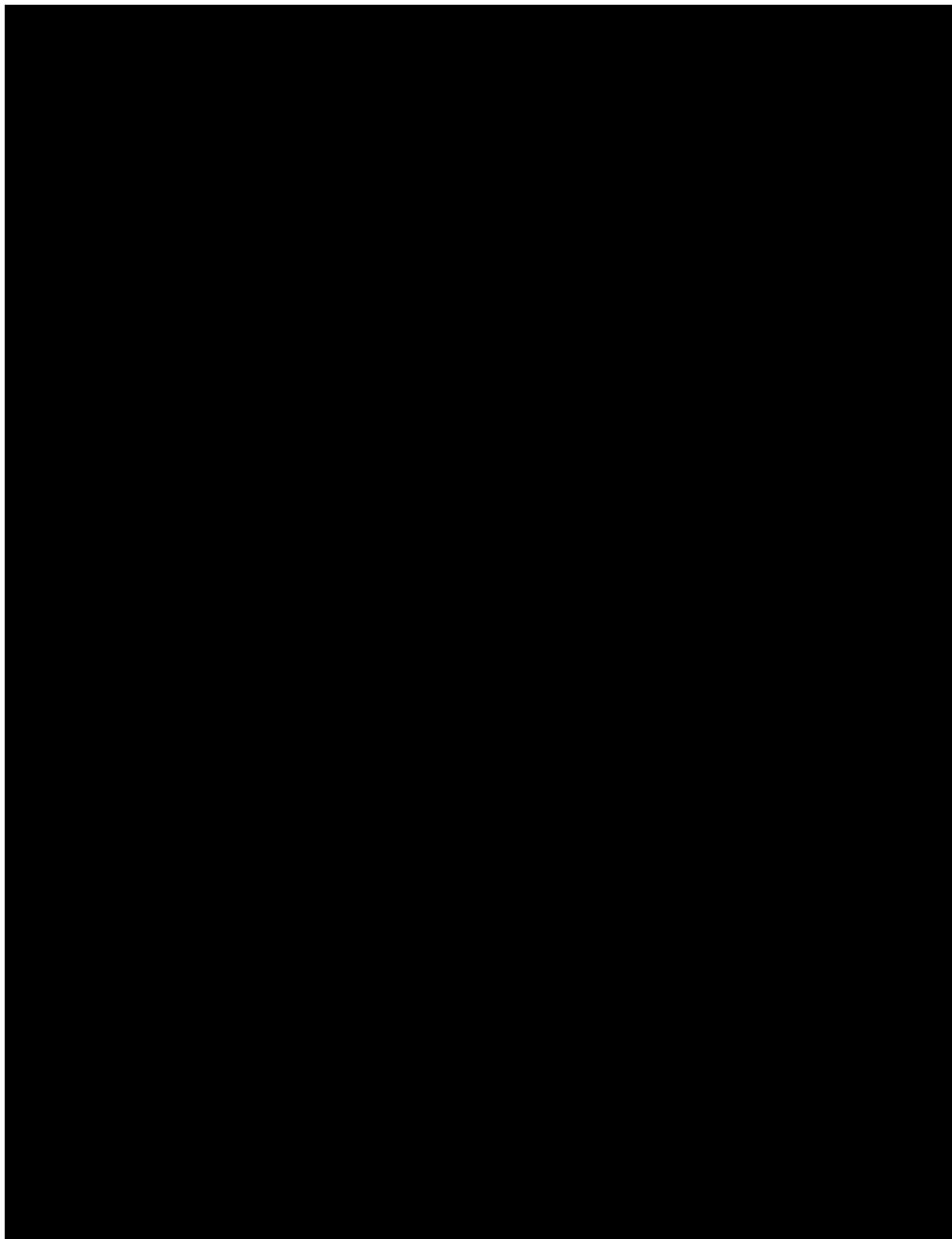
6. Project Leadership and Management Biographical Detail

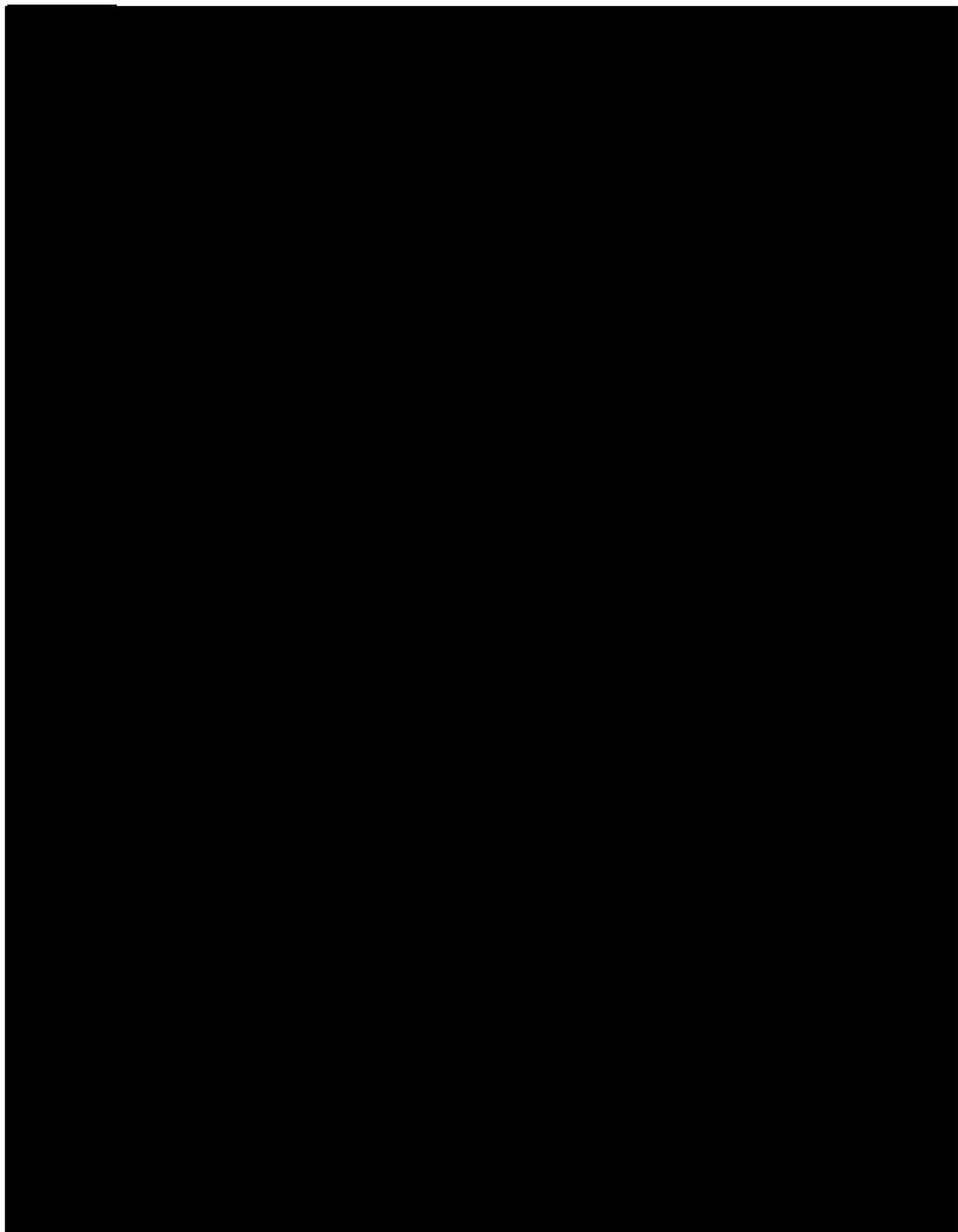
Promontory staff who will lead the engagement include:









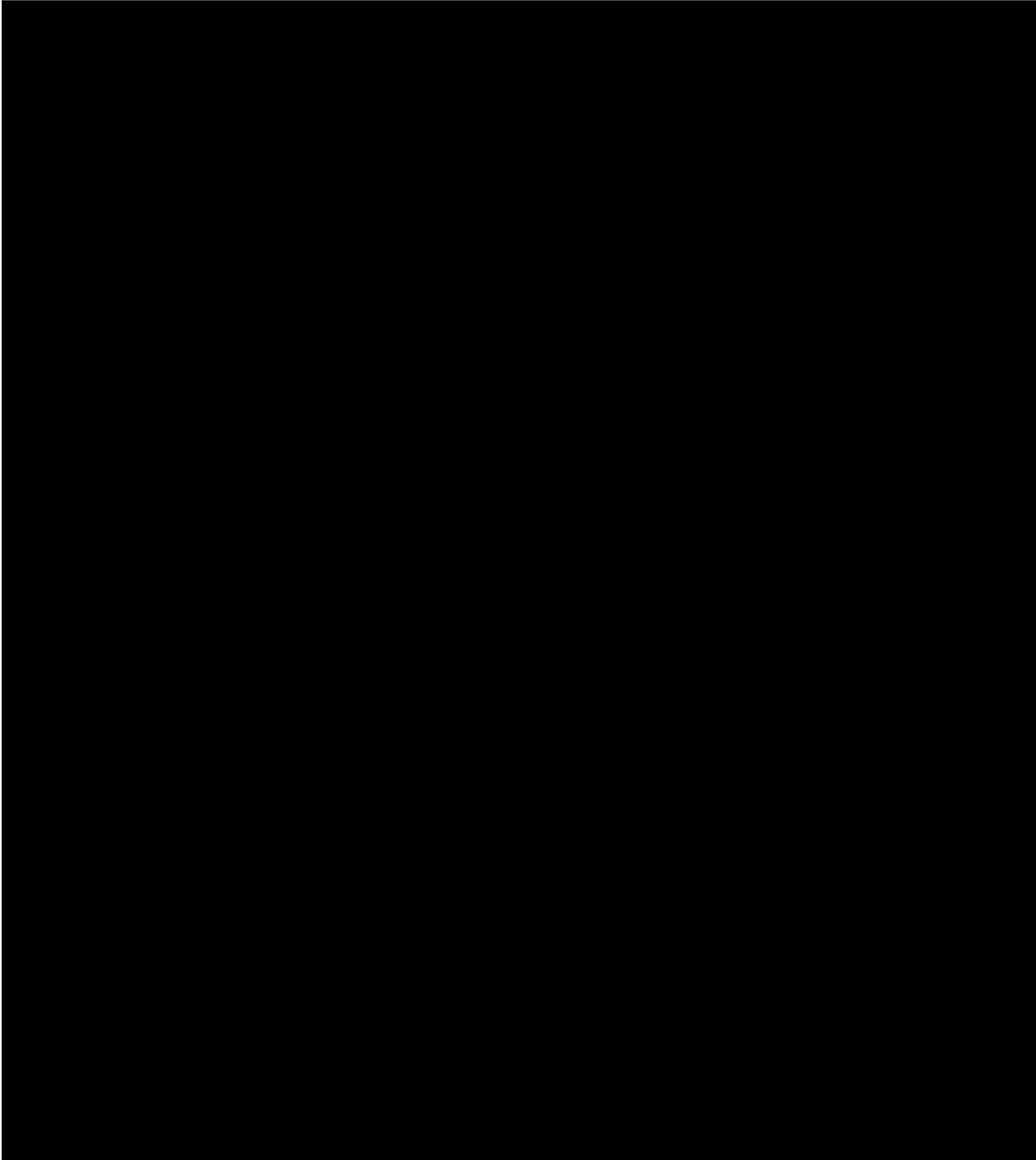


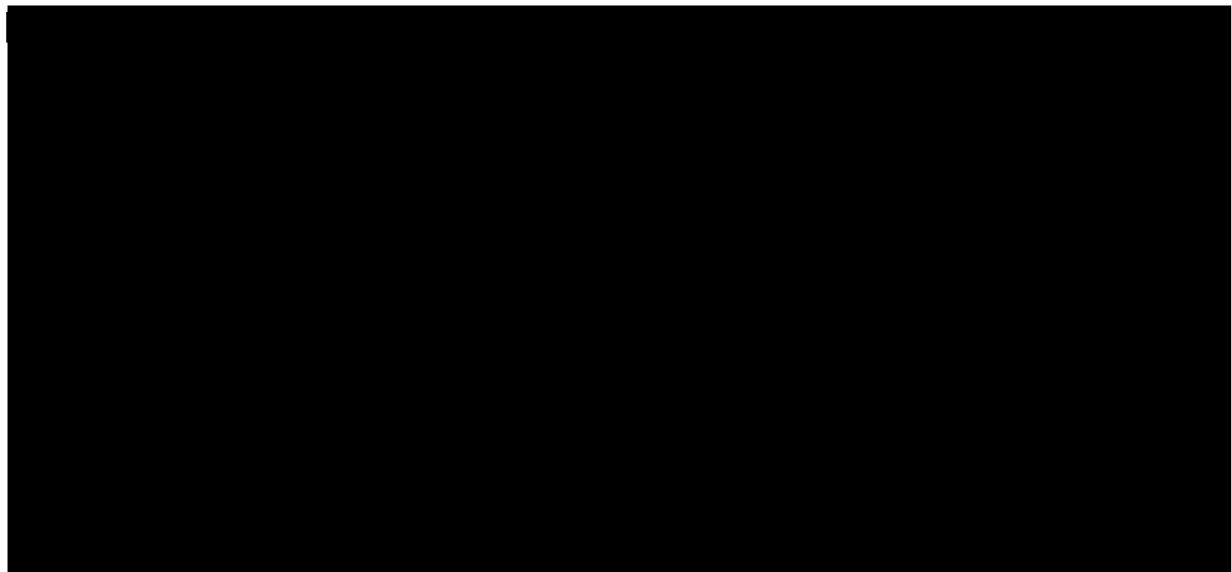




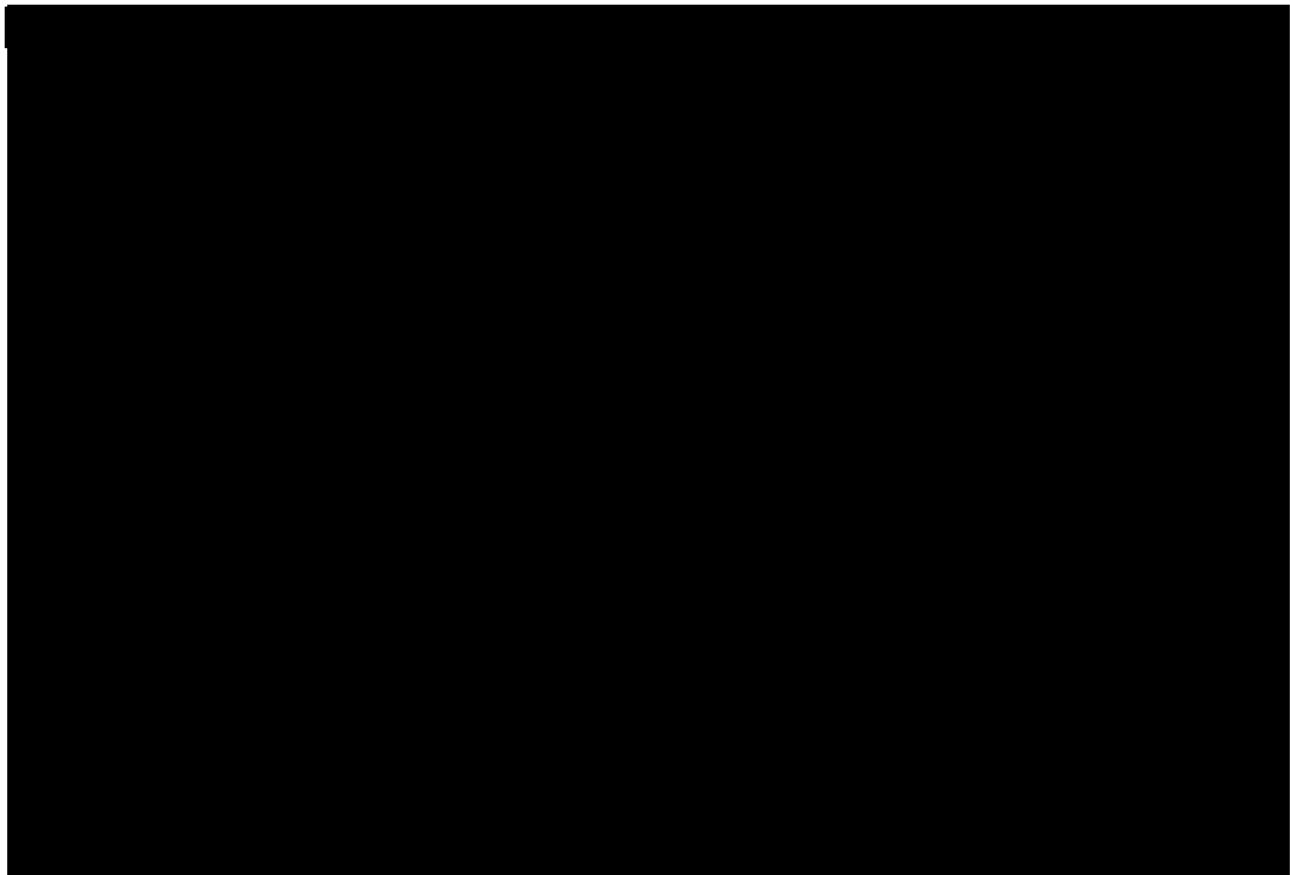
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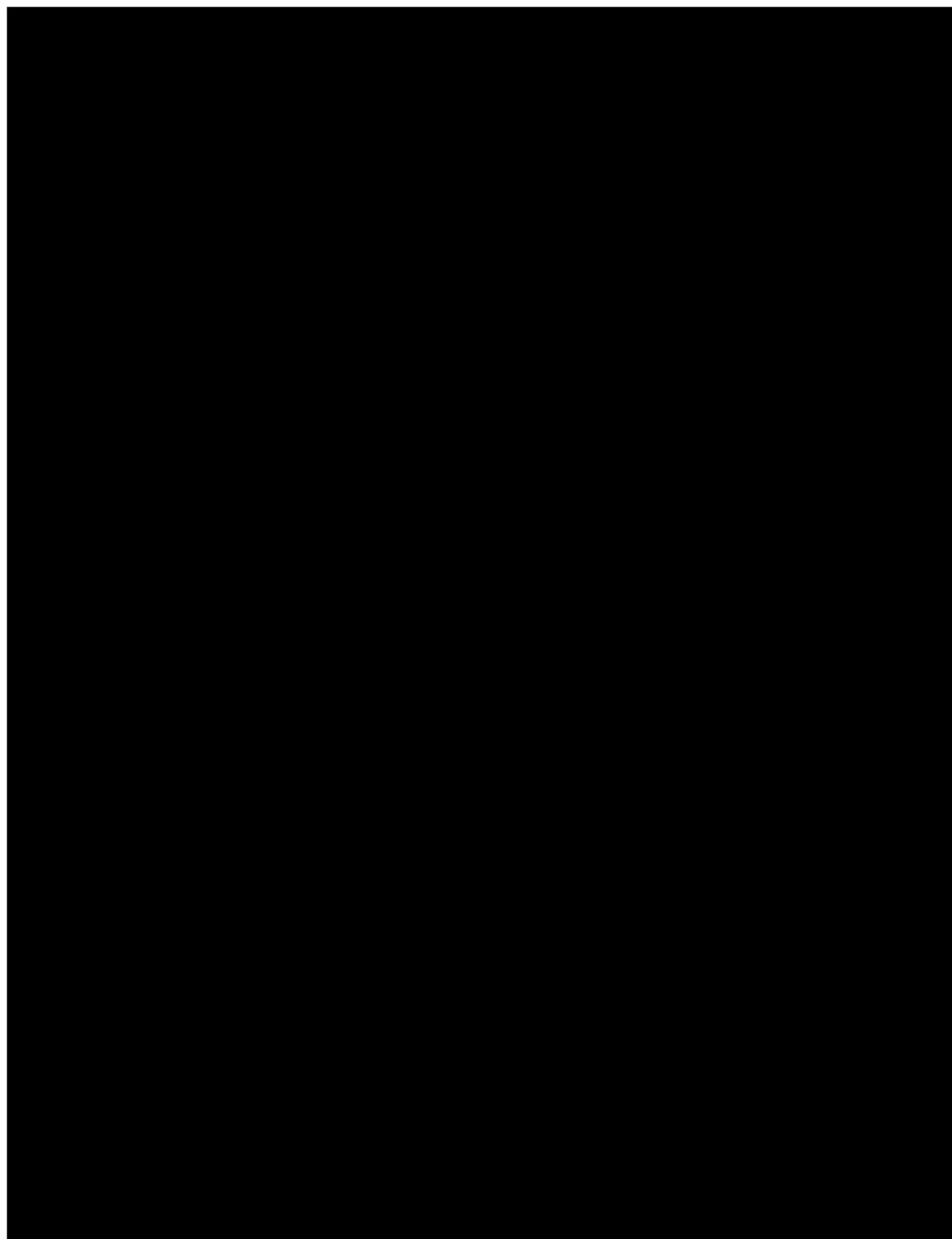
Promontory's subcontractor, Ernst & Young, LLP, will devote several senior staff to the engagement, led by:

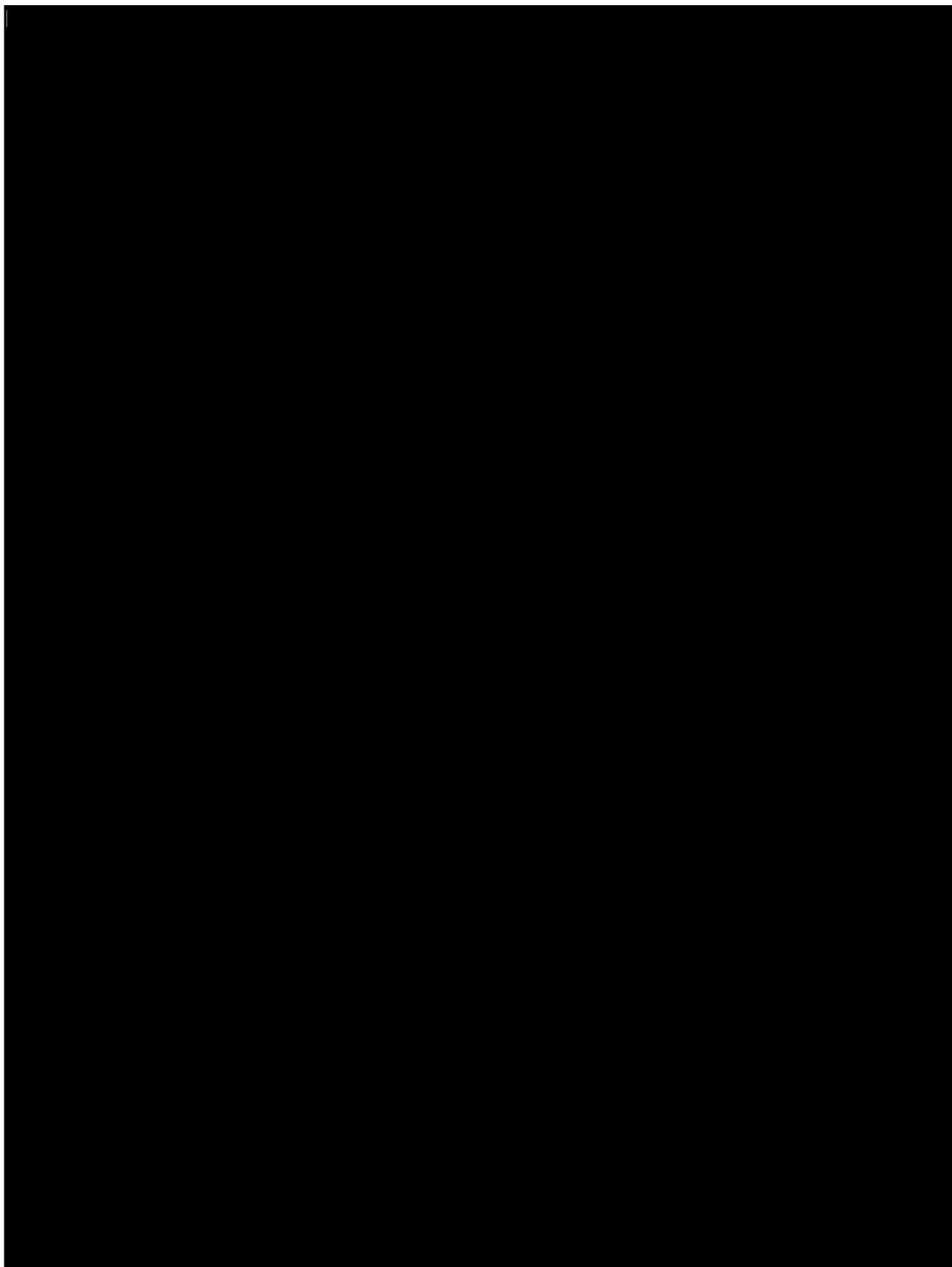




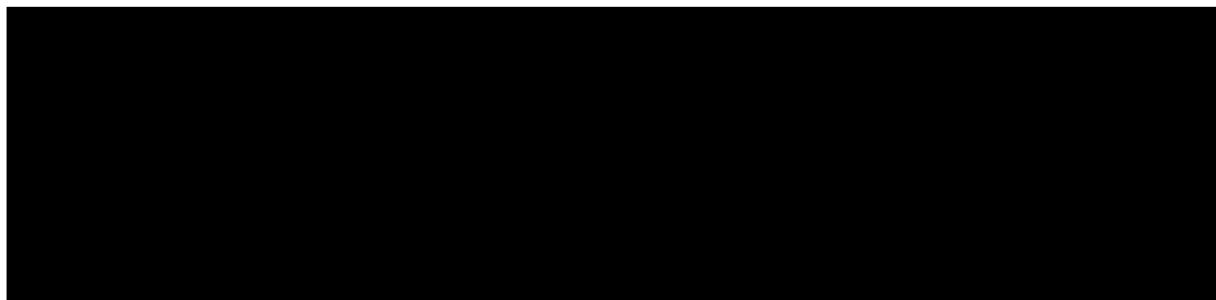
Finally, the following additional senior Promontory professionals are active on engagements relating to mortgage servicing at one or more Promontory clients and will be available as sources of technical and strategic advice to both BAC and to the Promontory leadership team described above:







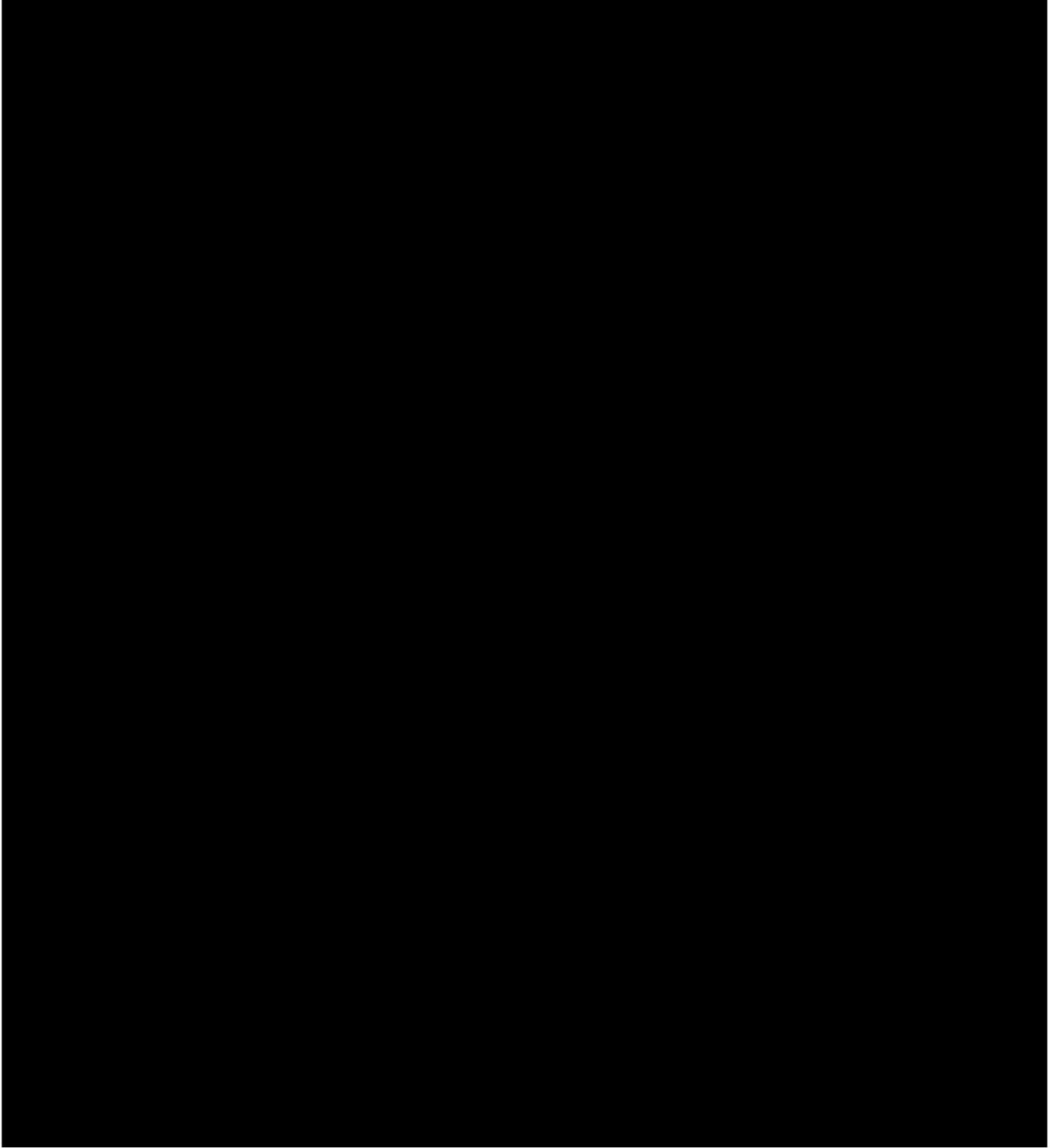
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Promontory may adjust the composition of its teams from time to time in response to client needs and logistical considerations.

Attachment C

Promontory's Conflicts of Interest Policy



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