

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL HOUSING FINANCE AGENCY,
AS CONSERVATOR FOR THE FEDERAL
NATIONAL MORTGAGE ASSOCIATION
AND THE FEDERAL HOME LOAN
MORTGAGE CORPORATION,

Plaintiff,

-against-

MERRILL LYNCH & CO., INC.; MERRILL
LYNCH, PIERCE, FENNER & SMITH INC.;
MERRILL LYNCH MORTGAGE
LENDING, INC.; MERRILL LYNCH
MORTGAGE CAPITAL INC.; FIRST
FRANKLIN FINANCIAL CORP.; MERRILL
LYNCH MORTGAGE INVESTORS, INC.;
MERRILL LYNCH GOVERNMENT
SECURITIES, INC.; MATTHEW WHALEN;
BRIAN T. SULLIVAN; MICHAEL M.
MCGOVERN; DONALD J. PUGLISI; PAUL
PARK; and DONALD C. HAN,

Defendants.

___ CIV. ___ (___)

COMPLAINT

JURY TRIAL DEMANDED

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Plaintiff Federal Housing Finance Agency (“FHFA”), as conservator of The Federal National Mortgage Association (“Fannie Mae”) and The Federal Home Loan Mortgage Corporation (“Freddie Mac”), by its attorneys, Quinn Emanuel Urquhart & Sullivan, LLP, for its Complaint herein against Merrill Lynch & Co., Inc. (“Merrill Lynch & Co.”), Merrill Lynch, Pierce, Fenner & Smith Inc. (“Merrill Lynch, Pierce, Fenner & Smith”), Merrill Lynch Mortgage Lending, Inc. (“Merrill Lynch Mortgage Lending”), Merrill Lynch Mortgage Capital Inc. (“Merrill Lynch Mortgage Capital”), First Franklin Financial Corp. (“First Franklin Financial”), Merrill Lynch Mortgage Investors, Inc. (“Merrill Lynch Mortgage Investors”), Merrill Lynch Government Securities, Inc. (“Merrill Lynch Government Securities”) (collectively, “Merrill Lynch”), Matthew Whalen, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi, Paul Park, and Donald C. Han (the “Individual Defendants”) (together with Merrill Lynch, the “Defendants”) alleges as follows:

NATURE OF ACTION

1. This action arises out of Defendants’ actionable conduct in connection with the offer and sale of certain residential mortgage-backed securities to Fannie Mae and Freddie Mac (collectively, the “Government Sponsored Enterprises” or “GSEs”). These securities were sold pursuant to registration statements, including prospectuses and prospectus supplements that formed part of those registration statements, which contained materially false or misleading statements and omissions. Defendants falsely represented that the underlying mortgage loans complied with certain underwriting guidelines and standards, including representations that significantly overstated the ability of the borrowers to repay their mortgage loans. These representations were material to the GSEs, as reasonable investors, and their falsity violates Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. § 77a *et seq.*, Section 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code, Sections 31-5606.05(a)(1)(B) and

31.5606.05(c) of the District of Columbia Code, and constitutes negligent misrepresentation, common law fraud, and aiding and abetting fraud.

2. Between September 29, 2005 and October 10, 2007, Fannie Mae and Freddie Mac purchased over \$24.853 billion in residential mortgage-backed securities (the “GSE Certificates”) issued in connection with 72 Merrill Lynch related entity-sponsored and/or Merrill Lynch, Pierce, Fenner & Smith underwritten securitizations.¹ The GSE Certificates purchased by Fannie Mae, along with the date and amount of the purchases, are listed *infra* in Table 12. The GSE Certificates purchased by Freddie Mac, along with the date and amount of the purchases, are listed *infra* in Table 13. The 72 securitizations (from which the GSEs purchased a total of 88 Certificates) at issue are:

Table 1

Full Name	Abbreviation
ARGENT SECURITIES INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2005-W4	ARSI 2005-W4
ARGENT SECURITIES INC., ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-M1	ARSI 2006-M1
C-BASS MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-CB8	CBASS 2006-CB8
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-1	FFMER 2007-1
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-2	FFMER 2007-2
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-3	FFMER 2007-3
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-4	FFMER 2007-4
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-5	FFMER 2007-5
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-H1	FFMER 2007-H1
FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005-FF12	FFML 2005-FF12
FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-FF18	FFML 2006-FF18

¹ For purposes of this Complaint, the securities issued under the Registration Statements (as defined in note 3 below) are referred to as “Certificates,” while the particular Certificates that Fannie Mae and Freddie Mac purchased are referred to as the “GSE Certificates.” Holders of Certificates are referred to as “Certificateholders.”

Full Name	Abbreviation
FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET - BACKED CERTIFICATES, SERIES 2007-FF1	FFML 2007-FF1
FIRST FRANKLIN MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-FF2	FFML 2007-FF2
FIELDSTONE MORTGAGE INVESTMENT TRUST MORTGAGE-BACKED NOTES, SERIES 2006-3	FMIC 2006-3
INDYMAC INDX MORTGAGE LOAN TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR33	INDX 2005-AR33
INDYMAC INDX MORTGAGE LOAN TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR5	INDX 2006-AR5
INDYMAC INDX MORTGAGE LOAN TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR7	INDX 2006-AR7
INDYMAC INDX MORTGAGE LOAN TRUST, SERIES 2007-FLX4	INDX 2007-FLX4
INDYMAC INDX MORTGAGE LOAN TRUST, SERIES 2007-FLX5	INDX 2007-FLX5
INDYMAC INDX MORTGAGE LOAN TRUST, SERIES 2007-FLX6	INDX 2007-FLX6
MERRILL LYNCH ALTERNATIVE NOTE ASSET TRUST, SERIES 2007-A1	MANA 2007-A1
MERRILL LYNCH ALTERNATIVE NOTE ASSET TRUST, SERIES 2007-A2	MANA 2007-A2
MERRILL LYNCH ALTERNATIVE NOTE ASSET TRUST, SERIES 2007-A3	MANA 2007-A3
MERRILL LYNCH MORTGAGE INVESTORS TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005-A8	MLMI 2005-A8
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2005-AR1	MLMI 2005-AR1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2005-HE2	MLMI 2005-HE2
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2005-HE3	MLMI 2005-HE3
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-A3	MLMI 2006-A3
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AF2	MLMI 2006-AF2
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-AHL1	MLMI 2006-AHL1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-AR1	MLMI 2006-AR1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-FF1	MLMI 2006-FF1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-FM1	MLMI 2006-FM1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-HE1	MLMI 2006-HE1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-HE4	MLMI 2006-HE4
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-HE5	MLMI 2006-HE5
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-HE6	MLMI 2006-HE6
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-MLN1	MLMI 2006-MLN1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-OPT1	MLMI 2006-OPT1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET -- BACKED CERTIFICATES, SERIES 2006-RM1	MLMI 2006-RM1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET -- BACKED CERTIFICATES, SERIES 2006-RM2	MLMI 2006-RM2
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET -- BACKED CERTIFICATES, SERIES 2006-RM3	MLMI 2006-RM3

Full Name	Abbreviation
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET -- BACKED CERTIFICATES, SERIES 2006-RM4	MLMI 2006-RM4
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET -- BACKED CERTIFICATES, SERIES 2006-RM5	MLMI 2006-RM5
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-WMC1	MLMI 2006-WMC1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-WMC2	MLMI 2006-WMC2
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2007-HE1	MLMI 2007-HE1
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2007-HE2	MLMI 2007-HE2
MERRILL LYNCH MORTGAGE INVESTORS TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2007-MLN1	MLMI 2007-MLN1
OPTION ONE MORTGAGE LOAN TRUST ASSET-BACKED CERTIFICATES, SERIES 2007-1	OOMLT 2007-1
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2005-4	OWNIT 2005-4
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET BACKED CERTIFICATES, SERIES 2005-5	OWNIT 2005-5
OWNIT MORTGAGE LOAN TRUST LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-1	OWNIT 2006-1
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-2	OWNIT 2006-2
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-3	OWNIT 2006-3
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-4	OWNIT 2006-4
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-5	OWNIT 2006-5
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-6	OWNIT 2006-6
OWNIT MORTGAGE LOAN TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-7	OWNIT 2006-7
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005- AB3	SURF 2005-AB3
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005- BC3	SURF 2005-BC3
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005- BC4	SURF 2005-BC4
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-AB2	SURF 2006-AB2
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- AB3	SURF 2006-AB3
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- BC1	SURF 2006-BC1
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- BC2	SURF 2006-BC2
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- BC3	SURF 2006-BC3
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- BC4	SURF 2006-BC4
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006- BC5	SURF 2006-BC5
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007- AB1	SURF 2007-AB1
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007- BC1	SURF 2007-BC1

Full Name	Abbreviation
SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007- BC2	SURF 2007-BC2

(collectively, the “Securitizations”).

3. The Certificates were offered for sale pursuant to one of ten shelf registration statements (the “Shelf Registration Statements”) filed with the Securities and Exchange Commission (the “SEC”). Defendant Merrill Lynch Mortgage Investors filed three Shelf Registration Statements that pertained to 62 of the 72 Securitizations at issue in this action. The Individual Defendants signed one or more of the three Shelf Registration Statements, and, the amendments thereto. Argent Securities Inc., IndyMac MBS Inc., Fieldstone Mortgage Investment Corp., and Option One Mortgage Acceptance Corp. each filed one or more of the seven remaining Shelf Registration Statements. With respect to all of the Securitizations, Merrill Lynch, Pierce, Fenner & Smith was the lead underwriter or co-lead underwriter. With respect to the Certificates purchased by Freddie Mac, all but one were purchased from Merrill Lynch, Pierce, Fenner & Smith; and, with respect to the Certificates purchased by Fannie Mae, all but one were purchased from Merrill Lynch Government Securities.

4. For each Securitization, a prospectus (“Prospectus”) and prospectus supplement (“Prospectus Supplement”) were filed with the SEC as part of the Registration Statement² for that Securitization. The GSE Certificates were marketed and sold to Fannie Mae and Freddie Mac pursuant to the Registration Statements, including the Shelf Registration Statements and the corresponding Prospectuses and Prospectus Supplements.

² The term “Registration Statement,” as used herein, incorporates the Shelf Registration Statement, the Prospectus, and the Prospectus Supplement for each referenced Securitization, except where otherwise indicated.

5. The Registration Statements contained statements about the characteristics and credit quality of the mortgage loans underlying the Securitizations, the creditworthiness of the borrowers of those underlying mortgage loans, and the origination and underwriting practices used to make and approve the loans. Such statements were material to a reasonable investor's decision to invest in mortgage-backed securities by purchasing the Certificates. Unbeknownst to Fannie Mae and Freddie Mac, these statements were materially false, as significant percentages of the underlying mortgage loans were not originated in accordance with the represented underwriting standards and origination practices, and had materially poorer credit quality than what was represented in the Registration Statements.

6. The Registration Statements also contained statistical summaries of the groups of mortgage loans in each Securitization, such as the percentage of loans secured by owner-occupied properties and the percentage of the loan group's aggregate principal balance with loan-to-value ratios within specified ranges. This information was also material to reasonable investors. However, a loan level analysis of a sample of loans for each Securitization – a review that encompassed thousands of mortgages across all of the Securitizations – has revealed that these statistics were also false and omitted material facts due to widespread falsification of borrowers' incomes and debts, inflated property values and misstatements of other key characteristics of the mortgage loans.

7. For example, the percentage of owner-occupied properties is a material risk factor to the purchasers of Certificates, such as Fannie Mae and Freddie Mac, since a borrower who lives in a mortgaged property is generally less likely to stop paying his or her mortgage and more likely to take better care of the property. The loan level review reveals that the true percentage of owner-occupied properties for the loans supporting the GSE Certificates was materially lower

than what was stated in the Prospectus Supplements. Likewise, the Prospectus Supplements misrepresented other material factors, including the true value of the mortgaged properties relative to the amount of the underlying loans, and the actual ability of the individual mortgage holders to satisfy their debts.

8. Defendants Merrill Lynch, Pierce, Fenner & Smith (which lead underwrote or co-lead underwrote the Certificates, and sold the Certificates to Freddie Mac), Merrill Lynch Government Securities (which sold the Certificates to Fannie Mae), Merrill Lynch Mortgage Investors (which acted as the depositor in 62 of the Securitizations), and the Individual Defendants (who signed the Registration Statements with respect to 62 of the Securitizations) are directly responsible for the misstatements and omissions of material fact contained in the Registration Statements because they prepared, signed, filed, and/or used these documents to market and sell the Certificates to Fannie Mae and Freddie Mac.

9. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and Merrill Lynch & Co. are also responsible for the misstatements and omissions of material fact contained in the Registration Statements by virtue of their direction and control over Defendants Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors. Merrill Lynch & Co. directly participated in and exercised dominion and control over the business operations of Defendants Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors.

10. Fannie Mae and Freddie Mac purchased over \$24.853 billion of the Certificates pursuant to the Registration Statements filed with the SEC. These documents contained misstatements and omissions of material facts concerning the quality of the underlying mortgage

loans, the creditworthiness of the borrowers, and the practices used to originate such loans. As a result of Defendants' misstatements and omissions of material fact, Fannie Mae and Freddie Mac have suffered substantial losses as the value of their holdings has significantly deteriorated.

11. FHFA, as Conservator of Fannie Mae and Freddie Mac, brings this action against the Defendants for violations of Sections 11, 12(a)(2), and 15 of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77(a)(2), 77o, Section 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code, Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code, and for negligent misrepresentation, common law fraud, and aiding and abetting fraud.

PARTIES

The Plaintiff and the GSEs

12. The Federal Housing Finance Agency is a federal agency located at 1700 G Street, NW in Washington, D.C. FHFA was created on July 30, 2008 pursuant to the Housing and Economic Recovery Act of 2008 ("HERA"), Pub. L. No. 110-289, 122 Stat. 2654 (2008) (codified at 12 U.S.C. § 4617), to oversee Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. On September 6, 2008, under HERA, the Director of FHFA placed Fannie Mae and Freddie Mac into conservatorship and appointed FHFA as conservator. In that capacity, FHFA has the authority to exercise all rights and remedies of the GSEs, including but not limited to, the authority to bring suits on behalf of and/or for the benefit of Fannie Mae and Freddie Mac. 12 U.S.C. § 4617(b)(2).

13. Fannie Mae and Freddie Mac are government-sponsored enterprises chartered by Congress with a mission to provide liquidity, stability and affordability to the United States housing and mortgage markets. As part of this mission, Fannie Mae and Freddie Mac invested in residential mortgage-backed securities. Fannie Mae is located at 3900 Wisconsin Avenue, NW in Washington, D.C. Freddie Mac is located at 8200 Jones Branch Drive in McLean, Virginia.

The Defendants

14. Defendant Merrill Lynch & Co., is the ultimate parent corporation of all of the Merrill Lynch Defendants. It is a Delaware corporation with its principal executive office located at 4 World Financial Center, 250 Vesey Street, New York, New York 10080. It is a holding company that, through its subsidiaries, purports to be a leading global trader and underwriter of securities and derivatives across a broad range of asset classes and serves as a strategic advisor to corporations, governments, institutions and individuals worldwide. On January 1, 2009, Merrill Lynch & Co. became a wholly owned subsidiary of Bank of America Corporation.

15. Defendant Merrill Lynch Mortgage Lending, is a Delaware corporation with its principal place of business located at 4 World Financial Center, 250 Vesey Street, New York, New York 10080. It is a wholly owned subsidiary of Merrill Lynch Mortgage Capital. It is engaged in the business of, among other things, acquiring residential mortgage loans and selling those loans through Securitization programs. It acted as the sponsor or co-sponsor for 55 of the Securitizations at issue.

16. Defendant Merrill Lynch Mortgage Capital is a Delaware corporation with its principal place of business located at One Bryant Park, New York, New York 10036. It is a wholly owned subsidiary of Merrill Lynch & Co. It is engaged in the business of, among other things, acquiring residential mortgage loans and selling those loans through Securitization programs. It acted as the co-sponsor for one of the Securitizations at issue in this action.

17. Defendant First Franklin Financial is a Georgia corporation with its principal place of business located at 2150 North 1st Street, San Jose, California 95131. It is a wholly owned subsidiary of Merrill Lynch Mortgage Capital. First Franklin Financial regularly engaged in business in New York including, without limitation, extending loans. It is engaged in the

business of, among other things, acquiring residential mortgage loans and selling those loans through Securitization programs. It acted as the sponsor for five of the Securitizations at issue in this action.

18. Defendant Merrill Lynch, Pierce, Fenner & Smith is a Delaware corporation and registered broker-dealer with its principal place of business located at 4 World Financial Center, 250 Vesey Street, New York, New York 10080. Merrill Lynch, Pierce, Fenner & Smith acted as the lead underwriter or co-lead underwriter for each Securitization, and as the underwriter participated in the drafting and dissemination of the Offering Materials pursuant to which the Certificates were sold to Fannie Mae and Freddie Mac. Defendant Merrill Lynch, Pierce, Fenner & Smith was the lead underwriter or co-lead underwriter for each of the 72 Securitizations, and was intimately involved in the offerings. Furthermore, Freddie Mac purchased 47 of the GSE Certificates from Merrill Lynch, Pierce, Fenner & Smith.

19. Defendant Merrill Lynch Mortgage Investors, is a Delaware corporation and an indirect subsidiary of Merrill Lynch & Co., with its principal place of business located at 4 World Financial Center, 250 Vesey Street, New York, New York 10080. It was the depositor for 62 of the Securitizations at issue here, the registrant for three of the Registration Statements filed with the SEC, and the issuer for certain of the offerings at issue in this action. The depositor is considered the issuer of the Certificates within the meaning of Section 2(a)(4) of the Securities Act of 1933, 15 U.S.C. § 77b(a)(4), and in accordance with Section 11(a), 15 U.S.C. § 77k(a). Merrill Lynch Mortgage Investors, as depositor, was also responsible for preparing and filing reports required under the Securities Exchange Act of 1934.

20. Defendant Merrill Lynch Government Securities, is a Delaware corporation with its principal place of business located at One Bryant Park, New York, NY 10036. It is a wholly

owned subsidiary of Merrill Lynch & Co. Fannie Mae purchased 39 of the GSE Certificates from Merrill Lynch Government Securities.³

21. Defendant Matthew Whalen served at the time of the Securitizations as President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors, and worked in New York. Defendant Whalen signed two of the Shelf Registration Statements and the amendments thereto that are at issue in this action, and did so in New York.

22. Defendant Brian T. Sullivan served at the time of the Securitizations as the Vice President, Treasurer (Principal Financial Officer), and Controller of Merrill Lynch Mortgage Investors, and worked in New York. Defendant Sullivan signed three of the Shelf Registration Statements and two of the amendments thereto that are at issue in this action, and did so in New York.

23. Defendant Michael M. McGovern served at the time of the Securitizations as a Director of Merrill Lynch Mortgage Investors and Senior Counsel of Merrill Lynch, and worked in New York. Defendant McGovern signed three of the Shelf Registration Statements and the amendments thereto that are at issue in this action, and did so in New York.

24. Defendant Donald J. Puglisi served at the time of the Securitizations as a Director of Merrill Lynch Mortgage Investors, and worked in New York. Defendant Puglisi signed three of the Shelf Registration Statements and the amendments thereto that are at issue in this action, and did so in New York.

25. Defendant Paul Park served at the time of the Securitizations as the President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors, and worked in New

³ The two remaining GSE Certificates were purchased by Fannie Mae and Freddie Mac from Lehman Brothers, Inc.

York. Defendant Park signed one of the Shelf Registration Statements and the amendments thereto that are at issue in this action, and did so in New York.

26. Defendant Donald C. Han served at the time of the Securitizations as the Treasurer of Merrill Lynch Mortgage Investors, and worked in New York. Defendant Han signed one of the Shelf Registration Statements that is at issue in this action., and did so in New York

The Non-Party Originators

27. The loans underlying the Certificates were acquired by the sponsor for each Securitization from non-party mortgage originators.⁴ The originators principally responsible for the loans underlying the Certificates were First NLC Financial Services, LLC. (“First NLC”); ResMAE Mortgage Corporation (“ResMAE”); WMC Mortgage Corp. (“WMC”); GreenPoint Mortgage Funding, Inc. (“GreenPoint”); Fremont Investment & Loan (“Fremont”); National City Mortgage Co. (“National City”); and Option One Mortgage Corporation (“Option One”).

JURISDICTION AND VENUE

28. Jurisdiction of this Court is founded upon 28 U.S.C. § 1345, which gives federal courts original jurisdiction over claims brought by FHFA in its capacity as conservator of Fannie Mae and Freddie Mac.

29. Jurisdiction of this Court is also founded upon 28 U.S.C. § 1331 because the Securities Act claims asserted herein arise under Sections 11, 12(a)(2), and 15 of the Securities

⁴ Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were the sponsors for 60 of the 72 Securitizations. The remaining 12 Securitizations had sponsors who are not parties. Ameriquest Mortgage Company, Credit-Based Asset Servicing and Securitization LLC, Fieldstone Investment Corp., IndyMac Bank F.S.B, and Option One Mortgage Corp. each were the sponsors for one or more of those 12 Securitizations.

Act of 1933, 15 U.S.C. §§ 77k, 77l(a)(2), and 77o. This Court further has jurisdiction over the Securities Act claims pursuant to Section 22 of the Securities Act of 1933, 15 U.S.C. § 77v.

30. This Court has jurisdiction over the statutory claims of violations of Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code and Sections 31-5606.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code pursuant to this Court's supplemental jurisdiction under 28 U.S.C. § 1367(a). This Court also has jurisdiction over the common law claims of negligent misrepresentation, fraud, and aiding and abetting fraud pursuant to this Court's supplemental jurisdiction under 28 U.S.C. § 1367(a).

31. Venue is proper in this district pursuant to Section 22 of the Securities Act of 1933, 15 U.S.C. § 77v, and 28 U.S.C. § 1391(b). The Merrill Lynch Defendants do business in or derive substantial revenue from activities carried out in New York and all but one of the Merrill Lynch Defendants, including the parent company Merrill Lynch & Co., have their principal place of business in the state. Many of the acts and transactions alleged herein, including the preparation and dissemination of the Registration Statements, occurred in substantial part in the State of New York. Additionally, the GSE Certificates were actively marketed and sold from this State, and several of the Defendants can be found and transact business in this District. Defendants are also subject to personal jurisdiction in this District.

FACTUAL ALLEGATIONS

I. THE SECURITIZATIONS

A. Residential Mortgage-Backed Securitizations In General

32. Asset-backed securitization distributes risk by pooling cash-producing financial assets and issuing securities backed by those pools of assets. In residential mortgage-backed securitizations, the cash-producing financial assets are residential mortgage loans.

33. The most common form of securitization of mortgage loans involves a sponsor – the entity that acquires or originates the mortgage loans and initiates the securitization – and the creation of a trust, to which the sponsor directly or indirectly transfers a portfolio of mortgage loans. The trust is established pursuant to a Pooling and Servicing Agreement entered into by, among others, the “depositor” for that securitization. In many instances, the transfer of assets to a trust “is a two-step process: the financial assets are transferred by the sponsor first to an intermediate entity, often a limited purpose entity created by the sponsor . . . and commonly called a depositor, and then the depositor will transfer the assets to the [trust] for the particular asset-backed transactions.” Asset-Backed Securities, Securities Act Release No. 33-8518, Exchange Act Release No. 34-50905, 84 SEC Docket 1624 (Dec. 22, 2004).

34. Residential mortgage-backed securities are backed by the underlying mortgage loans. Some residential mortgage-backed securitizations are created from more than one cohort of loans called collateral groups, in which case the trust issues securities backed by different groups. For example, a securitization may involve two groups of mortgages, with some securities backed primarily by the first group, and others primarily by the second group. Purchasers of the securities acquire an ownership interest in the assets of the trust, which in turn owns the loans. Within this framework, the purchasers of the securities acquire rights to the cash-flows from the designated mortgage group, such as homeowners’ payments of principal and interest on the mortgage loans held by the related trust.

35. Residential mortgage-backed securities are issued pursuant to registration statements filed with the SEC. These registration statements include prospectuses, which explain the general structure of the investment, and prospectus supplements, which contain detailed descriptions of the mortgage groups underlying the certificates. Certificates are issued by the

trust pursuant to the registration statement and the prospectus and prospectus supplement.

Underwriters sell the certificates to investors.

36. A mortgage servicer is necessary to manage the collection of proceeds from the mortgage loans. The servicer is responsible for collecting homeowners' mortgage loan payments, which the servicer remits to the trustee after deducting a monthly servicing fee. The servicer's duties include making collection efforts on delinquent loans, initiating foreclosure proceedings, and determining when to charge off a loan by writing down its balance. The servicer is required to report key information about the loans to the trustee. The trustee (or trust administrator) administers the trust's funds and delivers payments due each month on the certificates to the investors.

B. The Securitizations At Issue In This Case

37. This case involves the 72 Securitizations listed in paragraph 2 *supra*, 60 of which were sponsored by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial Corporation and all of which were underwritten by Merrill Lynch, Pierce, Fenner & Smith. For each of the 72 Securitizations, Table 2 identifies: (1) the sponsor; (2) the depositor; (3) the lead underwriter; (4) the principal amount issued for the tranches⁵ purchased by the GSEs; (5) the date of issuance; and (6) the loan group or groups backing the GSE Certificate for that Securitization (referred to as the "Supporting Loan Groups").

Table 2

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
ARSI 2005-W4	A1B	Ameriquest Mortgage Company	Argent Securities, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$344,465,000	November 22, 2005	Group 1

⁵ A tranche is one of a series of certificates or interests created and issued as part of the same transaction.

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
ARSI 2005-W4	A1A2	Ameriquest Mortgage Company	Argent Securities, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$687,112,000	November 22, 2005	Group I
ARSI 2005-W4	A1A3	Ameriquest Mortgage Company	Argent Securities, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$151,807,000	November 22, 2005	Group I
ARSI 2006-M1	A1	Ameriquest Mortgage Company	Argent Securities, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$1,401,905,000	June 28, 2006	Group I
CBASS 2006-CB8	A1	Credit-Based Asset Servicing and Securitization, LLC	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$183,951,000	October 30, 2006	Group I
FFMER 2007-1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$725,544,000	On or about March 27, 2007	Group I
FFMER 2007-2	A1	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$588,366,000	April 26, 2007	Group I
FFMER 2007-3	A1A	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$285,760,000	May 30, 2007	Group I
FFMER 2007-3	A1C	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$205,174,000	May 30, 2007	Group I
FFMER 2007-3	A1D	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$33,199,000	May 30, 2007	Group I
FFMER 2007-3	M11	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$35,135,000	May 30, 2007	Group I
FFMER 2007-3	M21	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$28,590,000	May 30, 2007	Group I
FFMER 2007-3	M31	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$7,922,000	May 30, 2007	Group I
FFMER 2007-3	M41	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$9,989,000	May 30, 2007	Group I
FFMER 2007-4	1A	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$509,625,000	June 26, 2007	Group I

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
FFMER 2007-4	1M1	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$34,062,000	June 26, 2007	Group I
FFMER 2007-4	1M2	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$23,356,000	June 26, 2007	Group I
FFMER 2007-4	1M3	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$12,327,000	June 26, 2007	Group I
FFMER 2007-5	1A	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$241,175,000	October 10, 2007	Group I
FFMER 2007-H1	1A1	First Franklin Financial Corporation	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$295,640,000	October 9, 2007	Group I
FFML 2005-FF12	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$663,543,000	December 28, 2005	Group I
FFML 2006-FF18	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$689,394,000	December 28, 2006	Group I
FFML 2007-FF1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$608,774,000	January 26, 2007	Group I
FFML 2007-FF2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$1,021,839,000	February 28, 2007	Group I
FMIC 2006-3	1A	Fieldstone Investment Corporation	Fieldstone Mortgage Investment Corporation	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$221,277,000	October 27, 2006	Group 1
INDX 2005-AR33	2A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$234,872,000	December 29, 2005	Group 2
INDX 2006-AR5	1A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$210,047,000	March 30, 2006	Group 1
INDX 2006-AR7	2A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$341,217,000	March 30, 2006	Group 2
INDX 2007-FLX4	1A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$127,861,000	May 30, 2007	Group 1

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
INDX 2007-FLX5	1A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$96,711,000	June 27, 2007	Group 1
INDX 2007-FLX6	1A1	IndyMac Bank, F.S.B	IndyMac MBS, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$94,391,000	July 30, 2007	Group 1
MANA 2007-A1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$68,226,000	February 9, 2007	Group I
MANA 2007-A2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$180,475,000	March 30, 2007	Group I
MANA 2007-A2	A2A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$165,226,000	March 30, 2007	Group 2
MANA 2007-A3	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$189,695,000	April 30, 2007	Group 1
MLMI 2005-A8	A2A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$182,596,000	November 15, 2005	Group 2
MLMI 2005-A8	A2B1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$178,723,000	November 15, 2005	Group 2
MLMI 2005-AR1	A2	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$250,727,000	September 29, 2005	Group 2
MLMI 2005-HE2	A1A	Merrill Lynch Mortgage Capital, Inc. and Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$236,060,000	November 30, 2005	Group 1
MLMI 2005-HE2	A1B	Merrill Lynch Mortgage Capital, Inc. and Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$59,015,000	November 30, 2005	Group 1
MLMI 2005-HE3	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$335,591,000	December 28, 2005	Group 1
MLMI 2006-A3	IIA1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$89,730,000	May 31, 2006	Group 2

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
MLMI 2006-AF2	AV1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$125,408,000	October 30, 2006	Group 2
MLMI 2006-AHL1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$160,748,000	June 29, 2006	Group I
MLMI 2006-AR1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$333,038,000	April 27, 2006	Group I
MLMI 2006-FF1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$1,098,020,000	December 27, 2006	Group I
MLMI 2006-FM1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$204,693,000	June 30, 2006	Group I
MLMI 2006-HE1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$355,063,000	February 7, 2006	Group I
MLMI 2006-HE4	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$125,624,000	July 25, 2006	Group I
MLMI 2006-HE5	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$169,018,000	September 28, 2006	Group I
MLMI 2006-HE6	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$250,830,000	December 28, 2006	Group I
MLMI 2006-MLN1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$316,858,000	September 29, 2006	Group I
MLMI 2006-OPT1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$469,721,000	September 26, 2006	Group I
MLMI 2006-RM1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$171,181,000	March 21, 2006	Group I
MLMI 2006-RM2	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$411,649,000	May 31, 2006	Group I
MLMI 2006-RM3	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$227,029,000	June 30, 2006	Group I

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
MLMI 2006-RM4	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$176,227,000	September 27, 2006	Group I
MLMI 2006-RM5	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$138,699,000	October 27, 2006	Group I
MLMI 2006-WMC1	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$419,318,000	On or about February 14, 2006	Group I
MLMI 2006-WMC2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$493,651,000	March 30, 2006	Group I
MLMI 2007-HE1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$354,933,000	March 8, 2007	Group 1
MLMI 2007-HE2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$431,956,000	March 30, 2007	Group 1
MLMI 2007-MLN1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$415,943,000	April 26, 2007	Group 1
OOMLT 2007-1	IA2	Option One Mortgage Corporation	Option One Mortgage Acceptance Corporation	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$ 259,609,000	January 24, 2007	Group 1
OOMLT 2007-1	IA1	Option One Mortgage Corporation	Option One Mortgage Acceptance Corporation	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$ 259,610,000	January 24, 2007	Group 1
OWNIT 2005-4	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$285,517,000	October 28, 2005	Group 1
OWNIT 2005-5	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$205,391,000	December 28, 2005	Group 1
OWNIT 2006-1	AV	Credit-Based Asset Servicing and Securitization, LLC	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$225,112,000	January 30, 2006	Group 1
OWNIT 2006-2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$221,310,000	March 9, 2006	Group 1
OWNIT 2006-3	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$180,115,000	On or about April 13, 2006	Group 1

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
OWNIT 2006-4	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$243,564,000	June 26, 2006	Group 1
OWNIT 2006-5	A1B	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$27,738,000	July 27, 2006	Group 1
OWNIT 2006-5	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$110,953,000	July 27, 2006	Group 1
OWNIT 2006-6	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$113,153,000	September 28, 2006	Group 1
OWNIT 2006-7	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$184,746,000	November 3, 2006	Group 1
SURF 2005-AB3	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$135,861,000	December 28, 2005	Group 1
SURF 2005-BC3	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$302,990,000	September 29, 2005	Group 1
SURF 2005-BC4	A1A	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$470,632,000	December 20, 2005	Group 1
SURF 2006-AB2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$194,773,000	May 31, 2006	Group I
SURF 2006-AB3	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$190,723,000	September 26, 2006	Group 1
SURF 2006-BC1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$583,827,000	On or about February 21, 2006	Group 1
SURF 2006-BC2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$173,248,000	March 30, 2006	Group 1
SURF 2006-BC3	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$384,110,000	June 27, 2006	Group 1
SURF 2006-BC4	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$439,858,000	September 27, 2006	Group 1

Transaction	Tranche	Sponsor/Seller	Depositor	Lead Underwriter	Principal Amount Issued (\$)	Date of Issuance	Supporting Loan Group(s)
SURF 2006-BC5	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$258,105,000	November 28, 2006	Group 1
SURF 2007-AB1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$127,954,000	March 26, 2007	Group 1
SURF 2007-BC1	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$294,133,000	January 24, 2007	Group 1
SURF 2007-BC2	A1	Merrill Lynch Mortgage Lending, Inc.	Merrill Lynch Mortgage Investors, Inc.	Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$174,640,000	April 24, 2007	Group 1

C. The Securitization Process

1. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial Grouped Mortgage Loans in Special Purpose Trusts

38. As the sponsors for 60 of the 72 Securitizations, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial purchased the mortgage loans underlying the Certificates for those 60 Securitizations after the loans were originated, either directly from the originators or through affiliates of the originators.⁶

39. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial then sold the mortgage loans for the 60 Securitizations that they sponsored to a depositor, which was a Merrill Lynch affiliated entity: Merrill Lynch Mortgage Investors. With respect to two of the remaining 12 Securitizations, non-party sponsor Credit-Based Asset Servicing and Securitization LLC sold the mortgage loans to Defendant Merrill Lynch Mortgage Investors, as depositor. With respect to the remaining ten Securitizations, non-party sponsors

⁶ Non-party sponsors Ameriquest Mortgage Company, Credit-Based Asset Servicing and Securitization LLC, Fieldstone Investment Corp., IndyMac Bank F.S.B, and Option One Mortgage Corp. were each a Sponsor of one or more of the remaining 12 Securitizations. The sponsor for each Securitization is included in Table 2, *supra* at paragraph 37.

sold the mortgage loans to non-party depositors, as reflected in Table 2, *supra* at paragraph 37; Defendant Merrill Lynch, Pierce, Fenner & Smith was the lead underwriter or co-lead underwriter for those ten Securitizations and sold three of those Securitizations to Freddie Mac, while Defendant Merrill Lynch Government Securities sold seven of those ten Securitizations to Fannie Mae.⁷

40. Merrill Lynch Mortgage Investors, is a wholly-owned, subsidiary of Merrill Lynch & Co. The sole purpose of Merrill Lynch Mortgage Investors as depositor was to act as a conduit through which loans acquired by the sponsors can be securitized and interests in those loans sold to investors.

41. As depositors for 62 of the Securitizations, Merrill Lynch Mortgage Investors, transferred the relevant mortgage loans to the trusts. As part of each of the Securitizations, the trustee, on behalf of the Certificateholders, executed a Pooling and Servicing Agreement (“PSA”) with the relevant depositor and the parties responsible for monitoring and servicing the mortgage loans in that Securitization. The trust, administered by the trustee, held the mortgage loans pursuant to the related PSA and issued Certificates, including the GSE Certificates, backed by such loans. The GSEs purchased the GSE Certificates, through which they obtained an ownership interest in the assets of the trust including the mortgage loans.

2. The Trusts Issue Securities Backed by the Loans

42. Once the mortgage loans were transferred to the trusts in accordance with the PSAs, each trust issued Certificates backed by the underlying mortgage loans. The Certificates were then sold to investors like Fannie Mae and Freddie Mac, which thereby acquired an ownership interest in the assets of the corresponding trust. Each Certificate entitles its holder to

⁷ The two remaining GSE Certificates were purchased by Fannie Mae and Freddie Mac from Lehman Brothers, Inc.

a specified portion of the cashflows from the underlying mortgages in the Supporting Loan Group. The level of risk inherent in the Certificates is a function of the capital structure of the related transaction and the credit quality of those underlying mortgages.

43. The Certificates were issued pursuant to one of ten Shelf Registration Statements filed with the SEC on a Form S-3. The Shelf Registration Statements were amended by one or more Forms S-3/A filed with the SEC. Each Individual Defendant signed one or more of the three Shelf Registration Statements, including any amendments thereto, which were filed by Merrill Lynch Mortgage Investors. The SEC filing number, registrants, signatories and filing dates for the ten Shelf Registration Statements and amendments thereto, as well as the Certificates covered by each Shelf Registration Statement, are reflected in Table 3 below.

Table 3

SEC File Number	Date Registration Statement Filed	Date(s) Amended Registration Statements Filed	Registrant(s)	Covered Certificates	Signatories of Registration Statement	Signatories of Amendments
333-130545	12/21/2005	2/24/2006, 3/21/2006, 3/28/2006	Merrill Lynch Mortgage Investors, Inc.	CBASS 2006-CB8, FFML 2006-FF18, FFML 2007-FF1, FFML 2007-FF2, MANA 2007-A1, MLMI 2006-A3, MLMI 2006-AF2, MLMI 2006-AHL1, MLMI 2006-AR1, MLMI 2006-FF1, MLMI 2006-FM1, MLMI 2006-HE4, MLMI 2006-HE5, MLMI 2006-HE6, MLMI 2006-MLN1, MLMI 2006-OPT1, MLMI 2006-RM2, MLMI 2006-RM3, MLMI 2006-RM4, MLMI 2006-RM5, MLMI 2007-HE1, OWNIT 2006-3, OWNIT 2006-4, OWNIT 2006-5, OWNIT 2006-6, OWNIT 2006-7, SURF 2006-AB2, SURF 2006-AB3, SURF 2006-BC3, SURF 2006-BC4, SURF 2006-BC5, SURF 2007-AB1, SURF 2007-BC1	Matthew Whalen, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi	Matthew Whalen, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi
333-140436	2/2/2007	3/7/2007	Merrill Lynch Mortgage Investors, Inc.	FFMER 2007-1, FFMER 2007-2, FFMER 2007-3, FFMER 2007-4, FFMER 2007-5, FFMER 2007-H1, MANA 2007-A2, MANA 2007-A3, MLMI 2007-HE2, MLMI 2007-MLN1, SURF 2007-BC2	Paul Park, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi	Paul Park, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi

SEC File Number	Date Registration Statement Filed	Date(s) Amended Registration Statements Filed	Registrant(s)	Covered Certificates	Signatories of Registration Statement	Signatories of Amendments
333-127233	8/5/2005	8/17/2005	Merrill Lynch Mortgage Investors, Inc.	FFML 2005-FF12, MLMI 2005-A8, MLMI 2005-AR1, MLMI 2005-HE2, MLMI 2005-HE3, MLMI 2006-HE1, MLMI 2006-RM1, MLMI 2006-WMC1, MLMI 2006-WMC2, OWNIT 2005-4, OWNIT 2005-5, OWNIT 2006-1, OWNIT 2006-2, SURF 2005-AB3, SURF 2005-BC3, SURF 2005-BC4, SURF 2006-BC1, SURF 2006-BC2	Matthew Whalen, Donald C. Han, Michael M. McGovern, Donald J. Puglisi	Matthew Whalen, Brian T. Sullivan, Michael M. McGovern, Donald J. Puglisi
333-131895	2/16/2006	3/17/2006	Argent Securities, Inc.	ARSI 2006-M1	Adam J. Bass, John P. Grazer and Andrew L. Stidd	Adam J. Bass, John P. Grazer and Andrew L. Stidd
333-127556	8/15/2005	Not applicable	IndyMac MBS, Inc.	INDX 2006-AR5, INDX 2005-AR33, INDX 2006-AR7	John Olinski, S. Blair Abernathy, Lynnette Antosh and Samir Grover	Not applicable
333-132444	3/15/2006	5/8/2006, 5/31/2006	Fieldstone Mortgage Investment Corporation	FMIC 2006-3	John C. Kendall, Michael J. Sonnenfeld, Nayan V. Kisnadwala	5/8/2006: John C. Kendall, Michael J. Sonnenfeld, Nayan V. Kisnadwala; 5/31/2006: John C. Kendall, Michael J. Sonnenfeld, Nayan V. Kisnadwala
333-121782	12/30/2004	1/12/2006	Argent Securities, Inc.	ARSI 2005-W4	Adam J. Bass, John P. Grazer, and Andrew L. Stidd	Adam J. Bass, John P. Grazer, and Andrew L. Stidd

SEC File Number	Date Registration Statement Filed	Date(s) Amended Registration Statements Filed	Registrant(s)	Covered Certificates	Signatories of Registration Statement	Signatories of Amendments
333-132042	2/24/2006	3/29/2006, 4/13/2006, 6/5/2007	IndyMac MBS, Inc.	INDX 2007-FLX4	John Olinski, S. Blair Abernathy, Raphael Bostic, Samir Grover and Victor H. Woodworth	3/29/2006: Simon Heyrick, Victor H. Woodworth, John Olinski, S. Blair Abernathy and Raphael Bostic; 4/13/2006: Victor H. Woodworth, John Olinski, S. Blair Abernathy, Simon Heyrick and Raphael Bostic; 6/5/2007 Victor H. Woodworth, John Olinski, S. Blair Abernathy, Simon Heyrick and Raphael Bostic
333-140726	2/14/2007	3/1/2007, 6/6/2007, 6/19/2007	IndyMac MBS, Inc.	INDX 2007-FLX5, INDX 2007-FLX6	John Olinski, S. Blair Abernathy, Raphael Bostic, Simon Heyrick, Victor H. Woodworth	John Olinski, S. Blair Abernathy, Raphael Bostic, Simon Heyrick, Victor H. Woodworth
333-130870	1/5/2006	3/31/2006, 3/30/2006, 3/17/2006, 3/02/2006, 2/10/2006	Option One Mortgage Acceptance Corporation	OOMLT 2007-1	Robert E. Dubrish, Steven L. Nadon and William L. O'Neill	Robert E. Dubrish, Steven L. Nadon and William L. O'Neill

44. The Prospectus Supplement for each Securitization describes the underwriting guidelines that purportedly were used in connection with the origination of the underlying mortgage loans. In addition, the Prospectus Supplements purport to provide accurate statistics regarding the mortgage loans in each group, including the ranges of and weighted average FICO credit scores of the borrowers, the ranges of and weighted average loan-to-value ratios of the loans, the ranges of and weighted average outstanding principal balances of the loans, the debt-to-income ratios, the geographic distribution of the loans, the extent to which the loans were for purchase or refinance purposes, and information concerning whether the loans were secured by a

property to be used as a primary residence, second home, or investment property; and information concerning whether the loans were delinquent.

45. The Prospectus Supplements associated with each Securitization were filed with the SEC as part of the Registration Statements. The Form 8-Ks attaching the PSAs for the majority of the Securitizations were also filed with the SEC. The date on which the Prospectus Supplement and Form 8-K were filed for each Securitization, as well as the filing number of the Shelf Registration Statement related to each, are set forth in Table 4 below.

Table 4

Transaction	Date Prospectus Supplement Filed	Date Form 8-K Attaching PSA Filed	Filing Number of Related Registration Statement
ARSI 2005-W4	11/22/2005	12/7/2005	333-121782
ARSI 2006-M1	6/23/2006	7/21/2006	333-131895
CBASS 2006-CB8	11/1/2006	11/14/2006	333-130545
FFMER 2007-1	3/27/2007	Not applicable	333-140436
FFMER 2007-2	4/27/2007	5/11/2007	333-140436
FFMER 2007-3	5/30/2007	6/14/2007	333-140436
FFMER 2007-4	6/26/2007	7/11/2007	333-140436
FFMER 2007-5	10/10/2007	10/25/2007	333-140436
FFMER 2007-H1	10/11/2007	10/24/2007	333-140436
FFML 2005-FF12	1/6/2006	1/12/2006	333-127233
FFML 2006-FF18	12/26/2006	1/12/2007	333-130545
FFML 2007-FF1	1/25/2007	2/12/2007	333-130545
FFML 2007-FF2	2/28/2007	3/15/2007	333-130545
FMIC 2006-3	10/26/2006	11/7/2006	333-132444
INDX 2005-AR33	12/30/2005	1/30/2006	333-127556
INDX 2006-AR5	4/3/2006	4/14/2006	333-127556
INDX 2006-AR7	4/3/2006	4/14/2006	333-127556
INDX 2007-FLX4	6/4/2007	6/20/2007	333-132042
INDX 2007-FLX5	7/2/2007	7/13/2007	333-140726
INDX 2007-FLX6	8/1/2007	8/17/2007	333-140726
MANA 2007-A1	2/12/2007	2/26/2007	333-130545
MANA 2007-A2	4/2/2007	4/16/2007	333-140436
MANA 2007-A3	4/30/2007	5/15/2007	333-140436
MLMI 2005-A8	11/15/2005	11/30/2005	333-127233
MLMI 2005-AR1	9/28/2005	10/14/2005	333-127233
MLMI 2005-HE2	12/1/2005	12/12/2005	333-127233

Transaction	Date Prospectus Supplement Filed	Date Form 8-K Attaching PSA Filed	Filing Number of Related Registration Statement
MLMI 2005-HE3	12/27/2005	1/12/2006	333-127233
MLMI 2006-A3	5/31/2006	6/15/2006	333-130545
MLMI 2006-AF2	10/31/2006	11/15/2006	333-130545
MLMI 2006-AHL1	6/29/2006	7/14/2006	333-130545
MLMI 2006-AR1	4/26/2006	5/12/2006	333-130545
MLMI 2006-FF1	12/22/2006	1/11/2007	333-130545
MLMI 2006-FM1	6/29/2006	7/14/2006	333-130545
MLMI 2006-HE1	2/7/2006	2/22/2006	333-127233
MLMI 2006-HE4	7/26/2006	8/9/2006	333-130545
MLMI 2006-HE5	9/28/2006	10/13/2006	333-130545
MLMI 2006-HE6	12/27/2006	1/12/2007	333-130545
MLMI 2006-MLN1	9/28/2006	10/16/2006	333-130545
MLMI 2006-OPT1	9/26/2006	10/11/2006	333-130545
MLMI 2006-RM1	3/21/2006	4/5/2006	333-127233
MLMI 2006-RM2	5/31/2006	6/15/2006	333-130545
MLMI 2006-RM3	6/27/2006	7/14/2006	333-130545
MLMI 2006-RM4	9/28/2006	10/10/2006	333-130545
MLMI 2006-RM5	10/27/2006	11/13/2006	333-130545
MLMI 2006-WMC1	2/14/2006	Not applicable	333-127233
MLMI 2006-WMC2	3/30/2006	4/14/2006	333-127233
MLMI 2007-HE1	3/8/2007	3/23/2007	333-130545
MLMI 2007-HE2	4/2/2007	4/16/2007	333-140436
MLMI 2007-MLN1	4/27/2007	5/11/2007	333-140436
OOMLT 2007-1	1/24/2007	2/8/2007	333-130870
OWNIT 2005-4	10/28/2005	11/14/2005	333-127233
OWNIT 2005-5	12/23/2005	1/12/2006	333-127233
OWNIT 2006-1	1/30/2006	2/14/2006	333-127233
OWNIT 2006-2	3/9/2006	3/24/2006	333-127233
OWNIT 2006-3	4/13/2006	Not applicable	333-130545
OWNIT 2006-4	6/26/2006	7/11/2006	333-130545
OWNIT 2006-5	7/26/2006	8/11/2006	333-130545
OWNIT 2006-6	9/22/2006	10/13/2006	333-130545
OWNIT 2006-7	11/2/2006	11/20/2006	333-130545
SURF 2005-AB3	12/23/2005	1/11/2006	333-127233
SURF 2005-BC3	9/29/2005	10/14/2005	333-127233
SURF 2005-BC4	12/20/2005	1/3/2006	333-127233
SURF 2006-AB2	5/31/2006	6/15/2006	333-130545
SURF 2006-AB3	9/25/2006	10/11/2006	333-130545
SURF 2006-BC1	2/17/2006	Not applicable	333-127233
SURF 2006-BC2	3/29/2006	4/14/2006	333-127233

Transaction	Date Prospectus Supplement Filed	Date Form 8-K Attaching PSA Filed	Filing Number of Related Registration Statement
SURF 2006-BC3	6/23/2006	7/12/2006	333-130545
SURF 2006-BC4	9/26/2006	10/11/2006	333-130545
SURF 2006-BC5	11/24/2006	12/13/2006	333-130545
SURF 2007-AB1	3/26/2007	4/10/2007	333-130545
SURF 2007-BC1	1/24/2007	2/8/2007	333-130545
SURF 2007-BC2	4/24/2007	5/8/2007	333-140436

46. The Certificates were issued pursuant to the PSAs, and Defendants Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith offered and sold the GSE Certificates to Fannie Mae and Freddie Mac, respectively, pursuant to the Registration Statements, which, as noted previously, included the Prospectuses and Prospectus Supplements.⁸

II. THE DEFENDANTS' PARTICIPATION IN THE SECURITIZATION PROCESS

A. The Role of Each of the Defendants

47. Each of the Defendants, including the Individual Defendants, had a role in the securitization process and the marketing for some or all of the Certificates, which included purchasing the mortgage loans from the originators, arranging the Securitizations, selling the mortgage loans to the depositor, transferring the mortgage loans to the trustee on behalf of the Certificateholders, underwriting the public offering of the Certificates, structuring and issuing the Certificates, and marketing and selling the Certificates to investors such as Fannie Mae and Freddie Mac.

48. With respect to each Securitization, the depositor, underwriter, selling entity, and Individual Defendants who signed the Registration Statement, as well as the Defendants who exercised control over their activities, are liable, jointly and severally, as participants in the

⁸ Together Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith sold to the GSEs 86 of the GSE Certificates; for the remaining 2 GSE Certificates, the seller was a non-party underwriter. The entity that sold each Certificate to the GSEs is reflected at Tables 12 and 13, *infra* at paragraphs 169 through 170.

registration, issuance and offering of the Certificates, including issuing, causing, or making materially misleading statements in the Registration Statements, and omitting material facts required to be stated therein or necessary to make the statements contained therein not misleading.

1. First Franklin Financial

49. Defendant First Franklin Financial is a wholly owned subsidiary of Merrill Lynch Mortgage Capital. First Franklin Financial was the sponsor for five of the 72 Securitizations. In that capacity First Franklin Financial initiated the Securitizations, determined their structure, purchased the mortgage loans to be securitized, determined distribution of principal and interest, and provided data to the rating agencies to secure investment grade ratings for the GSE Certificates. First Franklin Financial also selected Merrill Lynch Mortgage Investors as the special purpose vehicle that would be used to transfer the mortgage loans from First Franklin Financial to the trusts, and selected Merrill Lynch, Pierce, Fenner & Smith as the lead underwriter or co-lead underwriter for the Securitizations. In its role as sponsor, First Franklin Financial knew and intended that the mortgage loans it purchased would be sold in connection with the securitization process, and that certificates representing interests in such loans would be issued by the relevant trusts.

50. For the five Securitizations that it sponsored First Franklin Financial also conveyed the mortgage loans to Defendant Merrill Lynch Mortgage Investors, as depositor, pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or another substantially similar agreement. In these agreements, First Franklin Financial made certain representations and warranties to Merrill Lynch Mortgage Investors regarding the groups of loans collateralizing the Certificates. These

representations and warranties were assigned by Merrill Lynch Mortgage Investors to the trustees for the benefit of the Certificateholders.

2. Merrill Lynch Mortgage Capital

51. Defendant Merrill Lynch Mortgage Capital is a wholly owned subsidiary of Merrill Lynch & Co. Merrill Lynch Mortgage Capital was the co-sponsor for one of the 72 Securitizations. In that capacity, Merrill Lynch Mortgage Capital determined the structure of the Securitization, initiated the Securitization, purchased the mortgage loans to be Securitized, determined distribution of principal and interest, and provided data to the rating agencies to secure investment grade ratings for the Certificates. Merrill Lynch Mortgage Capital also selected Merrill Lynch Mortgage Investors as the special purpose vehicle that would be used to transfer the mortgage loans from Merrill Lynch Mortgage Capital to the trusts, and selected Merrill Lynch, Pierce, Fenner & Smith as the lead underwriter or co-lead underwriter for the Securitization. In its role as co-sponsor, Merrill Lynch Mortgage Capital knew and intended that the mortgage loans it purchased would be sold in connection with the securitization process, and that certificates representing interests in such loans would be issued by the relevant trusts.

52. For the Securitization that it co-sponsored Merrill Lynch Mortgage Capital also conveyed the mortgage loans to Defendant Merrill Lynch Mortgage Investors, as depositor, pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement. In these agreements, Merrill Lynch Mortgage Capital made certain representations and warranties to Merrill Lynch Mortgage Investors regarding the group of loans collateralizing the Certificates. These representations and warranties were assigned by Merrill Lynch Mortgage Investors to the trustees for the benefit of the Certificateholders.

3. Merrill Lynch Mortgage Lending

53. Defendant Merrill Lynch Mortgage Lending is a wholly owned subsidiary of Merrill Lynch Mortgage Capital. It is engaged in the business of, among other things, acquiring mortgage loans and selling those loans through securitization programs. Merrill Lynch Mortgage Lending was the sponsor or co-sponsor for 55 of the 72 Securitizations. In that capacity, Merrill Lynch Mortgage Lending determined the structure of the Securitizations, initiated the Securitizations, purchased the mortgage loans to be Securitized, determined distribution of principal and interest, and provided data to the rating agencies to secure investment grade ratings for the Certificates. Merrill Lynch Mortgage Lending also selected Merrill Lynch Mortgage Investors as the special purpose vehicle that would be used to transfer the mortgage loans from Merrill Lynch Mortgage Lending to the trusts, and selected Merrill Lynch, Pierce, Fenner & Smith as the lead underwriter or co-lead underwriter for the Securitizations. In its role as sponsor, Merrill Lynch Mortgage Lending knew and intended that the mortgage loans it purchased would be sold in connection with the securitization process, and that certificates representing interests in such loans would be issued by the relevant trusts.

54. For the 55 Securitizations that it sponsored or co-sponsored, Merrill Lynch Mortgage Lending also conveyed the mortgage loans to Defendant Merrill Lynch Mortgage Investors, as depositor, pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement. In these agreements, Merrill Lynch Mortgage Lending made certain representations and warranties to Merrill Lynch Mortgage Investors regarding the group of loans collateralizing the Certificates. These representations and warranties were assigned by Merrill Lynch Mortgage Investors to the trustees for the benefit of the Certificateholders.

4. Merrill Lynch Mortgage Investors

55. Defendant Merrill Lynch Mortgage Investors is an indirect subsidiary of Merrill Lynch & Co. Merrill Lynch Mortgage Investors was the depositor for 62 of the Securitizations. In its capacity as depositor, Merrill Lynch Mortgage Investors purchased the mortgage loans from First Franklin Financial, Merrill Lynch Mortgage Capital, and Merrill Lynch Mortgage Lending (as sponsors) pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement.⁹ Merrill Lynch Mortgage Investors then sold, transferred, or otherwise conveyed the mortgage loans to be securitized to the trusts. Merrill Lynch Mortgage Investors, together with the other Defendants, was also responsible for preparing and filing the Registration Statements pursuant to which the Certificates were offered for sale. The trusts in turn held the mortgage loans for the benefit of the Certificateholders, and issued the Certificates in public offerings for sale to investors such as Fannie Mae and Freddie Mac.

5. Merrill Lynch, Pierce, Fenner & Smith

56. Defendant Merrill Lynch, Pierce, Fenner & Smith is an investment bank, and was, at all relevant times, a registered broker/dealer. Merrill Lynch, Pierce, Fenner & Smith was the lead underwriter or co-lead underwriter for each of the Securitizations. In that role, it was responsible for managing the offer of the Certificates for Fannie Mae and Freddie Mac, and the sale of the Certificates to Freddie Mac. Merrill Lynch, Pierce, Fenner & Smith was also obligated to conduct meaningful due diligence to ensure that the Registration Statements did not

⁹ First Franklin Financial, Merrill Lynch Mortgage Capital, and Merrill Lynch Mortgage Lending served as the sponsors for 60 of the 62 Securitizations for which Merrill Lynch Mortgage Investors was the depositor. For the two remaining Securitizations, Credit-Based Asset Servicing and Securitization, LLC served as the sponsor.

contain any material misstatements or omissions, including as to the manner in which the underlying mortgage loans were originated and sold.

6. Merrill Lynch Government Securities

57. Defendant Merrill Lynch Government Securities is a wholly owned subsidiary of Merrill Lynch & Co. Merrill Lynch Government Securities sold Certificates to Fannie Mae in 39 of the Securitizations. Merrill Lynch Government Securities was also obligated to conduct meaningful due diligence to ensure that the Registration Statements did not contain any material misstatements or omissions, including as to the manner in which the underlying mortgage loans were originated, transferred and underwritten.

7. Merrill Lynch & Co.

58. Defendant Merrill Lynch & Co. employed its wholly-owned subsidiaries, First Franklin Financial, Merrill Lynch Mortgage Capital, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Investors, and Merrill Lynch, Pierce, Fenner & Smith, in the key steps of the securitization process. Unlike typical arm's length transactions, the Securitizations here involved various Merrill Lynch subsidiaries and affiliates at virtually each step of the process. With respect to all but 12 of the Securitizations, the sponsor was First Franklin Financial, Merrill Lynch Mortgage Capital, or Merrill Lynch Mortgage Lending; the depositor was Merrill Lynch Mortgage Investors; the lead underwriter was Merrill Lynch, Pierce, Fenner & Smith; and the entity that sold the Certificates to the GSEs was Merrill Lynch Government Securities or Merrill Lynch, Pierce, Fenner & Smith. As to the remaining deals, Merrill Lynch, Pierce, Fenner & Smith was the lead underwriter in ten instances and sold three of the Certificates to Freddie Mac; Merrill Lynch Government Securities sold seven of the Certificates to the GSEs; and in two instances Merrill Lynch Mortgage Investors was the depositor.

59. As the corporate parent of First Franklin Financial, Merrill Lynch Mortgage Capital, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities, Merrill Lynch & Co. had the practical ability to direct and control the actions of First Franklin Financial, Merrill Lynch Mortgage Capital, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities related to the Securitizations.

8. The Individual Defendants

60. Defendant Matthew Whalen served at the time of the Securitizations as President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors, Inc. Mr. Whalen signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-130545 filed with the SEC on December 21, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on February 24, 2006, March 21, 2006 and March 28, 2006. Mr. Whalen further signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-127233 filed with the SEC on August 5, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on August 17, 2005.

61. Defendant Brian T. Sullivan served at the time of the Securitizations as the Vice President, Treasurer (Principal Financial Officer), and Controller of Merrill Lynch Mortgage Investors, Inc. Mr. Sullivan signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-130545 filed with the SEC on December 21, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on February 24, 2006, March 21, 2006 and March 28, 2006. Mr. Sullivan further signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-140436 filed with the SEC on February 2, 2007 and signed through a power of attorney the related pre-effective amendments

on Form S-3/A filed with the SEC on March 7, 2007. Mr. Sullivan also signed the Merrill Lynch Mortgage Investors related pre-effective amendments on Form S-3/A filed on August 17, 2005 for the Shelf Registration Statement under file number 333-1273233, which was filed with the SEC on August 5, 2005.

62. Defendant Michael M. McGovern served at the time of the Securitizations as a Director of Merrill Lynch Mortgage Investors, Inc. and Senior Counsel of Merrill Lynch. Mr. McGovern signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-130545 filed with the SEC on December 21, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on February 24, 2006, March 21, 2006 and March 28, 2006. Mr. McGovern further signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-140436 filed with the SEC on February 2, 2007 and signed through a power of attorney the related pre-effective amendments on Form S-3/A filed with the SEC on March 7, 2007. Mr. McGovern additionally signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file 333-127233 filed with the SEC on August 5, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on August 17, 2005.

63. Defendant Donald J. Puglisi served at the time of the Securitizations as a Director of Merrill Lynch Mortgage Investors, Inc. Mr. Puglisi signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-130545 filed with the SEC on December 21, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on February 24, 2006, March 21, 2006 and March 28, 2006. Mr. Puglisi further signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-140436 filed with the SEC on February 2, 2007 and signed through a power of attorney the related pre-

effective amendments on Form S-3/A filed with the SEC on March 7, 2007. Mr. Puglisi additionally signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file 333-127233 filed with the SEC on August 5, 2005 and the related pre-effective amendments on Form S-3/A filed with the SEC on August 17, 2005.

64. Defendant Paul Park served at the time of the Securitizations as the President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors, Inc. Mr. Park signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file number 333-140436 filed with the SEC on February 2, 2007 and signed, in both his individual capacity and with a power of attorney on behalf of Defendant Brian T. Sullivan, Defendant Michael M. McGovern, and Defendant Donald J. Puglisi, the related pre-effective amendments on Form S-3/A filed with the SEC on March 7, 2007.

65. Defendant Donald C. Han served at the time of the Securitizations as the Treasurer of Merrill Lynch Mortgage Investors, Inc. Mr. Han signed the Merrill Lynch Mortgage Investors Shelf Registration Statement under file 333-127233 filed with the SEC on August 5, 2005.

B. Defendant's Failure To Conduct Proper Due Diligence

66. The Defendants failed to conduct adequate and sufficient due diligence to ensure that the mortgage loans underlying the Securitizations complied with the statements in the Registration Statements.

67. During the time period during which the Certificates were issued, approximately 2005 through 2007, Merrill Lynch's involvement in the mortgage-backed securitization market was rapidly expanding. In an effort to increase revenue and profits, Merrill Lynch, at the direction of its corporate parent, Merrill Lynch & Co., vastly expanded the volume of mortgage-backed securities it securitized. Merrill Lynch Mortgage Investors securitized a relatively small

volume of mortgage loans in 2000 as measured against the years that followed, \$14.3 billion. In 2001, the volume of mortgage loans securitized nearly doubled, from \$14.3 billion to \$24.2 billion, and was \$26.1 billion in 2002. In 2003, the volume of mortgage loans that Merrill Lynch Mortgage Investors securitized almost doubled again, to \$43.7 billion, and was \$45.9 billion in 2004. In 2005, the volume of Merrill Lynch Mortgage Investors' securitizations rose to \$57.9 billion and nearly doubled, to \$97.4 billion, in 2006. In 2007, the volume of securitization surpassed \$100 billion, Merrill Lynch Mortgage Investors' highest volume of residential mortgage loans. In fact, Merrill Lynch was the fourth largest issuer of subprime mortgage-backed securities from 2005 to 2007, and by 2007, Merrill Lynch was the second largest issuer of subprime mortgage-backed securities. Merrill Lynch's ascent towards the top of the league tables was aided by its acquisition, in late 2006 at the height of the market, of First Franklin Financial, a leading originator and sponsor of residential mortgages, and its servicer subsidiary, Home Loan Services.

68. Defendants had enormous financial incentives to complete as many offerings as quickly as possible without regard to ensuring the accuracy or completeness of the Registration Statements, or conducting adequate and reasonable due diligence. For example, Merrill Lynch Mortgage Investors, as the depositor, was paid a percentage of the total dollar amount of the offerings upon completion of the Securitizations. Merrill Lynch, Pierce, Fenner & Smith, as the underwriter and as the entity that sold the Certificates purchased by Freddie Mac, and Merrill Lynch Government Securities, as the entity that sold the Certificates purchased by Fannie Mae, were each paid a commission based on the amount they received from the sale of the Certificates.

69. The push to securitize large volumes of mortgage loans contributed to the absence of controls needed to prevent the inclusion of untrue statements of material facts and omissions of material facts in the Registration Statements. In particular, Defendants failed to conduct adequate diligence or otherwise to ensure the accuracy of the statements in the Registration Statements pertaining to the Securitizations.

70. For instance, Merrill Lynch retained third-parties, including Clayton Holdings, Inc. (“Clayton”) and The Bohan Group, Inc. (“Bohan”), to analyze the loans it was considering placing in its securitizations, but waived a significant number of loans into the securitizations that these firms had recommended for exclusion, and did so without taking adequate steps to ensure that these loans had in fact been underwritten in accordance with applicable guidelines or had compensating factors that excused the loans’ non-compliance with those guidelines. On January 27, 2008, Clayton revealed that it had entered into an agreement with the New York Attorney General (the “NYAG”) to provide documents and testimony regarding its due diligence reports, including copies of the actual reports provided to its clients. According to *The New York Times*, as reported on January 27, 2008, Clayton told the NYAG “that starting in 2005, it saw a significant deterioration of lending standards and a parallel jump in lending expectations,” and “some investment banks directed Clayton to halve the sample of loans it evaluated in each portfolio.”

71. Merrill Lynch was negligent in allowing into the securitizations a substantial number of mortgage loans that, as reported to Merrill Lynch by third-party due diligence firms, did not conform to the underwriting standards stated in the Registration Statements pursuant to which they made offerings, including the Prospectuses and Prospectus Supplements that formed part of those Registration Statements.

72. Clayton's trending reports revealed that in the period from the first quarter of 2006 to the second quarter of 2007, 23 percent of the mortgage loans that Merrill Lynch submitted to Clayton to review in residential mortgage-backed securities groups were rejected by Clayton as falling outside the applicable underwriting guidelines. Of the mortgage loans that Clayton found defective, 32 percent of the loans were subsequently waived in by Merrill Lynch without proper consideration and analysis of compensating factors and included in securitizations such as the ones in which Fannie Mae and Freddie Mac invested. *See* Clayton Trending Reports, available at <http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents>.

73. Merrill Lynch's underwriting and due diligence practices with respect to mortgage-backed securities are being investigated by the SEC. In October 2007, the SEC launched an informal investigation into Merrill Lynch's underwriting of mortgage-backed securities. *See, e.g.*, Associated Press, Merrill Lynch Acknowledges SEC Investigation, Nov. 7, 2007 (available at http://www.msnbc.msn.com/id/21680312/ns/business-us_business/t/merrill-lynch-acknowledges-sec-investigation/#.TkDMnmEniSo). That investigation was upgraded, and became formal in early 2008. *See, e.g.*, Amir Efrati, Susan Pulliam, Kara Scannel and Craig Karmin, *Prosecutors Widen Probes Into Subprime – U.S. Attorney's Office Seeks Merrill Material; SEC Upgrades Inquiry*, Wall St. J., Feb. 8, 2008.

III. THE REGISTRATION STATEMENTS AND THE PROSPECTUS SUPPLEMENTS

A. Compliance With Underwriting Guidelines

74. The Prospectus Supplements for each Securitization describe the mortgage loan underwriting guidelines pursuant to which the mortgage loans underlying the related Securitizations were to have been originated. These guidelines were intended to assess the

creditworthiness of the borrower, the ability of the borrower to repay the loan, and the adequacy of the mortgaged property as security for the loan.

75. The statements made in the Prospectus Supplements, which, as discussed, formed part of the Registration Statement for each Securitization, were material to a reasonable investor's decision to purchase and invest in the Certificates because the failure to originate a mortgage loan in accordance with the applicable guidelines creates a higher risk of delinquency and default by the borrower, as well as a risk that losses upon liquidation will be higher thus resulting in a greater economic risk to an investor such as Fannie Mae or Freddie Mac.

76. The Prospectus Supplements for the Securitizations contained several key statements with respect to the underwriting standards of the entities that originated the loans in the Securitizations. For example, the Prospectus Supplement for the MLMI 2006-OPT1 Securitization, for which Option One was the originator, Merrill Lynch, Pierce, Fenner & Smith was the underwriter, and Merrill Lynch Mortgage Investors was the depositor, stated that: "The Mortgage Loans will have been originated generally in accordance with Option One's Non-Prime Guidelines (the 'Option One Underwriting Guidelines')" and that "the Option One Underwriting Guidelines are primarily intended to assess the value of the mortgaged property, to evaluate the adequacy of such property as collateral for the mortgage loan and to assess the applicant's ability to repay the mortgage loan."

77. The MLMI 2006-OPT1 Prospectus Supplement stated that exceptions to the Option One Underwriting Guidelines (including "a debt-to-income ratio exception, a pricing exception, a loan-to-value exception, a credit score exception or an exception from certain requirements of a particular risk category") are made on a "case-by-case basis," but emphasized that exceptions "are made where compensating factors exist."

78. With respect to the information evaluated by the originator, the MLMI 2006-OPT1 Prospectus Supplement stated that: “Each mortgage loan applicant completes an application that includes information with respect to the applicant’s liabilities, income, credit history, employment history and personal information. The Option One Underwriting Guidelines require a credit report and, if available, a credit score on each applicant from a credit-reporting agency. The credit report typically contains information relating to such matters as credit history with local and national merchants and lenders, installment debt payments and any record of defaults, bankruptcies, repossessions or judgments.”

79. The MLMI 2006-OPT1 Prospectus Supplement further stated that: “The Option One Underwriting Guidelines require that mortgage loans be underwritten in a standardized procedure which complies with applicable federal and state laws and regulations and require Option One’s underwriters to be satisfied that the value of the property being financed, as indicated by an appraisal, supports the loan balance.”

80. The Prospectus and Prospectus Supplement for each of the Securitizations had similar representations to those quoted above. The relevant representations in the Prospectus and Prospectus Supplement pertaining to originating entity underwriting standards for each Securitization are reflected in Appendix A to this Complaint. As discussed below in paragraphs 108 through 124, in fact, the originators of the mortgage loans in the Supporting Loan Groups for the Securitizations did not adhere to their stated underwriting guidelines, thus rendering the description of those guidelines in the Prospectus and Prospectus Supplements false and misleading.

81. Further, for the vast majority of the Securitizations, the Prospectus and Prospectus Supplement described or referenced additional representations and warranties in the PSA by the

originator concerning the mortgage loans underlying the Securitizations. Such representations and warranties, which are described more fully for each Securitization in Appendix A, included: (i) the mortgage loans were underwritten in accordance with the sellers' underwriting guidelines in effect at the time of origination, subject to only limited exceptions; and, (ii) the origination and collection practices used by the originator with respect to each mortgage note and mortgage have been in all respects legal, proper, prudent and customary in the mortgage origination and servicing business.

82. The inclusion of these representations in the Prospectuses and Prospectus Supplements had the purpose and effect of providing additional assurances to investors regarding the quality of the mortgage collateral underlying the Securitizations and the compliance of that collateral with the underwriting guidelines described in the Prospectuses and Prospectus Supplements. These representations were material to a reasonable investor's decisions to purchase the Certificates.

B. Statements Regarding Occupancy Status of Borrower

83. The Prospectus Supplements contained collateral group-level information about the occupancy status of the borrowers of the loans in the Securitizations. Occupancy status refers to whether the property securing a mortgage is to be the primary residence of the borrower, a second home, or an investment property. The Prospectus Supplements for each of the Securitizations presented this information in tabular form, usually in a table entitled "Occupancy Status" or "Occupancy Types of the Group Mortgage Loans." This table divided all the loans in the collateral group by occupancy status, *e.g.*, into the following categories: (i) "Primary," or "Owner Occupied;" (ii) "Second Home," or "Secondary"; and (iii) "Investment" or "Non-Owner." For each category, the table stated the number of loans in

that category. Occupancy statistics for the Supporting Loan Groups for each Securitization were reported in the Prospectus Supplements as follows:¹⁰

Table 5

Transaction	Tranche	Supporting Loan Group	Primary or Owner Occupied %	Second Home/Secondary %	Investor %
ARSI 2005-W4	A1B	Group 1	90.26	1.02	8.72
ARSI 2005-W4	A1A2	Group 1	90.26	1.02	8.72
ARSI 2005-W4	A1A3	Group 1	90.26	1.02	8.72
ARSI 2006-M1	A1	Group 1	87.69	1.07	11.24
CBASS 2006-CB8	A1	Group I	92.19	1.31	6.50
FFMER 2007-1	A1	Group I	96.10	0.21	3.70
FFMER 2007-2	A1	Group I	93.36	0.60	6.04
FFMER 2007-3	A1A	Group I	92.43	0.74	6.83
FFMER 2007-3	A1C	Group I	92.43	0.74	6.83
FFMER 2007-3	A1D	Group I	92.43	0.74	6.83
FFMER 2007-3	M11	Group I	92.43	0.74	6.83
FFMER 2007-3	M21	Group I	92.43	0.74	6.83
FFMER 2007-3	M31	Group I	92.43	0.74	6.83
FFMER 2007-3	M41	Group I	92.43	0.74	6.83
FFMER 2007-4	1A	Group I	92.22	0.96	6.83
FFMER 2007-4	1M1	Group I	92.22	0.96	6.83
FFMER 2007-4	1M2	Group I	92.22	0.96	6.83
FFMER 2007-4	1M3	Group I	92.22	0.96	6.83
FFMER 2007-5	1A	Group I	90.81	0.29	8.90
FFMER 2007-H1	1A1	Group I	99.96	0.04	0.00
FFML 2005-FF12	A1	Group I	93.87	0.90	5.22
FFML 2006-FF18	A1	Group I	97.41	0.28	2.31
FFML 2007-FF1	A1	Group I	93.81	0.79	5.40
FFML 2007-FF2	A1	Group I	94.05	0.71	5.24
FMIC 2006-3	1A	Group 1	93.17	0.69	6.14
INDX 2005-AR33	2A1	Group 2	85.92	5.00	9.08
INDX 2006-AR5	1A1	Group 1	86.41	2.15	11.44
INDX 2006-AR7	2A1	Group 2	82.87	3.71	13.42
INDX 2007-FLX4	1A1	Group 1	81.93	3.12	14.95
INDX 2007-FLX5	1A1	Group 1	81.84	2.63	15.54

¹⁰ Each Prospectus Supplement provided the total number of loans and the number of loans in the following categories: owner occupied, investor, and second home. These numbers have been converted to percentages.

Transaction	Tranche	Supporting Loan Group	Primary or Owner Occupied %	Second Home/Secondary %	Investor %
INDX 2007-FLX6	1A1	Group 1	83.52	1.11	15.37
MANA 2007-A1	A1	Group 1	76.77	4.84	18.39
MANA 2007-A2	A1	Group 1	69.60	6.74	23.66
MANA 2007-A2	A2A	Group 2	82.21	3.94	13.85
MANA 2007-A3	A1	Group 1	56.24	6.70	37.07
MLMI 2005-A8	A2A	Group 2	47.42	3.13	49.45
MLMI 2005-A8	A2B1	Group 2	47.42	3.13	49.45
MLMI 2005-AR1	A2	Group 2	86.22	1.55	12.22
MLMI 2005-HE2	A1A	Group 1	92.22	0.74	7.04
MLMI 2005-HE2	A1B	Group 1	92.22	0.74	7.04
MLMI 2005-HE3	A1A	Group 1	93.99	1.87	4.14
MLMI 2006-A3	IIA1	Group 2	92.03	7.97	0.00
MLMI 2006-AF2	AV1	Group 2	68.85	6.26	24.89
MLMI 2006-AHL1	A1	Group 1	86.96	0.76	12.28
MLMI 2006-AR1	A1	Group 1	86.61	1.09	12.30
MLMI 2006-FF1	A1	Group 1	88.71	0.84	10.45
MLMI 2006-FM1	A1	Group 1	93.73	0.85	5.43
MLMI 2006-HE1	A1	Group 1	91.16	0.79	8.04
MLMI 2006-HE4	A1	Group 1	90.79	0.59	8.63
MLMI 2006-HE5	A1	Group 1	87.83	1.33	10.84
MLMI 2006-HE6	A1	Group 1	88.37	0.56	11.07
MLMI 2006-MLN1	A1	Group 1	96.35	0.75	2.91
MLMI 2006-OPT1	A1	Group 1	93.40	0.73	5.87
MLMI 2006-RM1	A1	Group 1	87.80	1.42	10.79
MLMI 2006-RM2	A1A	Group 1	94.78	0.79	4.43
MLMI 2006-RM3	A1A	Group 1	96.87	0.47	2.66
MLMI 2006-RM4	A1	Group 1	91.62	1.12	7.26
MLMI 2006-RM5	A1	Group 1	89.39	1.39	9.22
MLMI 2006-WMC1	A1A	Group 1	95.74	2.93	1.33
MLMI 2006-WMC2	A1	Group 1	94.47	3.27	2.26
MLMI 2007-HE1	A1	Group 1	90.72	1.87	7.41
MLMI 2007-HE2	A1	Group 1	93.67	0.69	5.64
MLMI 2007-MLN1	A1	Group 1	89.47	2.05	8.48
OOMLT 2007-1	IA2	Group 1	87.02	1.25	11.73
OOMLT 2007-1	IA1	Group 1	87.02	1.25	11.73
OWNIT 2005-4	A1	Group 1	92.79	0.86	6.35
OWNIT 2005-5	A1	Group 1	91.38	1.20	7.42
OWNIT 2006-1	AV	Group 1	96.44	0.69	2.87
OWNIT 2006-2	A1	Group 1	94.48	0.31	5.21

Transaction	Tranche	Supporting Loan Group	Primary or Owner Occupied %	Second Home/Secondary %	Investor %
OWNIT 2006-3	A1	Group 1	94.88	0.41	4.71
OWNIT 2006-4	A1	Group 1	96.01	0.28	3.70
OWNIT 2006-5	A1B	Group 1	97.62	0.23	2.15
OWNIT 2006-5	A1A	Group 1	97.62	0.23	2.15
OWNIT 2006-6	A1	Group 1	96.49	0.27	3.24
OWNIT 2006-7	A1	Group 1	96.19	0.38	3.43
SURF 2005-AB3	A1A	Group 1	77.64	4.28	18.08
SURF 2005-BC3	A1A	Group 1	96.89	0.51	2.59
SURF 2005-BC4	A1A	Group 1	97.31	0.47	2.21
SURF 2006-AB2	A1	Group 1	84.60	0.82	14.58
SURF 2006-AB3	A1	Group 1	75.39	2.57	22.04
SURF 2006-BC1	A1	Group 1	97.64	0.43	1.94
SURF 2006-BC2	A1	Group 1	98.57	0.10	1.33
SURF 2006-BC3	A1	Group 1	96.37	0.19	3.43
SURF 2006-BC4	A1	Group 1	93.81	1.22	4.97
SURF 2006-BC5	A1	Group 1	96.79	0.76	2.44
SURF 2007-AB1	A1	Group 1	78.03	2.78	19.19
SURF 2007-BC1	A1	Group 1	95.29	0.71	3.99
SURF 2007-BC2	A1	Group 1	96.06	0.47	3.46

84. As Table 5 makes clear, the Prospectus Supplements for each Securitization, with the exception of MLMI 2005-A8, reported that the majority (typically more than 90%) of the mortgage loans in the Supporting Loan Groups were owner occupied, while only a small percentage were reported as non-owner occupied (*i.e.*, a second home or investor property).

85. The statements about occupancy status were material to a reasonable investor's decision to invest in the Certificates. Information about occupancy status is an important factor in determining the credit risk associated with a mortgage loan and, therefore, the securitization that it collateralizes. Because borrowers who reside in mortgaged properties are less likely to default than borrowers who purchase homes as second homes or investments and live elsewhere, and are more likely to care for their primary residence, the percentage of loans on owner-

occupied properties in the supporting loan group is an important measure of the risk of the certificates sold in that securitization.

86. Other things being equal, the higher the percentage of loans not secured by owner-occupied residences, the greater the risk of loss to the certificateholders. Even small differences in the percentages of primary/owner-occupied, second home/secondary, and investment properties in the collateral group of a securitization can have a significant effect on the risk of each certificate sold in that securitization, and thus, are important to the decision of a reasonable investor whether to purchase any such certificate. As discussed below at paragraphs 98 through 101, the Registration Statement for each Securitization materially overstated the percentage of loans in the Supporting Loan Groups that were owner occupied, thereby misrepresenting the degree of risk of the GSE Certificates.

C. Statements Regarding Loan to Value Ratios

87. The loan-to-value ratio of a mortgage loan, or LTV ratio, is the ratio of the balance of the mortgage loan to the value of the mortgaged property when the loan is made.

88. The denominator in the LTV ratio is the value of the mortgaged property, and is generally the lower of the purchase price or the appraised value of the property. In a refinancing or home-equity loan, there is no purchase price to use as the denominator, so the denominator is often equal to the appraised value at the time of the origination of the refinanced loan. Accordingly, an accurate appraisal is essential to an accurate LTV ratio. In particular, an inflated appraisal will understate, sometimes greatly, the credit risk associated with a given loan.

89. The Prospectus Supplements for each Securitization also contained group-level information about the LTV ratio for the underlying group of loans as a whole. The percentage of loans with an LTV ratio at or less than 80 percent and the percentage of loans with an LTV ratio

greater than 100 percent as reported in the Prospectus Supplements for the Supporting Loan Groups are reflected in Table 6 below.¹¹

Table 6

Transaction	Tranche	Supporting Loan Group	Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80%	Percentage of loans, by aggregate principal balance, with LTV greater than 100%
ARSI 2005-W4	A1B	Group 1	65.49	0.00
ARSI 2005-W4	A1A2	Group 1	65.49	0.00
ARSI 2005-W4	A1A3	Group 1	65.49	0.00
ARSI 2006-M1	A1	Group 1	53.77	0.00
CBASS 2006-CB8	A1	Group I	34.83	0.00
FFMER 2007-1	A1	Group I	59.35	0.00
FFMER 2007-2	A1	Group I	49.68	0.00
FFMER 2007-3	A1A	Group I	42.71	0.00
FFMER 2007-3	A1C	Group I	42.71	0.00
FFMER 2007-3	A1D	Group I	42.71	0.00
FFMER 2007-3	M11	Group I	42.71	0.00
FFMER 2007-3	M21	Group I	42.71	0.00
FFMER 2007-3	M31	Group I	42.71	0.00
FFMER 2007-3	M41	Group I	42.71	0.00
FFMER 2007-4	1A	Group I	33.18	0.00
FFMER 2007-4	1M1	Group I	33.18	0.00
FFMER 2007-4	1M2	Group I	33.18	0.00
FFMER 2007-4	1M3	Group I	33.18	0.00
FFMER 2007-5	1A	Group I	40.24	0.00
FFMER 2007-H1	1A1	Group I	60.30	0.00
FFML 2005-FF12	A1	Group I	72.38	0.00
FFML 2006-FF18	A1	Group I	57.54	0.00
FFML 2007-FF1	A1	Group I	56.98	0.00
FFML 2007-FF2	A1	Group I	63.91	0.00
FMIC 2006-3	1A	Group 1	34.12	0.00
INDX 2005-AR33	2A1	Group 2	95.47	0.00
INDX 2006-AR5	1A1	Group 1	99.33	0.00

¹¹ As used in this Complaint, “LTV” refers to the original loan-to-value ratio for first lien mortgages and for properties with second liens that are subordinate to the lien that was included in the securitization (*i.e.*, only the securitized lien is included in the numerator of the LTV calculation). Where the securitized lien is junior to another loan, the more senior lien has been added to the securitized one to determine the numerator in the LTV calculation (this later calculation is sometimes referred to as the combined-loan-to-value ratio, or “CLTV”).

Transaction	Tranche	Supporting Loan Group	Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80%	Percentage of loans, by aggregate principal balance, with LTV greater than 100%
INDX 2006-AR7	2A1	Group 2	97.79	0.00
INDX 2007-FLX4	1A1	Group 1	98.96	0.00
INDX 2007-FLX5	1A1	Group 1	98.46	0.00
INDX 2007-FLX6	1A1	Group 1	99.17	0.00
MANA 2007-A1	A1	Group I	93.49	0.00
MANA 2007-A2	A1	Group I	93.66	0.00
MANA 2007-A2	A2A	Group 2	93.50	0.00
MANA 2007-A3	A1	Group 1	96.26	0.00
MLMI 2005-A8	A2A	Group 2	79.66	0.00
MLMI 2005-A8	A2B1	Group 2	79.66	0.00
MLMI 2005-AR1	A2	Group 2	18.76	0.00
MLMI 2005-HE2	A1A	Group 1	58.96	0.00
MLMI 2005-HE2	A1B	Group 1	58.96	0.00
MLMI 2005-HE3	A1A	Group 1	63.86	0.00
MLMI 2006-A3	IIA1	Group 2	95.71	0.00
MLMI 2006-AF2	AV1	Group 2	78.02	0.00
MLMI 2006-AHL1	A1	Group I	54.48	0.00
MLMI 2006-AR1	A1	Group I	50.90	0.00
MLMI 2006-FF1	A1	Group I	86.35	0.00
MLMI 2006-FM1	A1	Group I	69.85	0.00
MLMI 2006-HE1	A1	Group I	57.48	0.00
MLMI 2006-HE4	A1	Group I	55.51	0.00
MLMI 2006-HE5	A1	Group I	64.41	0.00
MLMI 2006-HE6	A1	Group I	35.81	0.00
MLMI 2006-MLN1	A1	Group I	72.92	0.00
MLMI 2006-OPT1	A1	Group I	62.41	0.00
MLMI 2006-RM1	A1	Group I	60.45	0.00
MLMI 2006-RM2	A1A	Group I	67.91	0.00
MLMI 2006-RM3	A1A	Group I	68.99	0.00
MLMI 2006-RM4	A1	Group I	62.43	0.00
MLMI 2006-RM5	A1	Group I	46.50	0.00
MLMI 2006-WMC1	A1A	Group I	73.03	0.00
MLMI 2006-WMC2	A1	Group I	74.94	0.00
MLMI 2007-HE1	A1	Group 1	53.86	0.00
MLMI 2007-HE2	A1	Group 1	40.89	0.00
MLMI 2007-MLN1	A1	Group 1	48.44	0.00
OOMLT 2007-1	IA2	Group 1	51.10	0.00
OOMLT 2007-1	IA1	Group 1	51.10	0.00
OWNIT 2005-4	A1	Group 1	66.50	0.00

Transaction	Tranche	Supporting Loan Group	Percentage of loans, by aggregate principal balance, with LTV less than or equal to 80%	Percentage of loans, by aggregate principal balance, with LTV greater than 100%
OWNIT 2005-5	A1	Group 1	57.51	0.00
OWNIT 2006-1	AV	Group 1	84.23	0.00
OWNIT 2006-2	A1	Group 1	74.79	0.00
OWNIT 2006-3	A1	Group 1	75.47	0.00
OWNIT 2006-4	A1	Group 1	73.60	0.00
OWNIT 2006-5	A1B	Group 1	78.75	0.00
OWNIT 2006-5	A1A	Group 1	78.75	0.00
OWNIT 2006-6	A1	Group 1	74.84	0.00
OWNIT 2006-7	A1	Group 1	64.66	0.00
SURF 2005-AB3	A1A	Group 1	61.80	0.00
SURF 2005-BC3	A1A	Group 1	54.56	0.00
SURF 2005-BC4	A1A	Group 1	56.65	0.00
SURF 2006-AB2	A1	Group I	59.44	0.00
SURF 2006-AB3	A1	Group 1	63.64	0.00
SURF 2006-BC1	A1	Group 1	59.27	0.00
SURF 2006-BC2	A1	Group 1	63.07	0.00
SURF 2006-BC3	A1	Group 1	55.65	0.00
SURF 2006-BC4	A1	Group 1	50.89	0.00
SURF 2006-BC5	A1	Group 1	52.16	0.00
SURF 2007-AB1	A1	Group 1	59.45	0.00
SURF 2007-BC1	A1	Group 1	47.33	0.00
SURF 2007-BC2	A1	Group 1	47.53	0.00

90. As Table 6 makes clear, the Prospectus Supplements for most of the Securitizations reported that many or most of the mortgage loans in the Supporting Loan Groups had an LTV ratio of 80 percent or less, and that the Prospectus Supplement for all of the Securitizations reported that *zero* mortgage loans in the Supporting Loan Group had an LTV ratio over 100 percent.

91. The LTV ratio is among the most important measures of the risk of a mortgage loan, and thus, it is one of the most important indicators of the default risk of the mortgage loans underlying the Certificates. The lower the ratio, the less likely that a decline in the value of the property will wipe out an owner's equity, and thereby give an owner an incentive to stop making

mortgage payments and abandon the property. This ratio also predicts the severity of loss in the event of default. The lower the LTV, the greater the “equity cushion,” so the greater the likelihood that the proceeds of foreclosure will cover the unpaid balance of the mortgage loan.

92. Thus, LTV ratio is a material consideration to a reasonable investor in deciding whether to purchase a certificate in a securitization of mortgage loans. Even small differences in the LTV ratios of the mortgage loans in the collateral group of a securitization have a significant effect on the likelihood that the collateral groups will generate sufficient funds to pay certificateholders in that securitization, and thus are material to the decision of a reasonable investor whether to purchase any such certificate. As discussed *infra* at paragraphs 102 through 107, the Registration Statements for the Securitizations materially *overstated* the percentage of loans in the Supporting Loan Groups with an LTV ratio at or less than 80 percent and materially *understated* the percentage of loans in the Supporting Loan Groups with an LTV ratio over 100 percent, thereby misrepresenting the degree of risk of the Certificates.

D. Statements Regarding Credit Ratings

93. Credit ratings are assigned to the tranches of mortgage-backed securitizations by the credit rating agencies, including Moody’s Investors Service, Standard & Poor’s, and Fitch Ratings. Each credit rating agency uses its own scale with letter designations to describe various levels of risk. In general, AAA, or its equivalent, ratings are at the top of the credit rating scale and are intended to designate the safest investments. C and D ratings are at the bottom of the scale and refer to investments that are currently in default and exhibit little or no prospect for recovery. At the time the GSEs purchased the GSE Certificates, investments with AAA, or its equivalent, ratings historically experienced a loss rate of less than .05 percent. Investments with BBB ratings historically experienced a loss rate of less than 1 percent. As a result, securities

with credit ratings between AAA, or its equivalent, through BBB-, or its equivalent, were generally referred to as “investment grade.”

94. Ratings agencies determine the credit rating for each tranche of mortgage-backed securitization by comparing the likelihood of contractual principal and interest repayment to the “credit enhancements” available to protect investors. Ratings agencies determine the likelihood of repayment by estimating cash flows based on the quality of the underlying mortgages by using sponsor provided loan level data. Credit enhancements, such as subordination, represent the amount of “cushion” or protection from loss incorporated into a given securitization.¹² This cushion is intended to improve the likelihood that the holders of highly rated certificates receive the interest and principal to which they are contractually entitled. The level of credit enhancement offered is based on the make-up of the loans in the underlying collateral group and entire securitization. Riskier loans underlying the securitization necessitate higher levels of credit enhancement to insure payment to senior certificate holders. If the collateral within the deal is of a higher quality, then rating agencies require less credit enhancement for AAA, or its equivalent, rating.

95. Credit ratings have been an important tool to gauge risk when making investment decisions. For almost a hundred years, investors like pension funds, municipalities, insurance companies, and university endowments have relied heavily on credit ratings to assist them in distinguishing between safe and risky investments. Fannie Mae and Freddie Mac’s respective internal policies limited their purchases of private label residential mortgage-backed securities to

¹² “Subordination” refers to the fact that the certificates for a mortgage-backed securitization are issued in a hierarchical structure, from senior to junior. The junior certificates are “subordinate” to the senior certificates in that, should the underlying mortgage loans become delinquent or default, the junior certificates suffer losses first. These subordinate certificates thus provide a degree of protection to the senior certificates from losses on the underlying loans.

those rated AAA (or its equivalent), and in very limited instances, AA or A bonds (or their equivalent).

96. Each tranche of the Securitizations received a credit rating upon issuance, which purported to describe the riskiness of that tranche. The Defendants reported the credit ratings for each tranche in the Prospectus Statements. The credit ratings provided for the GSE Certificates were primarily “AAA” and were always “investment grade;” the lowest rated was “A1/A+,” as identified in Table 7 below.¹³ Fannie Mae and Freddie Mac relied on the accuracy of these ratings in making the investment decision to purchase the Certificates. As set forth in Table 10, *infra* at paragraph 128, the ratings for the Securitizations were inflated as a result of Defendants’ provision of incorrect data concerning the attributes of the underlying mortgage collateral to the ratings agencies, and, as a result, Defendants sold and marketed the GSE Certificates, in almost all cases, as AAA (or its equivalent) when, in fact they were not.

Table 7

Transaction	Tranche	Ratings at Issuance (Moody’s/S&P/Fitch)
ARSI 2005-W4	A1B	-/AAA/AAA
ARSI 2005-W4	A1A2	-/AAA/AAA
ARSI 2005-W4	A1A3	-/AAA/AAA
ARSI 2006-M1	A1	Aaa/AAA/AAA
CBASS 2006-CB8	A1	Aaa/AAA/AAA
FFMER 2007-1	A1	Aaa/AAA/-
FFMER 2007-2	A1	Aaa/AAA/-
FFMER 2007-3	A1A	Aaa/AAA/-
FFMER 2007-3	A1C	Aaa/AAA/-
FFMER 2007-3	A1D	Aaa/AAA/-
FFMER 2007-3	M11	Aa1/AA+/-
FFMER 2007-3	M21	Aa2/AA/-
FFMER 2007-3	M31	Aa3/AA/-

¹³ Applicable ratings are shown in sequential order separated by forward slashes: Moody’s/S&P/Fitch. A hyphen between forward slashes indicates that the relevant agency did not provide a rating at issuance.

Transaction	Tranche	Ratings at Issuance (Moody's/S&P/Fitch)
FFMER 2007-3	M41	A1/A+/-
FFMER 2007-4	1A	Aaa/AAA/-
FFMER 2007-4	1M1	Aa1/AA+/-
FFMER 2007-4	1M2	Aa2/AA/-
FFMER 2007-4	1M3	Aa3/AA/-
FFMER 2007-5	1A	Aaa/AAA/-
FFMER 2007-H1	1A1	Aaa/AAA/AAA
FFML 2005-FF12	A1	Aaa/AAA/-
FFML 2006-FF18	A1	Aaa/AAA/-
FFML 2007-FF1	A1	Aaa/AAA/-
FFML 2007-FF2	A1	Aaa/AAA/-
FMIC 2006-3	1A	Aaa/AAA/-
INDX 2005-AR33	2A1	Aaa/AAA/-
INDX 2006-AR5	1A1	Aaa/AAA/-
INDX 2006-AR7	2A1	Aaa/AAA/-
INDX 2007-FLX4	1A1	Aaa/AAA/-
INDX 2007-FLX5	1A1	Aaa/AAA/-
INDX 2007-FLX6	1A1	Aaa/AAA/-
MANA 2007-A1	A1	Aaa/AAA/-
MANA 2007-A2	A1	Aaa/AAA/-
MANA 2007-A2	A2A	Aaa/AAA/-
MANA 2007-A3	A1	Aaa/AAA/-
MLMI 2005-A8	A2A	Aaa/AAA/-
MLMI 2005-A8	A2B1	Aaa/AAA/-
MLMI 2005-AR1	A2	Aaa/AAA/-
MLMI 2005-HE2	A1A	-/AAA/AAA
MLMI 2005-HE2	A1B	-/AAA/AAA
MLMI 2005-HE3	A1A	-/AAA/AAA
MLMI 2006-A3	IIA1	Aaa/AAA/-
MLMI 2006-AF2	AV1	Aaa/AAA/-
MLMI 2006-AHL1	A1	Aaa/AAA/-
MLMI 2006-AR1	A1	Aaa/AAA/-
MLMI 2006-FF1	A1	Aaa/AAA/-
MLMI 2006-FM1	A1	Aaa/AAA/-
MLMI 2006-HE1	A1	Aaa/AAA/-
MLMI 2006-HE4	A1	Aaa/AAA/-
MLMI 2006-HE5	A1	Aaa/AAA/-
MLMI 2006-HE6	A1	Aaa/AAA/-
MLMI 2006-MLN1	A1	Aaa/AAA/-
MLMI 2006-OPT1	A1	Aaa/AAA/-

Transaction	Tranche	Ratings at Issuance (Moody's/S&P/Fitch)
MLMI 2006-RM1	A1	Aaa/AAA/-
MLMI 2006-RM2	A1A	Aaa/AAA/-
MLMI 2006-RM3	A1A	Aaa/AAA/-
MLMI 2006-RM4	A1	Aaa/AAA/-
MLMI 2006-RM5	A1	Aaa/AAA/-
MLMI 2006-WMC1	A1A	Aaa/AAA/-
MLMI 2006-WMC2	A1	Aaa/AAA/-
MLMI 2007-HE1	A1	Aaa/AAA/-
MLMI 2007-HE2	A1	Aaa/AAA/-
MLMI 2007-MLN1	A1	Aaa/AAA/-
OOMLT 2007-1	IA2	Aaa/AAA/-
OOMLT 2007-1	IA1	Aaa/AAA/-
OWNIT 2005-4	A1	Aaa/AAA/-
OWNIT 2005-5	A1	Aaa/AAA/-
OWNIT 2006-1	AV	Aaa/AAA/-
OWNIT 2006-2	A1	Aaa/AAA/-
OWNIT 2006-3	A1	Aaa/AAA/-
OWNIT 2006-4	A1	Aaa/AAA/-
OWNIT 2006-5	A1B	Aaa/AAA/-
OWNIT 2006-5	A1A	Aaa/AAA/-
OWNIT 2006-6	A1	Aaa/AAA/-
OWNIT 2006-7	A1	Aaa/AAA/-
SURF 2005-AB3	A1A	Aaa/AAA/-
SURF 2005-BC3	A1A	Aaa/AAA/-
SURF 2005-BC4	A1A	Aaa/AAA/-
SURF 2006-AB2	A1	Aaa/AAA/-
SURF 2006-AB3	A1	Aaa/AAA/-
SURF 2006-BC1	A1	Aaa/AAA/-
SURF 2006-BC2	A1	Aaa/AAA/-
SURF 2006-BC3	A1	Aaa/AAA/-
SURF 2006-BC4	A1	Aaa/AAA/-
SURF 2006-BC5	A1	Aaa/AAA/-
SURF 2007-AB1	A1	Aaa/AAA/-
SURF 2007-BC1	A1	Aaa/AAA/-
SURF 2007-BC2	A1	Aaa/AAA/-

IV. FALSITY OF STATEMENTS IN THE REGISTRATION STATEMENTS AND PROSPECTUS SUPPLEMENTS

A. The Statistical Data Provided in the Prospectus Supplements Concerning Owner Occupancy and LTV Ratios Was Materially False

97. A review of loan level data was conducted in order to assess whether the statistical information provided in the Prospectus Supplements was true and accurate. For each Securitization, the sample consisted of 1,000 randomly selected loans per Supporting Loan Group, or all of loans in the group if there were fewer than 1,000 loans in the Supporting Loan Group. The sample data confirms, on a statistically-significant basis, material misrepresentations of underwriting standards and of certain key characteristics of the mortgage loans across the Securitizations. The data review demonstrates that the data concerning owner occupancy and LTV ratios was materially false and misleading.

1. Owner Occupancy Data Was Materially False

98. The data review has revealed that the owner occupancy statistics reported in the Prospectus Supplements were materially false and inflated. In fact, far fewer underlying properties were occupied by their owners than disclosed in the Prospectus Supplements, and more correspondingly were held as second homes or investment properties.

99. To determine whether a given borrower actually occupied the property as claimed, a number of tests were conducted, including, *inter alia*, whether, months after the loan closed, the borrower's tax bill was being mailed to the property or to a different address; whether the borrower had claimed a tax exemption on the property; and whether the mailing address of the property was reflected in the borrower's credit reports, tax records, or lien records. Failing two or more of these tests is a strong indication that the borrower did not live at the mortgaged property and instead used it as a second home or an investment property, both of which make it much more likely that a borrower will not repay the loan.

100. A significant number of the loans failed two or more of these tests, indicating that the owner occupancy statistics provided to Fannie Mae and Freddie Mac were materially false and misleading. For example, for the SURF 2006-BC1 Securitization, for which Merrill Lynch Mortgage Lending was the sponsor, and Merrill Lynch, Pierce, Fenner & Smith was the underwriter, the Prospectus Supplement stated that 2.36 percent of the underlying properties by loan count in the Supporting Loan Group were not owner-occupied. But the data review revealed that, for 11.94 percent of the properties represented as owner-occupied, the owners lived elsewhere, indicating that the true percentage of non-owner occupied properties was 14.02 percent, nearly six times the percentage reported in the Prospectus Supplement.¹⁴

101. The data review revealed that for each Securitization, the Prospectus Supplement misstated the percentage of non-owner occupied properties. The true percentage of non-owner occupied properties, as determined by the data review, versus the percentage stated in the Prospectus Supplement for each Securitization, is reflected in Table 8 below. Table 8 demonstrates that the Prospectus Supplements for each Securitization understated the percent of non-owner occupied properties by at least 6 percentage points, and for many Securitizations by 10 percentage points or more.

¹⁴ This conclusion is arrived at by summing (a) the stated non-owner-occupied percentage in the Prospectus Supplement (here, 2.36 percent), and (b) the product of (i) the stated owner-occupied percentage (here, 97.64 percent) and (ii) the percentage of the properties represented as owner-occupied in the sample that showed strong indications that their owners in fact lived elsewhere (here, 11.94 percent).

Table 8

Transaction	Tranche	Supporting Loan Group(s)	Reported Percentage of Non-Owner Occupied Properties	Percentage of Properties Reported as Owner-Occupied With Strong Indication of Non-Owner Occupancy	Actual Percentage of Non-Owner Occupied Properties	Prospectus Percentage Understatement of Non-Owner Occupied Properties
ARSI 2005-W4	A1B	Group 1	9.74	11.26	19.90	10.17
ARSI 2005-W4	A1A2	Group 1	9.74	11.26	19.90	10.17
ARSI 2005-W4	A1A3	Group 1	9.74	11.26	19.90	10.17
ARSI 2006-M1	A1	Group 1	12.31	9.37	20.53	8.21
CBASS 2006-CB8	A1	Group 1	7.81	10.72	17.69	9.88
FFMER 2007-1	A1	Group 1	3.90	11.51	14.97	11.06
FFMER 2007-2	A1	Group 1	6.64	11.06	16.97	10.33
FFMER 2007-3	A1A	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	A1C	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	A1D	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	M11	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	M21	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	M31	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-3	M41	Group 1	7.57	9.88	16.69	9.13
FFMER 2007-4	1A	Group 1	7.78	10.11	17.11	9.33
FFMER 2007-4	1M1	Group 1	7.78	10.11	17.11	9.33
FFMER 2007-4	1M2	Group 1	7.78	10.11	17.11	9.33
FFMER 2007-4	1M3	Group 1	7.78	10.11	17.11	9.33
FFMER 2007-5	1A	Group 1	9.19	11.20	19.37	10.17
FFMER 2007-H1	1A1	Group 1	0.04	12.49	12.52	12.48
FFML 2005-FF12	A1	Group 1	6.13	10.45	15.93	9.81
FFML 2006-FF18	A1	Group 1	2.59	7.97	10.36	7.77
FFML 2007-FF1	A1	Group 1	6.19	9.52	15.12	8.93
FFML 2007-FF2	A1	Group 1	5.95	12.76	17.95	12.00
FMIC 2006-3	1A	Group 1	6.83	12.07	18.07	11.24
INDX 2005-AR33	2A1	Group 2	14.08	11.34	23.82	9.75
INDX 2006-AR5	1A1	Group 1	13.59	13.59	25.33	11.74
INDX 2006-AR7	2A1	Group 2	17.13	12.61	27.58	10.45
INDX 2007-FLX4	1A1	Group 1	18.07	13.99	29.53	11.46
INDX 2007-FLX5	1A1	Group 1	18.16	13.89	29.53	11.37
INDX 2007-FLX6	1A1	Group 1	16.48	12.64	27.04	10.56
MANA 2007-A1	A1	Group 1	23.23	16.74	36.08	12.85
MANA 2007-A2	A1	Group 1	30.40	15.15	40.95	10.55
MANA 2007-A2	A2A	Group 2	17.79	15.53	30.56	12.77
MANA 2007-A3	A1	Group 1	43.76	17.05	53.35	9.59

Transaction	Tranche	Supporting Loan Group(s)	Reported Percentage of Non-Owner Occupied Properties	Percentage of Properties Reported as Owner-Occupied With Strong Indication of Non-Owner Occupancy	Actual Percentage of Non-Owner Occupied Properties	Prospectus Percentage Understatement of Non-Owner Occupied Properties
MLMI 2005-A8	A2A	Group 2	52.58	13.72	59.09	6.51
MLMI 2005-A8	A2B1	Group 2	52.58	13.72	59.09	6.51
MLMI 2005-AR1	A2	Group 2	13.78	14.20	26.02	12.24
MLMI 2005-HE2	A1A	Group 1	7.78	14.11	20.79	13.02
MLMI 2005-HE2	A1B	Group 1	7.78	14.11	20.79	13.02
MLMI 2005-HE3	A1A	Group 1	6.01	11.57	16.88	10.87
MLMI 2006-A3	IIA1	Group 2	7.97	15.18	21.94	13.97
MLMI 2006-AF2	AV1	Group 2	31.15	10.68	38.50	7.35
MLMI 2006-AHL1	A1	Group I	13.04	15.12	26.19	13.14
MLMI 2006-AR1	A1	Group I	13.39	10.62	22.59	9.20
MLMI 2006-FF1	A1	Group I	11.29	10.67	20.76	9.46
MLMI 2006-FM1	A1	Group I	6.27	15.98	21.25	14.98
MLMI 2006-HE1	A1	Group I	8.84	11.14	18.99	10.15
MLMI 2006-HE4	A1	Group I	9.21	11.68	19.81	10.60
MLMI 2006-HE5	A1	Group I	12.17	9.41	20.43	8.27
MLMI 2006-HE6	A1	Group I	11.63	11.61	21.89	10.26
MLMI 2006-MLN1	A1	Group I	3.65	9.85	13.14	9.49
MLMI 2006-OPT1	A1	Group I	6.60	10.42	16.33	9.73
MLMI 2006-RM1	A1	Group I	12.20	14.22	24.69	12.48
MLMI 2006-RM2	A1A	Group I	5.22	12.51	17.08	11.86
MLMI 2006-RM3	A1A	Group I	3.13	14.26	16.94	13.81
MLMI 2006-RM4	A1	Group I	8.38	12.82	20.13	11.75
MLMI 2006-RM5	A1	Group I	10.61	12.69	21.95	11.34
MLMI 2006-WMC1	A1A	Group I	4.26	13.08	16.78	12.52
MLMI 2006-WMC2	A1	Group I	5.53	11.84	16.72	11.19
MLMI 2007-HE1	A1	Group 1	9.28	11.03	19.29	10.01
MLMI 2007-HE2	A1	Group 1	6.33	12.39	17.94	11.61
MLMI 2007-MLN1	A1	Group 1	10.53	8.26	17.92	7.39
OOMLT 2007-1	IA2	Group 1	12.98	10.44	22.07	9.09
OOMLT 2007-1	IA1	Group 1	12.98	10.44	22.07	9.09
OWNIT 2005-4	A1	Group 1	7.21	10.75	17.18	9.97
OWNIT 2005-5	A1	Group 1	8.62	9.11	16.95	8.33
OWNIT 2006-1	AV	Group 1	3.56	7.81	11.08	7.53
OWNIT 2006-2	A1	Group 1	5.52	9.13	14.14	8.63
OWNIT 2006-3	A1	Group 1	5.12	7.85	12.57	7.45
OWNIT 2006-4	A1	Group 1	3.99	7.97	11.63	7.65
OWNIT 2006-5	A1B	Group 1	2.38	10.47	12.60	10.22

Transaction	Tranche	Supporting Loan Group(s)	Reported Percentage of Non-Owner Occupied Properties	Percentage of Properties Reported as Owner-Occupied With Strong Indication of Non-Owner Occupancy	Actual Percentage of Non-Owner Occupied Properties	Prospectus Percentage Understatement of Non-Owner Occupied Properties
OWNIT 2006-5	A1A	Group 1	2.38	10.47	12.60	10.22
OWNIT 2006-6	A1	Group 1	3.51	10.99	14.12	10.61
OWNIT 2006-7	A1	Group 1	3.81	12.73	16.05	12.24
SURF 2005-AB3	A1A	Group 1	22.36	14.91	33.94	11.58
SURF 2005-BC3	A1A	Group 1	3.11	11.42	14.18	11.07
SURF 2005-BC4	A1A	Group 1	2.69	10.45	12.85	10.17
SURF 2006-AB2	A1	Group 1	15.40	12.41	25.90	10.50
SURF 2006-AB3	A1	Group 1	24.61	11.62	33.37	8.76
SURF 2006-BC1	A1	Group 1	2.36	11.94	14.02	11.66
SURF 2006-BC2	A1	Group 1	1.43	15.65	16.85	15.42
SURF 2006-BC3	A1	Group 1	3.63	10.42	13.67	10.04
SURF 2006-BC4	A1	Group 1	6.19	10.82	16.34	10.15
SURF 2006-BC5	A1	Group 1	3.21	10.39	13.26	10.06
SURF 2007-AB1	A1	Group 1	21.97	12.80	31.96	9.98
SURF 2007-BC1	A1	Group 1	4.71	11.14	15.32	10.61
SURF 2007-BC2	A1	Group 1	3.94	11.40	14.88	10.95

2. Loan to Value Data Was Materially False

102. The data review has further revealed that the LTV ratios disclosed in the Prospectus Supplements were materially false and understated, as more specifically set out below. For each of the sampled loans, an industry standard automated valuation model (“AVM”) was used to calculate the value of the underlying property at the time the mortgage loan was originated. AVMs are routinely used in the industry as a way of valuing properties during prequalification, origination, portfolio review and servicing. AVMs rely upon similar data as appraisers—primarily county assessor records, tax rolls, and data on comparable properties. AVMs produce independent, statistically-derived valuation estimates by applying modeling techniques to this data.

103. Applying the AVM to the available data for the properties securing the sampled loans shows that the appraised value given to such properties was significantly higher than the

actual value of such properties. The result of this overstatement of property values is a material understatement of LTV. That is, if a property's true value is significantly less than the value used in the loan underwriting, then the loan represents a significantly higher percentage of the property's value. This, of course, increases the risk a borrower will not repay the loan and the risk of greater losses in the event of a default. As stated in the Prospectus Supplement for SURF 2007-BC2: "Mortgage loans with higher combined loan-to-value ratios may present a greater risk of loss than mortgage loans with combined loan-to-value ratios of 80 percent or below."

104. For example, for the MLMI 2006-MLN1 Securitization, which was sponsored by Merrill Lynch Mortgage Lending and underwritten by Merrill Lynch, Pierce, Fenner & Smith, the Prospectus Supplement stated that no LTV ratios for the Supporting Loan Group were above 100 percent. In fact, 20.65 percent of the sample of loans included in the data review had LTV ratios above 100 percent. In addition, the Prospectus Supplement stated that 72.92 percent of the loans had LTV ratios at or below 80 percent. The data review indicated that only 34.75 percent of the loans had LTV ratios at or below 80 percent.

105. The data review revealed that for each Securitization, the Prospectus Supplement misstated the percentage of loans with an LTV ratio that were above 100 percent, as well as the percentage of the loans that had an LTV ratio at or below 80 percent. Table 9 reflects (i) the true percentage of mortgages in the Supporting Loan Group with LTV ratios above 100 percent, versus the percentage reported in the Prospectus Supplement; and (ii) the true percentage of mortgages in the Supporting Loan Group with LTV ratio at or below 80 percent, versus the percentage reported in the Prospectus Supplement. The percentages listed in Table 9 were calculated by aggregated principal balance.

Table 9

Transaction	Tranche	Supporting Loan Group	PROSPECTUS	DATA REVIEW	PROSPECTUS	DATA REVIEW
			Percentage of Loans Reported to Have LTV Ratios At Or Less Than 80%	True Percentage of Loans LTV Ratios At Or Less Than 80%	Percentage of Loans Reported to Have LTV Ratios Over 100%	True Percentage of Loans With LTV Ratios Over 100%
ARSI 2005-W4	A1B	Group 1	65.49	43.07	0.00	12.56
ARSI 2005-W4	A1A2	Group 1	65.49	43.07	0.00	12.56
ARSI 2005-W4	A1A3	Group 1	65.49	43.07	0.00	12.56
ARSI 2006-M1	A1	Group 1	53.77	37.26	0.00	14.71
CBASS 2006-CB8	A1	Group I	34.83	24.35	0.00	30.82
FFMER 2007-1	A1	Group I	59.35	31.45	0.00	23.07
FFMER 2007-2	A1	Group I	49.68	28.97	0.00	25.75
FFMER 2007-3	A1A	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	A1C	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	A1D	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	M11	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	M21	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	M31	Group I	42.71	26.08	0.00	29.37
FFMER 2007-3	M41	Group I	42.71	26.08	0.00	29.37
FFMER 2007-4	1A	Group I	33.18	21.19	0.00	31.80
FFMER 2007-4	1M1	Group I	33.18	21.19	0.00	31.80
FFMER 2007-4	1M2	Group I	33.18	21.19	0.00	31.80
FFMER 2007-4	1M3	Group I	33.18	21.19	0.00	31.80
FFMER 2007-5	1A	Group I	40.24	23.49	0.00	29.92
FFMER 2007-H1	1A1	Group I	60.30	28.30	0.00	24.16
FFML 2005-FF12	A1	Group I	72.38	50.36	0.00	10.97
FFML 2006-FF18	A1	Group I	57.54	35.30	0.00	18.18
FFML 2007-FF1	A1	Group I	56.98	32.82	0.00	22.05
FFML 2007-FF2	A1	Group I	63.91	33.37	0.00	16.61
FMIC 2006-3	1A	Group 1	34.12	26.56	0.00	18.24
INDX 2005-AR33	2A1	Group 2	95.47	57.99	0.00	6.35
INDX 2006-AR5	1A1	Group 1	99.33	66.37	0.00	5.10
INDX 2006-AR7	2A1	Group 2	97.79	52.07	0.00	6.09
INDX 2007-FLX4	1A1	Group 1	98.96	56.77	0.00	12.54
INDX 2007-FLX5	1A1	Group 1	98.46	51.50	0.00	12.38
INDX 2007-FLX6	1A1	Group 1	99.17	56.26	0.00	14.68
MANA 2007-A1	A1	Group I	93.49	56.17	0.00	12.92
MANA 2007-A2	A1	Group I	93.66	47.35	0.00	12.24

Transaction	Tranche	Supporting Loan Group	PROSPECTUS	DATA REVIEW	PROSPECTUS	DATA REVIEW
			Percentage of Loans Reported to Have LTV Ratios At Or Less Than 80%	True Percentage of Loans LTV Ratios At Or Less Than 80%	Percentage of Loans Reported to Have LTV Ratios Over 100%	True Percentage of Loans With LTV Ratios Over 100%
MANA 2007-A2	A2A	Group 2	93.50	45.42	0.00	9.02
MANA 2007-A3	A1	Group 1	96.26	50.69	0.00	12.60
MLMI 2005-A8	A2A	Group 2	79.66	53.42	0.00	9.64
MLMI 2005-A8	A2B1	Group 2	79.66	53.42	0.00	9.64
MLMI 2005-AR1	A2	Group 2	18.76	16.01	0.00	23.24
MLMI 2005-HE2	A1A	Group 1	58.96	43.73	0.00	11.76
MLMI 2005-HE2	A1B	Group 1	58.96	43.73	0.00	11.76
MLMI 2005-HE3	A1A	Group 1	63.86	34.48	0.00	14.99
MLMI 2006-A3	IIA1	Group 2	95.71	48.29	0.00	5.49
MLMI 2006-AF2	AV1	Group 2	78.02	51.22	0.00	8.67
MLMI 2006-AHL1	A1	Group I	54.48	34.46	0.00	19.60
MLMI 2006-AR1	A1	Group I	50.90	30.75	0.00	18.13
MLMI 2006-FF1	A1	Group I	86.35	59.67	0.00	4.32
MLMI 2006-FM1	A1	Group I	69.85	39.42	0.00	17.87
MLMI 2006-HE1	A1	Group I	57.48	35.89	0.00	15.18
MLMI 2006-HE4	A1	Group I	55.51	32.06	0.00	20.55
MLMI 2006-HE5	A1	Group I	64.41	44.78	0.00	13.33
MLMI 2006-HE6	A1	Group I	35.81	26.53	0.00	25.20
MLMI 2006-MLN1	A1	Group I	72.92	34.75	0.00	20.65
MLMI 2006-OPT1	A1	Group I	62.41	40.00	0.00	15.81
MLMI 2006-RM1	A1	Group I	60.45	43.32	0.00	13.54
MLMI 2006-RM2	A1A	Group I	67.91	38.26	0.00	15.35
MLMI 2006-RM3	A1A	Group I	68.99	38.72	0.00	13.79
MLMI 2006-RM4	A1	Group I	62.43	42.27	0.00	18.11
MLMI 2006-RM5	A1	Group I	46.50	31.59	0.00	19.65
MLMI 2006-WMC1	A1A	Group I	73.03	41.99	0.00	16.20
MLMI 2006-WMC2	A1	Group I	74.94	41.86	0.00	14.39
MLMI 2007-HE1	A1	Group 1	53.86	33.49	0.00	25.33
MLMI 2007-HE2	A1	Group 1	40.89	24.57	0.00	26.98
MLMI 2007-MLN1	A1	Group 1	48.44	26.56	0.00	28.42
OOMLT 2007-1	IA2	Group 1	51.10	34.40	0.00	20.76
OOMLT 2007-1	IA1	Group 1	51.10	34.40	0.00	20.76
OWNIT 2005-4	A1	Group 1	66.50	43.89	0.00	8.31
OWNIT 2005-5	A1	Group 1	57.51	40.28	0.00	12.96

Transaction	Tranche	Supporting Loan Group	PROSPECTUS	DATA REVIEW	PROSPECTUS	DATA REVIEW
			Percentage of Loans Reported to Have LTV Ratios At Or Less Than 80%	True Percentage of Loans LTV Ratios At Or Less Than 80%	Percentage of Loans Reported to Have LTV Ratios Over 100%	True Percentage of Loans With LTV Ratios Over 100%
OWNIT 2006-1	AV	Group 1	84.23	52.07	0.00	8.80
OWNIT 2006-2	A1	Group 1	74.79	46.59	0.00	11.03
OWNIT 2006-3	A1	Group 1	75.47	49.15	0.00	10.35
OWNIT 2006-4	A1	Group 1	73.60	45.59	0.00	11.75
OWNIT 2006-5	A1B	Group 1	78.75	49.78	0.00	10.77
OWNIT 2006-5	A1A	Group 1	78.75	49.78	0.00	10.77
OWNIT 2006-6	A1	Group 1	74.84	42.44	0.00	13.08
OWNIT 2006-7	A1	Group 1	64.66	38.84	0.00	17.67
SURF 2005-AB3	A1A	Group 1	61.80	42.99	0.00	13.75
SURF 2005-BC3	A1A	Group 1	54.56	40.80	0.00	14.61
SURF 2005-BC4	A1A	Group 1	56.65	48.03	0.00	10.47
SURF 2006-AB2	A1	Group I	59.44	34.57	0.00	17.95
SURF 2006-AB3	A1	Group 1	63.64	39.75	0.00	18.28
SURF 2006-BC1	A1	Group 1	59.27	41.53	0.00	13.96
SURF 2006-BC2	A1	Group 1	63.07	40.25	0.00	15.70
SURF 2006-BC3	A1	Group 1	55.65	35.73	0.00	19.93
SURF 2006-BC4	A1	Group 1	50.89	32.24	0.00	20.91
SURF 2006-BC5	A1	Group 1	52.16	32.65	0.00	19.85
SURF 2007-AB1	A1	Group 1	59.45	32.35	0.00	20.98
SURF 2007-BC1	A1	Group 1	47.33	25.53	0.00	22.37
SURF 2007-BC2	A1	Group 1	47.53	31.00	0.00	23.04

106. As Table 9 demonstrates, the Prospectus Supplements for all of the Securitizations reported that *none* of the mortgage loans in the Supporting Loan Groups had an LTV ratio over 100 percent. In contrast, the data review revealed that at least 4.32 percent of the mortgage loans for each Securitization had an LTV ratio over 100 percent, and for most Securitizations this figure was much larger. Indeed, for 63 of the Securitizations, the data review revealed that more than 10 percent of the mortgages in the Supporting Loan Group had a true LTV ratio over 100 percent. For 20 Securitizations, the data review revealed that more than 20 percent of the mortgages in the Supporting Loan Group had a true LTV ratio over 100 percent.

107. These inaccuracies with respect to reported LTV ratios also indicate that the representations in the Registration Statements relating to appraisal practices were false, and that the appraisers themselves, in many instances, furnished appraisals that they understood were inaccurate and that they knew bore no reasonable relationship to the actual value of the underlying properties. Indeed, independent appraisers following proper practices, and providing genuine estimates as to valuation, would not systematically generate appraisals that deviate so significantly (and so consistently upward) from the true values of the appraised properties. This conclusion is further confirmed by the findings of the Financial Crisis Inquiry Commission (“FCIC”), which identified “inflated appraisals” as a pervasive problem during the period of the Securitizations, and determined through its investigation that appraisers were often pressured by mortgage originators, among others, to produce inflated results. *See* Financial Crisis Inquiry Commission, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States, at 91 (January 2011).

B. The Originators of the Underlying Mortgage Loans Systematically Disregarded Their Underwriting Guidelines

108. The Registration Statements contained material misstatements and omissions regarding compliance with underwriting guidelines. Indeed, the originators for the loans underlying the Securitizations systematically disregarded their respective underwriting guidelines in order to increase production and profits derived from their mortgage lending business. This is confirmed by the systematically misreported owner occupancy and LTV statistics, discussed above, and by (1) government investigations into originators’ underwriting practices, which have revealed widespread abandonment of originators’ reported underwriting guidelines during the relevant period; (2) the collapse of the Certificates’ credit ratings; and (3) the surge in delinquency and default in the mortgages in the Securitizations.

1. Government Investigations Have Confirmed That the Originators of the Loans in the Securitizations Systematically Failed to Adhere to Their Underwriting Guidelines

109. The abandonment of underwriting guidelines is confirmed by several government reports and investigations that have described rampant underwriting failures throughout the period of the Securitizations, and, more specifically, have described underwriting failures by the very originators whose loans were included by the Defendants in the Securitizations.

110. For instance, in November 2008, the Office of the Comptroller of the Currency, an office within the United States Department of the Treasury, issued a report identifying the “Worst Ten” mortgage originators in the “Worst Ten” metropolitan areas. The worst originators were defined as those with the largest number of non-prime mortgage foreclosures for 2005-2007 originations. Option One, Fremont, IndyMac, WMC, and GreenPoint, which originated many of the loans for the Securitization at issue here, were all on that list. *See*, “Worst Ten in the Worst Ten,” Office of the Comptroller of the Currency Press Release, (Nov. 13, 2008), *available at* <http://www.occ.treas.gov/news-issuances/news-releases/2009/nr-occ-2009-112b.pdf>.

111. Option One, which originated the loans for three of the Securitizations, has been identified through multiple reports and investigations for its faulty underwriting. On June 3, 2008, for instance, the Attorney General for the Commonwealth of Massachusetts filed an action against Option One (the “Option One Complaint”), and its past and present parent companies, for their unfair and deceptive origination and servicing of mortgage loans. *See* Complaint, *Commonwealth v. H&R Block, Inc.*, CV NO. 08-2474-BLS (Mass. Super. Ct. June. 3, 2008). According to the Massachusetts Attorney General, since 2004, Option One had “increasingly disregarded underwriting standards . . . and originated thousands of loans that [Option One] knew or should have known the borrowers would be unable to pay, all in an effort to increase loan origination volume so as to profit from the practice of packaging and selling the vast majority of

[Option One's] residential subprime loans to the secondary market." *See* Option One Complaint. The Massachusetts Attorney General alleged that Option One's agents and brokers "frequently overstated an applicant's income and/or ability to pay, and inflated the appraised value of the applicant's home," and that Option One "avoided implementing reasonable measures that would have prevented or limited these fraudulent practices." Option One's "origination policies ... employed from 2004 through 2007 have resulted in an explosion of foreclosures." *Id.* at 1. On November 24, 2008, the Superior Court of Massachusetts granted a preliminary injunction that prevented Option One from foreclosing on thousands of its loans issued to Massachusetts residents. *Commonwealth v. H&R Block, Inc.*, No. 08-2474-BLS1, 2008 WL 5970550 (Mass. Super. Ct. Nov. 24, 2008). On October 29, 2009, the Appeals Court of Massachusetts affirmed the preliminary injunction. *See Commonwealth v. Option One Mortgage Co.*, No. 09-P-134, 2009 WL 3460373 (Mass. App. Ct. Oct. 29, 2009).

112. On August 9, 2011, the Massachusetts Attorney General announced that H&R Block, Inc., Option One's parent company, had agreed to settle the suit for approximately \$125 million. *See* Massachusetts Attorney General Press Release, "H&R Block Mortgage Company Will Provide \$125 Million in Loan Modifications and Restitutions," Aug. 9, 2011. Media reports noted that the suit was being settled amidst ongoing discussions among multiple states' attorneys general, federal authorities, and five major mortgage servicers, aimed at resolving investigations of the lenders' foreclosure and mortgage-servicing practices. The Massachusetts Attorney General released a statement saying that no settlement should include a release for conduct relating to the lenders' packaging of mortgages into securitizations. *See, e.g.*, Bloomberg.com, H&R Block, Massachusetts Reach \$125 Million Accord in State Mortgage Suit, Aug. 9, 2011.

113. On October 4, 2007, the Commonwealth of Massachusetts, through its Attorney General, brought an enforcement action against Fremont, which originated loans for two of the Securitizations, for an array of “unfair and deceptive business conduct,” “on a broad scale.” *See* Complaint, *Commonwealth v. Fremont Investment & Loan and Fremont General Corp.*, No. 07-4373 (Mass. Super. Ct.) (the “Fremont Complaint”). According to the Massachusetts Attorney General’s complaint, Fremont “approve[ed] borrowers without considering or verifying the relevant documentation related to the borrower’s credit qualifications, including the borrower’s income”; “approv[ed] borrowers for loans with inadequate debt-to-income analyses that do not properly consider the borrowers’ ability to meet their overall level of indebtedness and common housing expenses”; “failed to meaningfully account for [ARM] payment adjustments in approving and selling loans”; “approved borrowers for these ARM loans based only on the initial fixed ‘teaser’ rate, without regard for borrowers’ ability to pay after the initial two year period”; “consistently failed to monitor or supervise brokers’ practices or to independently verify the information provided to Fremont by brokers”; and “ma[de] loans based on information that Fremont knew or should have known was inaccurate or false, including, but not limited to, borrowers’ income, property appraisals, and credit scores.” *See* Fremont Complaint.

114. On December 9, 2008, the Supreme Judicial Court of Massachusetts affirmed a preliminary injunction that prevented Fremont from foreclosing on thousands of its loans issued to Massachusetts residents. As a basis for its unanimous ruling, the Supreme Judicial Court found that the record supported the lower court’s conclusions that “Fremont made no effort to determine whether borrowers could ‘make the scheduled payments under the terms of the loan,’” and that “Fremont knew or should have known that [its lending practices and loan terms] would operate in concert essentially to guarantee that the borrower would be unable to pay and default

would follow.” *Commonwealth v. Fremont Inv. & Loan*, 897 N.E.2d 548, 556 (Mass. 2008).

The terms of the preliminary injunction were made permanent by a settlement reached on June 9, 2009.

115. IndyMac, which originated the loans for six of the Securitizations, was the subject of a February 26, 2009 report issued by the Office of Inspector General (“OIG”) of the U.S. Department of Treasury entitled “Safety and Soundness: Material Loss Review of IndyMac Bank, FSB” (the “OIG Report”). The OIG Report found that IndyMac Bank had “embarked on a path of aggressive growth” that was supported by its high risk business strategy of “originating ... Alt-A loans on a large scale” and then “packag[ing] them together in securities” and selling “them on the secondary market” to investors. OIG Report at 2, 6, 7. The OIG Report further stated that: “To facilitate this level of [loan] production ... IndyMac often did not perform adequate underwriting.” *Id.* at 2.

116. A June 30, 2008 report issued by the Center for Responsible Lending (“CRL”) also found that IndyMac Bank often ignored its stated underwriting and appraisal standards and encouraged its employees to approve loans regardless of the borrower’s ability to repay them. *See* *IndyMac: What Went Wrong? How an ‘Alt-A’ Leader Fueled its Growth with Unsound and Abusive Mortgage Lending* (the “CRL Report”). For example, the CRL Report noted that IndyMac Bank “engaged in unsound and abusive lending practices” and “allowed outside mortgage brokers and in-house sales staffers to inflate applicants’ [financial information] ... [to] make them look like better credit risks.” *See* CRL Report at 2, 8.

117. WMC, which originated the loans for two of the Securitizations, employed reckless underwriting standards and practices, as described more fully below, that resulted in a huge amount of foreclosures, ranking WMC fourth in the report presented to the FCIC in April

2010 identifying the “Worst Ten” mortgage originators in the “Worst Ten” metropolitan areas. *See* “Worst Ten in the Worst Ten,” Office of the Comptroller of the Currency Press Release, November 13, 2008. General Electric, which had purchased WMC in 2004, closed down operations at WMC in late 2007 and took a \$1.4 billion charge in the third quarter of that year. *See, e.g.*, Diane Brady, Adventures of a Subprime Survivor, Bloomberg Businessweek, Oct. 29, 2007 (available at http://www.businessweek.com/magazine/content/07_44/b4056074.htm).

118. WMC’s reckless loan originating practices were noticed by regulatory authorities. In June 2008, the Washington State Department of Financial Institutions, Division of Consumer Services filed a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit From Industry, Impose Fine, Order Restitution and Collect Investigation Fees (the “Statement of Charges”) against WMC Mortgage and its principal owners individually. *See* Statement of Charges, No. C-07-557-08-SC01, Jun. 4, 2008. The Statement of Charges included 86 loan files, which revealed that at least 76 loans were defective or otherwise in violation of Washington state law. *Id.* Among other things, the investigation uncovered that WMC had originated loans with unlicensed or unregistered mortgage brokers, understated amounts of finance charges on loans, understated amounts of payments made to escrow companies, understated annual percentage rates to borrowers and committed many other violations of Washington State deceptive and unfair practices laws. *Id.*

119. GreenPoint, which originated the loans for four of the Securitizations, systematically disregarded its underwriting standards, granted exceptions in the absence of compensating factors, required less documentation, and granted no-documentation or limited-documentation loans to individuals without sound credit histories. In November 2008, Business Week Magazine reported that GreenPoint’s employees and independent mortgage brokers

targeted borrowers who were less able to afford the loan payments they were required to make, and many had no realistic ability to pay back the loans. GreenPoint's parent corporation, Capital One Financial Corp., eventually liquidated GreenPoint in December 2008, taking an \$850 million write-down due to mortgage-related losses associated with GreenPoint's origination business.

120. GreenPoint's pervasive disregard of underwriting standards resulted in its inclusion among the worst ten originators in the 2008 "Worst Ten in the Worst Ten" Report. GreenPoint was identified 7th worst in Stockton, California, and 9th worst in both Sacramento, California, and Las Vegas, Nevada. In the 2009 "Worst Ten in the Worst Ten" Report, GreenPoint was listed as 3rd worst in Modesto, California, 4th worst in Stockton, Merced, and Vallejo-Fairfield-Napa, California, 6th worst in Las Vegas, Nevada; and 9th in Reno, Nevada.

121. GreenPoint is now a defendant in numerous lawsuits alleging misrepresentations regarding the quality of the loans GreenPoint underwrote and originated. For example, in *U.S. Bank Nat'l Ass'n v. GreenPoint Mortgage Funding, Inc.*, No. 09-600352 (N.Y. Sup. Ct. filed Apr. 22, 2009), a consultant's investigation concluded that 93 percent of the loans that GreenPoint sold contained errors, omissions, misrepresentations, and negligence related to origination and underwriting. The investigation found that GreenPoint loans suffered from serious defects including:

- Pervasive misrepresentations and/or negligence with respect to the statement of the income, assets or employment of the borrower.
- Violations of GreenPoint's own underwriting guidelines and prudent mortgage lending practices, including loans made to borrowers (i) who made unreasonable claims as to their income, (ii) with multiple, unverified social security numbers, (iii) with credit scores below the required minimum, (iv) with debt-to-income and/or loan-to-value ratios above the allowed maximum, or (v) with relationships to GreenPoint or other non-arm's-length relationships.

- Misrepresentations of the borrower’s intent to occupy the property as the borrower’s residence and subsequent failure to so occupy the property.
- Inflated appraisal values.

122. On March 3, 2010, the court denied GreenPoint’s motion to dismiss this claim, holding that discovery would be required to determine whether GreenPoint would be required under the parties’ contract to repurchase all 30,000 loans based on the deficiencies in individual loans identified by U.S. Bank.

123. The originators of the mortgage loans underlying the Securitizations went beyond the systematic disregard of their own underwriting guidelines. Indeed, as the FCIC has confirmed, mortgage loan originators throughout the industry pressured appraisers, during the period of the Securitizations, to issue inflated appraisals that met or exceeded the amount needed for the subject loans to be approved, regardless of the accuracy of such appraisals, and especially when the originators aimed at putting the mortgages into a package of mortgages that would be sold for securitization. This resulted in lower LTV ratios, discussed *supra*, which in turn made the loans appear to the investors less risky than they were.

124. As described by Patricia Lindsay, a former wholesale lender who testified before the FCIC in April 2010, appraisers “fear[ed]” for their “livelihoods,” and therefore cherry-picked data “that would help support the needed value rather than finding the best comparables to come up with the most accurate value.” *See* Written Testimony of Patricia Lindsay to the FCIC, April 7, 2010, at 5. Likewise, Jim Amarin, President of the Appraisal Institute, confirmed in his testimony that “[i]n many cases, appraisers are ordered or severely pressured to doctor their reports and to convey a particular, higher value for a property, or else never see work for those parties again. . . . [T]oo often state licensed and certified appraisers are forced into making a ‘Hobson’s Choice.’” *See* Testimony of Jim Amarin to the FCIC, available at

www.appraisalinstitute.org/newsadvocacy/downloads/ltrs_tstmny/2009/AI-ASA-ASFMRA-NAIFATestimonyonMortgageReform042309final.pdf. Faced with this choice, appraisers systematically abandoned applicable guidelines and over-valued properties in order to facilitate the issuance of mortgages that could then be collateralized into mortgage-backed securitizations.

2. The Collapse of the Certificates' Credit Ratings Further Indicates that the Mortgage Loans were not Originated in Adherence to the Stated Underwriting Guidelines

125. The total collapse in the credit ratings of the GSE Certificates, typically from AAA or its equivalent to non-investment grade is further evidence of the originators' systematic disregard of underwriting guidelines, indicating that the GSE Certificates were impaired from the start.

126. A significant number of the GSE Certificates that Fannie Mae and Freddie Mac purchased were originally assigned credit ratings of AAA, or its equivalent, which purportedly reflected the description of the mortgage loan collateral and underwriting practices set forth in the Registration Statements. The rest of the GSE Certificates were rated investment grade, with a minimum rating of "A1" or its equivalent. These ratings were artificially inflated, however, as a result of the very same misrepresentations that the Defendants made to investors in the Prospectus Supplements.

127. Merrill Lynch provided or caused to be provided loan level information to the rating agencies that they relied upon in order to calculate the Certificates' assigned ratings, including the borrower's LTV ratio, debt-to-income ratio, owner occupancy status, and other loan level information described in aggregation reports in the Prospectus Supplements. Because the information that Merrill Lynch provided or caused to be provided was false, the ratings were inflated, and the level of subordination that the ratings agencies required for the sale of certificates rated between AAA and A1 (or their equivalents) was inadequate to provide

investors with the level of protection that those ratings signified. As a result, the GSEs paid Defendants inflated prices for Certificates that, in almost all cases, were sold and marketed as AAA (or their equivalents), unaware that those certificates actually carried a severe risk of loss and carried inadequate credit enhancement.

128. Since the issuance of the Certificates, the ratings agencies have dramatically downgraded their ratings to reflect the revelations regarding the true underwriting practices used to originate the mortgage loans, and the true value and credit quality of the mortgage loans. Table 10 details the extent of the downgrades.¹⁵

Table 10

Transaction	Tranche	Ratings at Issuance (Moody's/S&P/Fitch)	Ratings as of 7/31/2011 (Moody's/S&P/Fitch)
ARSI 2005-W4	A1B	-/AAA/AAA	-/CCC/C
ARSI 2005-W4	A1A2	-/AAA/AAA	-/BB+/BB
ARSI 2005-W4	A1A3	-/AAA/AAA	-/CCC/CC
ARSI 2006-M1	A1	Aaa/AAA/AAA	Caa2/CCC/C
CBASS 2006-CB8	A1	Aaa/AAA/AAA	Caa3/CCC/CC
FFMER 2007-1	A1	Aaa/AAA/-	Ca/CCC/-
FFMER 2007-2	A1	Aaa/AAA/-	Ca/CCC/-
FFMER 2007-3	A1A	Aaa/AAA/-	Caa1/B+/-
FFMER 2007-3	A1C	Aaa/AAA/-	Ca/CCC/-
FFMER 2007-3	A1D	Aaa/AAA/-	Ca/CCC/-
FFMER 2007-3	M11	Aa1/AA+/-	C/CCC/-
FFMER 2007-3	M21	Aa2/AA/-	C/D/-
FFMER 2007-3	M31	Aa3/AA/-	C/D/-
FFMER 2007-3	M41	A1/A+/-	C/D/-
FFMER 2007-4	1A	Aaa/AAA/-	Caa3/CCC/-
FFMER 2007-4	1M1	Aa1/AA+/-	C/D/-
FFMER 2007-4	1M2	Aa2/AA/-	C/D/-
FFMER 2007-4	1M3	Aa3/AA/-	C/D/-
FFMER 2007-5	1A	Aaa/AAA/-	Caa3/CCC/-
FFMER 2007-H1	1A1	Aaa/AAA/AAA	Caa1/BB/CCC

¹⁵ Applicable ratings are shown in sequential order separated by forward slashes: Moody's/S&P/Fitch. A hyphen between forward slashes indicates that the relevant agency did not provide a rating at issuance.

Transaction	Tranche	Ratings at Issuance (Moody's/S&P/Fitch)	Ratings as of 7/31/2011 (Moody's/S&P/Fitch)
FFML 2005-FF12	A1	Aaa/AAA/-	Ba2/AAA/-
FFML 2006-FF18	A1	Aaa/AAA/-	Caa3/CCC/-
FFML 2007-FF1	A1	Aaa/AAA/-	Caa3/CCC/-
FFML 2007-FF2	A1	Aaa/AAA/-	Ca/CCC/-
FMIC 2006-3	1A	Aaa/AAA/-	B3/BBB/-
INDX 2005-AR33	2A1	Aaa/AAA/-	Ca/D/-
INDX 2006-AR5	1A1	Aaa/AAA/-	Caa3/CCC/-
INDX 2006-AR7	2A1	Aaa/AAA/-	Ca/D/-
INDX 2007-FLX4	1A1	Aaa/AAA/-	Caa3/CCC/-
INDX 2007-FLX5	1A1	Aaa/AAA/-	Caa3/CC/-
INDX 2007-FLX6	1A1	Aaa/AAA/-	Caa2/CC/-
MANA 2007-A1	A1	Aaa/AAA/-	Ca/CCC/-
MANA 2007-A2	A1	Aaa/AAA/-	Ca/CCC/-
MANA 2007-A2	A2A	Aaa/AAA/-	Ca/CCC/-
MANA 2007-A3	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2005-A8	A2A	Aaa/AAA/-	Caa1/AA/-
MLMI 2005-A8	A2B1	Aaa/AAA/-	Caa1/AA/-
MLMI 2005-AR1	A2	Aaa/AAA/-	A1/AAA/-
MLMI 2005-HE2	A1A	-/AAA/AAA	-/A+/AA
MLMI 2005-HE2	A1B	-/AAA/AAA	-/A+/A
MLMI 2005-HE3	A1A	-/AAA/AAA	-/BB/BB
MLMI 2006-A3	IIA1	Aaa/AAA/-	Ca/CC/-
MLMI 2006-AF2	AV1	Aaa/AAA/-	Caa3/CCC/-
MLMI 2006-AHL1	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-AR1	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-FF1	A1	Aaa/AAA/-	Baa3/AAA/-
MLMI 2006-FM1	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-HE1	A1	Aaa/AAA/-	Ba1/BB+/-
MLMI 2006-HE4	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-HE5	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-HE6	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-MLN1	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-OPT1	A1	Aaa/AAA/-	Caa3/BBB/-
MLMI 2006-RM1	A1	Aaa/AAA/-	Ca/CC/-
MLMI 2006-RM2	A1A	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-RM3	A1A	Aaa/AAA/-	Ca/CCC/-
MLMI 2006-RM4	A1	Aaa/AAA/-	Ca/CC/-
MLMI 2006-RM5	A1	Aaa/AAA/-	C/CCC/-
MLMI 2006-WMC1	A1A	Aaa/AAA/-	Caa3/CCC/-
MLMI 2006-WMC2	A1	Aaa/AAA/-	Ca/CCC/-

Transaction	Tranche	Ratings at Issuance (Moody's/S&P/Fitch)	Ratings as of 7/31/2011 (Moody's/S&P/Fitch)
MLMI 2007-HE1	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2007-HE2	A1	Aaa/AAA/-	Ca/CCC/-
MLMI 2007-MLN1	A1	Aaa/AAA/-	Ca/CCC/-
OOMLT 2007-1	IA2	Aaa/AAA/-	Caa3/CCC/-
OOMLT 2007-1	IA1	Aaa/AAA/-	Caa3/CCC/-
OWNIT 2005-4	A1	Aaa/AAA/-	Aaa/AAA/-
OWNIT 2005-5	A1	Aaa/AAA/-	Aa2/AAA/-
OWNIT 2006-1	AV	Aaa/AAA/-	Caa2/CCC/-
OWNIT 2006-2	A1	Aaa/AAA/-	Caa2/BBB+/-
OWNIT 2006-3	A1	Aaa/AAA/-	Caa2/AA/-
OWNIT 2006-4	A1	Aaa/AAA/-	Caa3/BB/-
OWNIT 2006-5	A1B	Aaa/AAA/-	C/B/-
OWNIT 2006-5	A1A	Aaa/AAA/-	Caa1/BBB/-
OWNIT 2006-6	A1	Aaa/AAA/-	Caa3/B/-
OWNIT 2006-7	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2005-AB3	A1A	Aaa/AAA/-	Caa2/BBB/-
SURF 2005-BC3	A1A	Aaa/AAA/-	Aaa/AAA/-
SURF 2005-BC4	A1A	Aaa/AAA/-	Baa3/AA+/-
SURF 2006-AB2	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2006-AB3	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2006-BC1	A1	Aaa/AAA/-	Ba1/AA+/-
SURF 2006-BC2	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2006-BC3	A1	Aaa/AAA/-	Caa3/CCC/-
SURF 2006-BC4	A1	Aaa/AAA/-	Caa3/CCC/-
SURF 2006-BC5	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2007-AB1	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2007-BC1	A1	Aaa/AAA/-	Ca/CCC/-
SURF 2007-BC2	A1	Aaa/AAA/-	Ca/CCC/-

3. The Surge in Mortgage Delinquency and Default Further Demonstrates that the Mortgage Loans Were Not Originated in Adherence to the Stated Underwriting Guidelines

129. Even though the Certificates purchased by Fannie Mae and Freddie Mac were supposed to represent long-term, stable investments, a significant percentage of the mortgage loans backing the Certificates have defaulted, have been foreclosed upon, or are delinquent, resulting in massive losses to the Certificateholders. The overall poor performance of the

mortgage loans is a direct consequence of the fact that they were not underwritten in accordance with applicable underwriting guidelines as represented in the Registration Statements.

130. Loan groups that were properly underwritten and contained loans with the characteristics represented in the Registration Statements would have experienced substantially fewer payment problems and substantially lower percentages of defaults, foreclosures, and delinquencies than occurred here. Table 11 reflects the percentage of loans in the Supporting Loan Groups that are in default, have been foreclosed upon, or are delinquent as of July 2011.

Table 11

Transaction	Tranche	Supporting Loan Group	Percentage of Loans that are Delinquent/Defaulted/Foreclosed
ARSI 2005-W4	A1B	Group 1	38.94
ARSI 2005-W4	A1A2	Group 1	38.94
ARSI 2005-W4	A1A3	Group 1	38.94
ARSI 2006-M1	A1	Group 1	41.63
CBASS 2006-CB8	A1	Group 1	48.01
FFMER 2007-1	A1	Group 1	57.92
FFMER 2007-2	A1	Group 1	57.98
FFMER 2007-3	A1A	Group 1	56.97
FFMER 2007-3	A1C	Group 1	56.97
FFMER 2007-3	A1D	Group 1	56.97
FFMER 2007-3	M11	Group 1	56.97
FFMER 2007-3	M21	Group 1	56.97
FFMER 2007-3	M31	Group 1	56.97
FFMER 2007-3	M41	Group 1	56.97
FFMER 2007-4	1A	Group 1	61.04
FFMER 2007-4	1M1	Group 1	61.04
FFMER 2007-4	1M2	Group 1	61.04
FFMER 2007-4	1M3	Group 1	61.04
FFMER 2007-5	1A	Group 1	57.94
FFMER 2007-H1	1A1	Group 1	63.21
FFML 2005-FF12	A1	Group 1	49.34
FFML 2006-FF18	A1	Group 1	51.02
FFML 2007-FF1	A1	Group 1	54.82
FFML 2007-FF2	A1	Group 1	57.29
FMIC 2006-3	1A	Group 1	46.23
INDX 2005-AR33	2A1	Group 2	39.98
INDX 2006-AR5	1A1	Group 1	30.36

Transaction	Tranche	Supporting Loan Group	Percentage of Loans that are Delinquent/Defaulted/Foreclosed
INDX 2006-AR7	2A1	Group 2	35.12
INDX 2007-FLX4	1A1	Group 1	30.91
INDX 2007-FLX5	1A1	Group 1	34.58
INDX 2007-FLX6	1A1	Group 1	40.95
MANA 2007-A1	A1	Group 1	44.90
MANA 2007-A2	A1	Group 1	44.80
MANA 2007-A2	A2A	Group 2	46.87
MANA 2007-A3	A1	Group 1	46.63
MLMI 2005-A8	A2A	Group 2	31.51
MLMI 2005-A8	A2B1	Group 2	31.51
MLMI 2005-AR1	A2	Group 2	60.09
MLMI 2005-HE2	A1A	Group 1	53.40
MLMI 2005-HE2	A1B	Group 1	53.40
MLMI 2005-HE3	A1A	Group 1	72.59
MLMI 2006-A3	IIA1	Group 2	40.64
MLMI 2006-AF2	AV1	Group 2	34.58
MLMI 2006-AHL1	A1	Group 1	65.89
MLMI 2006-AR1	A1	Group 1	67.93
MLMI 2006-FF1	A1	Group 1	31.46
MLMI 2006-FM1	A1	Group 1	74.70
MLMI 2006-HE1	A1	Group 1	58.07
MLMI 2006-HE4	A1	Group 1	66.39
MLMI 2006-HE5	A1	Group 1	64.85
MLMI 2006-HE6	A1	Group 1	67.27
MLMI 2006-MLN1	A1	Group 1	67.09
MLMI 2006-OPT1	A1	Group 1	43.39
MLMI 2006-RM1	A1	Group 1	69.71
MLMI 2006-RM2	A1A	Group 1	74.09
MLMI 2006-RM3	A1A	Group 1	34.30
MLMI 2006-RM4	A1	Group 1	65.30
MLMI 2006-RM5	A1	Group 1	67.99
MLMI 2006-WMC1	A1A	Group 1	62.85
MLMI 2006-WMC2	A1	Group 1	66.82
MLMI 2007-HE1	A1	Group 1	66.39
MLMI 2007-HE2	A1	Group 1	53.16
MLMI 2007-MLN1	A1	Group 1	64.46
OOMLT 2007-1	IA2	Group 1	46.72
OOMLT 2007-1	IA1	Group 1	46.72
OWNIT 2005-4	A1	Group 1	46.92
OWNIT 2005-5	A1	Group 1	42.73
OWNIT 2006-1	AV	Group 1	41.51
OWNIT 2006-2	A1	Group 1	48.49

Transaction	Tranche	Supporting Loan Group	Percentage of Loans that are Delinquent/Defaulted/Foreclosed
OWNIT 2006-3	A1	Group 1	37.37
OWNIT 2006-4	A1	Group 1	49.24
OWNIT 2006-5	A1B	Group 1	48.42
OWNIT 2006-5	A1A	Group 1	48.42
OWNIT 2006-6	A1	Group 1	52.68
OWNIT 2006-7	A1	Group 1	45.71
SURF 2005-AB3	A1A	Group 1	47.05
SURF 2005-BC3	A1A	Group 1	51.03
SURF 2005-BC4	A1A	Group 1	61.37
SURF 2006-AB2	A1	Group 1	55.29
SURF 2006-AB3	A1	Group 1	49.55
SURF 2006-BC1	A1	Group 1	65.78
SURF 2006-BC2	A1	Group 1	68.24
SURF 2006-BC3	A1	Group 1	65.58
SURF 2006-BC4	A1	Group 1	66.46
SURF 2006-BC5	A1	Group 1	65.62
SURF 2007-AB1	A1	Group 1	56.23
SURF 2007-BC1	A1	Group 1	63.97
SURF 2007-BC2	A1	Group 1	62.42

131. The confirmed misstatements concerning owner occupancy and LTV ratios; the confirmed systematic underwriting failures by the originators responsible for the mortgage loans across the Securitizations; and the extraordinary drop in credit rating and rise in delinquencies across those Securitizations all confirm that the mortgage loans in the Supporting Loan Groups, contrary to the representations in the Registration Statements, were not originated in accordance with the stated underwriting guidelines.

V. MERRILL LYNCH KNEW THAT ITS REPRESENTATIONS WERE FALSE

132. The allegations in this Section V are made in support of Plaintiff's common law fraud claim, and *not* in support of Plaintiff's claims under (i) Sections 11, 12(a)(2), and 15 of the Securities Act, (ii) Sections 13.1-522(A)(ii) and 13.1-522(C) of the Virginia Code, (iii) Sections 31-5605.05(a)(1)(B) and 31-5606.05(c) of the District of Columbia Code, or (iv) negligent misrepresentation, which are based solely on strict liability and negligence.

133. The same evidence discussed above not only shows that the representations were untrue, but also that Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities *knew*, or were reckless in not knowing, that they were falsely representing the credit quality of the mortgage loans that collateralized the GSE Certificates. As discussed above, such evidence includes:

- The pervasive misrepresentations relating to basic information about the underlying mortgage loans, such as owner occupancy and LTV ratios;
- Third-party due diligence providers such as Clayton and Bohan informed Merrill Lynch that significant percentages of loans in the pools did not adhere to underwriting guidelines. For example, Clayton admitted that in the period from the first quarter of 2006 to the second quarter of 2007, 23 percent of the mortgage loans that Merrill Lynch submitted to Clayton to review in RMBS pools were rejected by Clayton as falling outside the applicable underwriting guidelines.
- Of the 23 percent of mortgage loans that Clayton found defective, 32 percent were subsequently waived in by Merrill Lynch without proper consideration and analysis of compensating factors and included in securitizations such as the ones in which Fannie Mae and Freddie Mac invested here. Merrill Lynch's waiver of nearly a third of the defective loans shows that Merrill Lynch knew of or recklessly disregarded the systemic failure in underwriting and the fraudulent misrepresentations in the offering materials received by the GSEs.

A. Evidence Regarding Merrill Lynch's Due Diligence

1. Merrill Lynch's Due Diligence Benefitted From a Direct Window Into the Originators' Practices

134. Merrill Lynch acquired the loans underlying the Securitizations through bulk acquisitions in the secondary market. In connection with its purchase from the loan originators of the underlying mortgage loans in the 60 Securitizations that it sponsored, Merrill Lynch performed due diligence to determine the quality of the loans that it was purchasing. Merrill Lynch also conducted due diligence on the originators from whom it was purchasing loans, and

on the loans included in each offering to determine whether such loans complied with the applicable underwriting guidelines.

135. Merrill Lynch's offering materials represented that Merrill Lynch conducted due diligence on the lender who originated the loans, and that it carefully inspected their underwriting standards:

Prior to acquiring any residential mortgage loans, MLML conducts a review of the related mortgage loan seller that is based upon the credit quality of the selling institution. MLML's review process may include reviewing select financial information for credit and risk assessment and conducting an underwriting guideline review, senior level management discussion and/or background checks. The scope of the mortgage loan due diligence varies based on the credit quality of the mortgage loans.

MLMI 2006-HE1 Prospectus Supplement, at S-38 (filed Feb. 7, 2006).

136. The Prospectus Supplements further provided that:

The underwriting guideline review entails a review of the mortgage loan origination processes and systems. In addition, such review may involve a consideration of corporate policy and procedures relating to state and federal predatory lending, origination practices by jurisdiction, historical loan level loss experience, quality control practices, significant litigation and/or material investors.

Id. Similar representations are made in the Prospectus Supplements for the other GSE Certificates.

137. The initial step, in many of the Securitizations, was often done with Merrill Lynch's funds, as Merrill Lynch provided "warehouse" lines of credit to originators. In other words, Merrill Lynch provided money to originators to fund the mortgages they were originating. Merrill Lynch's warehouse loan was then repaid when the originator's loan pool was sold to Merrill Lynch for securitization. As the FCIC Found:

In September 2006...Merrill announced it would acquire a subprime lender, First Franklin Financial Corp., from National City Corp. for 1.3 billion...Merrill already had a 100 million ownership position in Ownit Mortgage Solutions Inc.,

for which it provided a warehouse line of credit; it also provided a line of credit to Mortgage Lenders Network.

FCIC Report, at 204.

138. As a result of Merrill Lynch's longstanding relationships with the problematic loan originators, and its various roles at each step of the securitization process, Merrill Lynch was uniquely positioned to know that the originators had abandoned their underwriting guidelines.

139. Merrill Lynch's position as a source of "warehouse" lines of credit gave it unique knowledge of the conditions under which mortgage loans were originated. The information that was available to Merrill Lynch as a warehouse lender gave Merrill Lynch an inside look into the true credit quality of the loans it was including for securitization. As one industry publication explained, warehouse lenders like Merrill Lynch have "detailed knowledge of the lender's operations." Kevin Conner, *Wall Street and the Making of the Subprime Disaster*, at 11 (2007).

140. These warehouse lines gave Merrill Lynch the inside track on acquiring those loans that were generated using Merrill Lynch's funds. Because of its financial arrangements with warehouse lenders, Merrill Lynch was essentially committed to buying the loans that secured its warehouse lines regardless of their credit quality and the results of Merrill Lynch's due diligence reviews. Indeed, Merrill Lynch needed to purchase the loans with little or no objection so as to keep the lenders supplied with capital to pay fees and interest owed on the lines of credit. It was also important to Merrill Lynch that it protect its business relationships with warehouse lenders in order to ensure a steady flow of loans for securitization.

141. Therefore, Merrill Lynch was incentivized to allow defective mortgages to be included in the securitizations because: (1) mortgage originators would not maintain a relationship with a bank that consistently kicked out large numbers of loans; and (2) the

securitization became smaller as loans were kicked out, thus decreasing the underwriting fees and other fees.

2. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities Intentionally Misrepresented the Risks Inherent in the Securitizations

142. As discussed above, all of the GSE Certificates have significantly underperformed. This underperformance was inevitable given the stated policies and goals of Merrill Lynch as well as the misrepresentations, detailed above, concerning the owner-occupancy statistics, LTV ratios, and underwriting guidelines. In fact, the data review revealed that for the majority of the Securitizations at issue Merrill Lynch overstated both the owner-occupancy and LTV ratios by more than 10 percent. The pervasiveness and degree of the overstatement evidences an intentional misrepresentation of the risks inherent in the Securitizations by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities to Fannie Mae and Freddie Mac.

143. Beginning in 2004, Merrill Lynch, at the direction of then Chief Executive Officer Stanley O’Neal, set out to climb from a middling player in residential mortgage backed securitizations to the top of the league tables. Paul Moulo & Matthew Padilla, *Chain of Blame: How Wall Street Caused the Mortgage and Credit Crisis*, at 189 (2008). Due to the crowded and competitive marketplace, and Merrill Lynch’s late entry, it offered more to purchase loans than the other investment banks, used its operations such as warehouse financing as a loss leader,¹⁶

¹⁶ “To entice Bill Dallas and other subprime executives into selling their loans to Merrill, its salesmen offered them a deal: If you agree to sell your loans to us, we’ll offer warehouse financing for next to nothing. Merrill’s warehouse chief was Jim Cason, who had been with the firm for a couple of years. With O’Neal’s edict to grow the subprime business,

eviscerated the rules regarding what loans it would purchase, and exhibited a willingness to purchase loans that did not comply with underwriting guidelines and that were extended to borrowers who were unlikely to be able to repay them. *Id.*, at 189-97. Given their roles as the sponsor, depositor, underwriter, and entity that sold the GSE Certificates to the GSEs, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities were aware of, and participated in, the decision to purchase and repackage loans that should have been, and previously would have been, rejected.

144. As detailed above in paragraph 67, over the course of a few years, Merrill Lynch was able to ascend toward the top of the league tables. Along with the high prices that Merrill Lynch was willing to pay for questionable loans, its rise was also aided by its vertical integration strategy that ensured it with a steady supply of loans to securitize. First, in 2005 Merrill Lynch acquired a stake in Ownit Mortgage Solutions, Inc. (“Ownit”), a subprime lender. Then, in late 2006, Merrill Lynch acquired First Franklin Corp. (“First Franklin”), a second subprime lender. O’Neal, Merrill Lynch’s former CEO, told the FCIC during a September 2010 interview that First Franklin was purchased in order “to control our [own] source of origination.” (O’Neal Tr. 87:5-21, Sept. 16, 2010).

145. Through these acquisitions, Merrill Lynch controlled each step in the securitization process—origination of the mortgage loans, securitization of the mortgage loans, and sale of the certificates collateralized by such mortgage loans. By virtue of its control over

Cason’s unit, by 2005, became one of the largest warehouse lenders to nonbank residential lenders in the nation. ‘The idea was to create a one-stop shopping place for subprime lenders,’ said one warehouse executive familiar with Merrill’s efforts. ‘Merrill would make no money on the warehouse business, but it would do it to get the securitization business.’ As George Davies, the head trader later admitted: ‘The idea was to secure product [mortgages].’” *Chain of Blame*, at 190.

each step in the securitization process, Merrill had actual knowledge of the true characteristics and credit quality of the mortgage loans.

146. An October 21, 2007 Merrill Lynch presentation to the company's board of directors, recently published by the FCIC, underscores this model. A flow chart in the presentation shows that Merrill Lynch's "Primary Activities" in the RMBS market were "Whole Loan Origination & Purchase → Financing → Securitization → Distribution → Investing." This vertical integration model, which was in place since at least mid-2006, ensured that Merrill Lynch had knowledge of problems in the mortgage market generally, and in the mortgage loans underlying the Securitizations in particular. Despite this knowledge, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities failed to disclose material facts relating to the true characteristics and credit quality of the underlying mortgage loans.

147. As described by former CEO Stanley O'Neal in his September 2010 interview with the FCIC, Merrill Lynch also conducted "spot checks" of the mortgages that it purchased from third parties to ensure that they complied with the applicable written underwriting guidelines. (O'Neal Tr. 84:18, Sept. 16, 2010). Jeff Kronthal, the former head of Merrill Lynch's structured-products division, likewise told the FCIC that Merrill Lynch performed due diligence on the mortgages it purchased from Ownit. (Kronthal Tr. 94:1-5, Sept. 14, 2010).

148. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities did not disclose Clayton's findings, detailed in paragraphs 70 through 72, to the GSEs, nor did they reveal their knowledge, as part of a vertically integrated

loan originator and securitizer, that there were rampant misrepresentations and underwriting failures in the subprime mortgage sector.

149. Unlike Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities, the GSEs and other investors did not have access to Clayton's analysis or the analysis of other third-party due diligence companies. The GSEs also did not have access to the individual loan files for the defective mortgages. These startling disclosures only came to light in September 2010 through FCIC testimony. By then, Merrill Lynch's executives were willing to admit problems with the mortgage collateral on Merrill Lynch's books. During his September 2010 interview with the FCIC, Jeff Kronthal blamed the credit crisis, in part, on "the level of fraud that was being committed . . . in the mortgage origination process." (Kronthal Tr. 91:10-13, Sept. 14, 2010).

150. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities' misrepresentations concerning the owner-occupancy statistics, LTV ratios, and underwriting guidelines were so extensive, and so uniformly resulted in making the Securitizations appear less risky than they in fact were, that they could not have been the result of human error. Instead, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities were intentionally ignoring sound underwriting methodology by including loans in the Securitizations that they knew would not be repaid, and concealing those risks from investors such as Fannie Mae and Freddie Mac. In their roles as sponsor, depositor, underwriter, and entity that sold the Certificates to the GSEs,

Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities knew that their inclusion of mortgage loans in the securitizations that failed to conform with underwriting guidelines, and their inclusion of loans with falsely inflated owner-occupancy statistics and falsely suppressed LTV ratios, would result in a much riskier securitization and accompanying certificates than represented to the GSEs. At the very least, such conduct was reckless.

151. Merrill Lynch, however, failed to disclose that the Certificates' credit ratings were false and misleading because Merrill Lynch fed the rating agencies the same false loan level data regarding loan-to-value ratios, owner-occupancy status, home values, and debt-to-income ratios that they provided to investors in aggregate form in the Prospectuses and Prospectus Supplements. The rating agencies then input this false data into their quantitative models to assess the credit risk associated with the RMBS, project likely future defaults, and ultimately, determine the ratings on Merrill Lynch's RMBS products. As a result, the Merrill Lynch essentially pre-determined the ratings by feeding bad data into the ratings system. In testimony before the Senate Permanent Subcommittee on Investigations, Susan Barnes, the North American Practice Leader for RMBS at S&P from 2005 to 2008, confirmed that the rating agencies relied upon investment banks to provide accurate information about the loan pools:

The securitization process relies on the quality of the data generated about the loans going into the securitizations. **S&P relies on the data produced by others and reports to both S&P and investors about those loans...S&P does not receive the original loan files for the loans in the pool.** Those files are reviewed by the arranger or sponsor of the transaction, who is also responsible for reporting accurate information about the loans in the deal documents and offering documents to potential investors.

Senate Homeland Security and Governmental Affairs Subcommittee on Investigations, Hearings on Wall Street and the Financial Crisis: The Role of Credit Rating Agencies, Apr. 23, 2010

(emphasis added). As a result, the ratings themselves failed to reflect accurately the actual risk underlying the Certificates because the ratings agencies were really analyzing a mortgage pool that had no relation to the pool that actually backed the Certificates purchased by the GSEs.

152. This is further supported by the discussion regarding Clayton in paragraphs 70 through 72. As detailed above, Merrill Lynch outsourced the task of performing due diligence on its purchases to third parties such as Clayton and the Bohan group. According to the Clayton Trending Report, detailed above, during the period from the first quarter of 2006 to the second quarter of 2007, 23 percent of the mortgage loans that Merrill Lynch submitted to Clayton to review were rejected by Clayton as falling outside the applicable underwriting guidelines. *See* Clayton Trending Reports, available at <http://fcic.law.stanford.edu/hearings/testimony/the-impact-of-the-financial-crisis-sacramento#documents>. Of the mortgage loans that Clayton found defective, 32 percent of the loans were subsequently waived in by Merrill Lynch, without proper consideration and analysis of compensating factors, and included in securitizations such as the ones in which Fannie Mae and Freddie Mac invested. *Id.*

153. There were also significant problems at Bohan, another third-party due diligence firm used by Merrill Lynch. One former Bohan loan reviewer has revealed that “the pressure was so intense to approve as many loans as quickly as possible” that a supervisor would stand on a desk screaming at the loan reviewers. Paul Moulo & Matthew Padilla, *Chain of Blame* at 197. The same Bohan loan reviewer, in reference to the fraudulent approval and securitization of non-compliant loans, stated that Merrill Lynch “perpetuated the whole thing,” and that if she identified a loan as failing to comply with the applicable underwriting guidelines, “a Merrill supervisor would find a way to get the loan approved.” *Id.* Merrill Lynch failed to disclose to

the GSEs its practice of waiving into the securitizations loans that were rejected by the third party due diligence firm and that did not have compensating factors.

154. Merrill Lynch was well aware of the results of the third-party due diligence reviews. Vicki Beal, the Vice President of Clayton, testified to the FCIC on September 23, 2010 that Clayton's "exception reports" were provided to the sponsor, Merrill Lynch Mortgage Investors, as well as the underwriter, Merrill Lynch, Pierce, Fenner & Smith. (Beal Tr. 43:17-25, 44:1-11). Due to the vertically integrated structure of Merrill Lynch, each Merrill Lynch entity—including Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities—was fully aware that a significant percentage of the mortgage loans that were included in the Securitizations did not meet the applicable underwriting guidelines.

155. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities' also incentivized unscrupulous conduct by originators such as Ownit and First Franklin. William Dallas, the Chief Executive Officer of Ownit, told the New York Times that Merrill Lynch, along with other investment banks, paid a higher price for "no-income-verification loans [] than...[for] full documentation loans." Vikas Baja & Christine Hougheny, *Tremors at the Door*, New York Times, Jan. 26, 2007. These no-income-verification loans are referred to in the industry as "liar loans," because the borrower is not required to provide as much information to support his or her claimed incomes and assets. These "liar loans" invite fraud from borrowers. By using increased compensation to incentivize Ownit to accept "liar loans," Merrill Lynch rewarded Ownit to originate such loans without adequate

controls to ensure the borrowers were truthful in their applications. Because Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities were aware of, and complicit in, these practices, they knew that loans underlying the Securitizations were riskier than what was represented to the GSEs.

156. Even the very payment structure of Merrill Lynch's relationships with the originators promoted fraud. The compensation received by the originators was based solely on the quantity of loans that they supplied, and the quality of the loans was ignored. Former Merrill Lynch CEO John Thain accurately described the problem to the FCIC in September 2010:

when you have a system where you pay someone for originating mortgages simply on volume and nothing happens to them if the credit quality is bad, and nothing happens to them if the borrower is fraudulent on his loan application, and nothing happens to him if the appraisal's fraudulent, then that's probably not a very smart system.

Thain Tr. 98:7-14, Sept. 17, 2010. Apart from Thain's understanding of how the system incentivized poor credit quality and fraud, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities, in their roles as the sponsor, depositor, underwriter, and entity that sold the Certificates to the GSEs, were particularly well aware of the origination practices employed by entities that it owned such as Ownit, First Franklin, and Specialty Under Writing and Residential Finance. All three of those entities underwrote multiple Securitizations underlying the GSE Certificates.

3. Merrill Lynch Recognized the Problems With Its RMBS and Developed "De-Risking" and "Mitigation" Strategies While Marketing Similar Securitizations to the GSEs

157. Merrill Lynch's headlong rush into the mortgage-related business led the company to take on an enormous amount of risk. In particular, CEO Stanley O'Neal had

increased profitability by having Merrill Lynch take on an increasing amount of risk through its CDO and RMBS exposure. In 2007, Merrill Lynch's assets equaled more than 27 times its equity, such that a mere 4 percent decline in the value of its assets would erase all of its capital. During a September 2010 interview with the FCIC, Mr. O'Neal admitted that there were "no good answers" for why the company's exposure to mortgages had grown so large in late 2006 and early 2007.

158. Merrill Lynch eventually came to the conclusion that the enormous pool of mortgages and CDOs it had collected on its books was becoming a liability. To rid itself of its toxic mortgage inventory—including, on information and belief, RMBS similar to the Securitizations—Merrill Lynch resorted to repackaging the most problematic RMBS and CDO positions in its inventory into new CDOs. As the FCIC reported:

To keep its CDO business going, Merrill pursued three strategies, all of which involved repackaging riskier mortgages more attractively or buying its own products when no one else would Merrill increasingly retained for its own portfolio substantial portions of the CDOs it was creating, mainly the super-senior tranches, and it increasingly repackaged the hard-to-sell BBB-rated and other low-rated tranches of its CDOs into its other CDOs; it used the cash sitting in its synthetic CDOs to purchase other CDO tranches.

FCIC Report, at 202.

159. Dow Kim, the former co-president of global markets and investment banking at Merrill Lynch, told the FCIC that Merrill Lynch's retention of super-senior tranches in its CDO positions was "part of a strategy begun in late 2006 to reduce the firm's inventory of subprime and Alt-A mortgages. Sell the lower-rated CDO tranches, retain the super-senior tranches: those had been his instructions to his managers at the end of 2006, Kim recalled." FCIC Report, at 257. Merrill Lynch also entered into credit default swaps on CDO notes that it retained to off-load the risk of loss on its toxic collateral to unsuspecting counterparties.

160. Merrill Lynch's newly-disclosed October 2007 presentation to its board of directors revealed that in the second half of 2006, "[i]n order to execute deals, [Merrill Lynch] continue[d] to take down senior tranches into inventory." FCIC Report, at 257. In other words, the company was being forced to hold more of its toxic CDO and RMBS collateral on its books, since it was increasingly unable to sell the securities to investors. For example, the presentation reports that during the March to May 2007 time period, Merrill Lynch undertook an "[a]ctive risk-mitigation strategy" consisting of an "[a]ttempt to actively reduce the warehouse by *printing deals*" (emphasis added). "Printing deals" meant that Merrill Lynch was creating new CDOs to repackage its toxic, fraudulent collateral as quickly as possible

161. This trend began in 2006 and continued into 2007, during the same period in which Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities were marketing the Securitizations to the GSEs.

162. Merrill Lynch recognized and reported internally on the severe risks posed by its RMBS and CDO collateral, but failed to disclose those risks to the GSEs and other investors. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities sold the GSE Certificates to the GSEs knowing that the underlying mortgages were defective at origination, were deteriorating in value, and were certain to suffer severe losses.

VI. THE GSES JUSTIFIABLY RELIED ON MERRILL LYNCH'S REPRESENTATIONS

163. Fannie Mae and Freddie Mac purchased the GSE Certificates based upon the representations by Merrill Lynch as the sponsor, depositor, and lead and selling underwriter in all

60 of the Merrill Lynch entity-sponsored Securitizations. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities provided term sheets to the GSEs that contained critical data as to the Securitizations, including with respect to anticipated credit ratings by the credit rating agencies, loan-to-value and combined loan-to-value ratios for the underlying collateral, and owner occupancy statistics. This data was subsequently incorporated into Prospectus Supplements that were received by the GSEs upon the close of each Securitization.

164. The GSEs relied upon the accuracy of the data transmitted to them and subsequently reflected in the Prospectus Supplements. In particular, the GSEs relied upon the credit ratings that the credit rating agencies indicated they would bestow on the Certificates based on the information provided by Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors relating to the collateral quality of the underlying loans and the structure of the Securitization. These credit ratings represented a determination by the credit rating agencies that the GSE Certificates, in almost all cases, were “AAA” quality (or its equivalent) – meaning the Certificates had an extremely strong capacity to meet the payment obligations described in the respective PSAs.

165. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities, as sponsor, depositor, and lead and selling underwriter in all 60 of the Merrill Lynch entity-sponsored Securitizations, provided detailed information about the underlying collateral and structure of each Securitization they sponsored to the credit rating agencies. The credit rating agencies based their ratings on the information provided to them by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch

Government Securities, and the agencies' anticipated ratings of the Certificates were dependent on the accuracy of that information. The GSEs relied on the accuracy of the anticipated credit ratings and the actual credit ratings assigned to the Certificates by the credit rating agencies, and upon the accuracy of the representations in the term sheets and Prospectus Supplements made by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities.

166. In addition, the GSEs relied on the fact that the originators of the mortgage loans in the Securitizations had acted in conformity with their underwriting guidelines, which were described in the Prospectus Supplements. Compliance with the underwriting guidelines was a precondition to the GSEs purchase of the GSE Certificates in that the GSEs' decision to purchase the Certificates was directly premised on their reasonable belief that the originators complied with applicable underwriting guidelines and standards.

167. In purchasing the GSE Certificates, the GSEs justifiably relied on false representations and omissions of material fact detailed above, including the misstatements and omissions in the term sheets about the underlying collateral, which were reflected in the Prospectus Supplements.

168. But for the above misrepresentations and omissions, the GSEs would not have purchases or acquired the Certificates as they ultimately did, because those representations and omissions were material to their decision to acquire the GSE Certificates, as described above.

VII. FANNIE MAE'S AND FREDDIE MAC'S PURCHASES OF THE GSE CERTIFICATES AND THE RESULTING DAMAGES

169. In total, between September 29, 2005 and October 10, 2007, Fannie Mae and Freddie Mac purchased over \$24.853 billion in residential mortgage-backed securities issued in

connection with the Securitizations. Table 12 reflects each of Fannie Mae's purchases of the Certificates.¹⁷

Table 12

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Fannie Mae	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Fannie Mae
ARSI 2005-W4	A1B	040104QJ3	November 22, 2005	\$344,465,000.00	100.0000	Merrill Lynch Government Securities, Inc.
ARSI 2005-W4	A1A2	040104QG9	November 22, 2005	\$687,112,000.00	100.0000	Merrill Lynch Government Securities, Inc.
ARSI 2005-W4	A1A3	040104QH7	November 22, 2005	\$151,807,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-1	A1	59023LAA0	March 27, 2007	\$725,544,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-2	A1	59024QAA8	April 26, 2007	\$588,366,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	A1A	59024VAA7	May 30, 2007	\$285,760,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	A1C	59024VAC3	May 30, 2007	\$205,174,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	A1D	59024VAD1	May 30, 2007	\$33,199,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	M11	59024VAJ8	May 30, 2007	\$35,135,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	M21	59024VAL3	May 30, 2007	\$28,590,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	M31	59024VAN9	May 30, 2007	\$7,922,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-3	M41	59024VAQ2	May 30, 2007	\$9,989,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-4	1A	59025CAA8	June 26, 2007	\$509,625,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-4	1M1	59025CAF7	June 26, 2007	\$34,062,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-4	1M2	59025CAH3	June 26, 2007	\$23,356,000.00	100.0000	Merrill Lynch Government Securities, Inc.

¹⁷ Purchases of securities in Table 12 and 13 are stated in terms of unpaid principal balance of the relevant Certificates. Purchase prices are stated in terms of percentage of par.

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Fannie Mae	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Fannie Mae
FFMER 2007-4	1M3	59025CAK6	June 26, 2007	\$12,327,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFMER 2007-5	1A	59025RAW7	October 10, 2007	\$241,175,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFML 2006-FF18	A1	32029AAA5	December 28, 2006	\$689,394,000.00	100.0000	Merrill Lynch Government Securities, Inc.
FFML 2007-FF2	A1	32029GAA2	February 28, 2007	\$1,021,839,000.00	100.0000	Merrill Lynch Government Securities, Inc.
INDX 2005-AR33	2A1	45660L4Y2	December 29, 2005	\$191,511,000.00	100.8438	Merrill Lynch Government Securities, Inc.
				\$43,361,000.00	100.9219	
INDX 2006-AR7	2A1	45661ECY8	March 30, 2006	\$341,217,000.00	101.1094	Merrill Lynch Government Securities, Inc.
INDX 2007-FLX4	1A1	456687AA0	May 30, 2007	\$127,861,000.00	100.0000	Merrill Lynch Government Securities, Inc.
INDX 2007-FLX5	1A1	45669WAA4	June 29, 2007	\$96,711,000.00	100.0000	Merrill Lynch Government Securities, Inc.
INDX 2007-FLX6	1A1	45670PAA6	July 31, 2007	\$94,391,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MANA 2007-A1	A1	59023MAA8	February 9, 2007	\$68,226,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MANA 2007-A2	A2A	59024FAB0	March 30, 2007	\$165,226,000.00	99.9766	Merrill Lynch Government Securities, Inc.
MLMI 2005-A8	A2B1	59020UP90	November 15, 2005	\$175,884,832.29	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2005-HE3	A1A	59020UY66	December 28, 2005	\$335,591,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-A3	IIA1	59023CAB8	May 31, 2006	\$89,730,000.00	100.1680	Merrill Lynch Government Securities, Inc.
MLMI 2006-AHL1	A1	590210AA8	June 29, 2006	\$160,748,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-AR1	A1	59020VAS2	April 27, 2006	\$333,038,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-FF1	A1	59023WAH1	December 27, 2006	\$1,098,020,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-FM1	A1	59021AAP3	June 30, 2006	\$204,693,000.00	100.0000	Merrill Lynch Government Securities, Inc.

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Fannie Mae	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Fannie Mae
MLMI 2006-MLN1	A1	59023AAA4	September 29, 2006	\$316,858,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-OPT1	A1	59022VAA9	September 26, 2006	\$469,721,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-RM2	A1A	590216AA5	May 31, 2006	\$411,649,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-RM3	A1A	590217AA3	June 29, 2006	\$227,029,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-WMC1	A1A	59020U4L6	February 14, 2006	\$419,318,000.00	100.0000	Merrill Lynch Government Securities, Inc.
MLMI 2006-WMC2	A1	59020U6H3	March 30, 2006	\$493,651,000.00	100.0000	Merrill Lynch Government Securities, Inc.
OOMLT 2007-1	IA1	68400DAA2	January 24, 2007	\$259,610,000.00	100.0000	Lehman Brothers, Inc.

170. Table 13 reflects each of Freddie Mac's purchases of the Certificates:

Table 13

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Freddie Mac	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Freddie Mac
ARSI 2006-M1	A1	04012MAM1	June 28, 2006	\$1,401,905,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
CBASS 2006-CB8	A1	1248P1AA2	October 30, 2006	\$183,951,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
FFMER 2007-H1	1A1	59025TAA1	October 9, 2007	\$295,640,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
FFML 2005-FF12	A1	32027NXS5	December 28, 2005	\$663,543,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
FFML 2007-FF1	A1	32028TAA5	January 26, 2007	\$608,774,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
FMIC 2006-3	1A	316599AA7	October 27, 2006	\$221,277,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
INDX 2006-AR5	1A1	45661ECK8	March 31, 2006	\$111,172,000.00	100.4063	Merrill Lynch, Pierce, Fenner & Smith
MANA 2007-A2	A1	59024FAA2	March 30, 2007	\$180,475,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MANA 2007-A3	A1	59024HAA8	April 30, 2007	\$189,695,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Freddie Mac	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Freddie Mac
MLMI 2005-A8	A2A	59020UP82	November 16, 2005	\$182,558,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2005-AR1	A2	59020UF67	September 29, 2005	\$250,727,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2005-HE2	A1A	59020UR72	November 30, 2005	\$236,060,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2005-HE2	A1B	59020UR80	November 30, 2005	\$59,015,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-AF2	AV1	59023NAA6	October 31, 2006	\$125,408,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-HE1	A1	59020U2Z7	February 7, 2006	\$355,063,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-HE4	A1	59023EAA6	July 25, 2006	\$125,624,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-HE5	A1	59022QAA0	September 28, 2006	\$169,018,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-HE6	A1	59023XAA4	December 28, 2006	\$250,830,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-RM1	A1	59020U5B7	March 21, 2006	\$171,181,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-RM4	A1	59023QAA9	September 27, 2006	\$176,227,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2006-RM5	A1	59023FAS4	October 27, 2006	\$138,699,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2007-HE1	A1	59024EAA5	March 8, 2007	\$354,933,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2007-HE2	A1	59024LAA9	March 30, 2007	\$431,956,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
MLMI 2007-MLN1	A1	59024UAA9	April 26, 2007	\$415,943,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OOMLT 2007-1	IA2	68400DAB0	January 24, 2007	\$259,609,000.00	100.0000	Lehman Brothers
OWNIT 2005-4	A1	69121PAT0	October 28, 2005	\$285,517,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2005-5	A1	69121PBR3	December 28, 2005	\$205,391,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-1	AV	69121PDB6	January 30, 2006	\$225,112,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Freddie Mac	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Freddie Mac
OWNIT 2006-2	A1	69121PDC4	March 9, 2006	\$221,310,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-3	A1	69121PDU4	April 13, 2006	\$180,115,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-4	A1	69121QAA9	June 26, 2006	\$243,564,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-5	A1B	69121EAB4	July 27, 2006	\$27,738,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-5	A1A	69121EAA6	July 27, 2006	\$110,953,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-6	A1	69121TAA3	September 28, 2006	\$113,153,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
OWNIT 2006-7	A1	69121UAA0	November 3, 2006	\$184,746,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2005-AB3	A1A	84751PJD2	December 28, 2005	\$135,861,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2005-BC3	A1A	84751PGU7	September 29, 2005	\$302,990,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2005-BC4	A1A	84751PHR3	December 20, 2005	\$470,632,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-AB2	A1	84751VAA4	May 31, 2006	\$194,773,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-AB3	A1	84751XAA0	September 26, 2006	\$190,723,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-BC1	A1	84751PJX8	February 21, 2006	\$583,827,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-BC2	A1	84751PLK3	March 31, 2006	\$173,248,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-BC3	A1	84751WAA2	June 27, 2006	\$384,110,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-BC4	A1	84751YAA8	September 27, 2006	\$439,858,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2006-BC5	A1	84751NAA2	November 28, 2006	\$258,105,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2007-AB1	A1	84752CAA5	March 26, 2007	\$127,954,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith
SURF 2007-BC1	A1	84752BAA7	January 24, 2007	\$294,133,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith

Transaction	Tranche	CUSIP	Settlement Date of Purchase by Freddie Mac	Initial Unpaid Principal Balance	Purchase Price (% of Par)	Seller to Freddie Mac
SURF 2007-BC2	A1	84752EAA1	April 24, 2007	\$174,640,000.00	100.0000	Merrill Lynch, Pierce, Fenner & Smith

171. The statements and assurances in the Registration Statements regarding the credit quality and characteristics of the mortgage loans underlying the GSE Certificates, and the origination and underwriting practices pursuant to which the mortgage loans were originated, which were summarized in such documents, were material to a reasonable investor's decision to purchase the GSE Certificates.

172. The false statements of material facts and omissions of material facts in the Registration Statements, including the Prospectuses and Prospectus Supplements, directly caused Fannie Mae and Freddie Mac to suffer billions of dollars in damages, including, without limitation, the depreciation in the value of the securities. The mortgage loans underlying the GSE Certificates experienced defaults and delinquencies at a much higher rate than they would have had the loan originators adhered to the underwriting guidelines set forth in the Registration Statements, and the payments to the trusts were therefore much lower than they would have been had the loans been underwritten as described in the Registration Statements.

173. Fannie Mae's and Freddie Mac's losses have been much greater than they would have been if the mortgage loans had the credit quality represented in the Registration Statements.

174. Merrill Lynch's misstatements and omissions in the Registration Statements regarding the true characteristics of the loans were the proximate cause of Fannie Mae's and Freddie Mac's losses relating to their purchase of the GSE Certificates.

175. Based upon sales of the Certificates or similar certificates in the secondary market, Merrill Lynch proximately caused billions of dollars in damages to Fannie Mae and Freddie Mac in an amount to be determined at trial.

FIRST CAUSE OF ACTION

Violation of Section 11 of the Securities Act of 1933

(Against Defendants Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, Matthew Whalen; Brian T. Sullivan; Michael M. McGovern; Donald J. Puglisi; Paul Park; and Donald C. Han)

176. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

177. This claim is brought by Plaintiff pursuant to Section 11 of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the GSE Certificates issued pursuant to the Registration Statements for the securities listed in paragraph 2.

178. This claim is predicated upon Defendants Merrill Lynch, Pierce, Fenner & Smith's and Merrill Lynch Government Securities' strict liability for making false and materially misleading statements in each of the Registration Statements for the Securitizations and for omitting facts necessary to make the facts stated therein not misleading. Defendant Merrill Lynch Mortgage Investors and the Individual Defendants are strictly liable for making false and materially misleading statements in the Registration Statements filed by Defendant Merrill Lynch Mortgage Investors, which are applicable to 62 of the 72 Securitizations (as specified in Table 2, *supra* at paragraph 37), and for omitting facts necessary to make the facts stated therein not misleading.

179. Defendant Merrill Lynch, Pierce, Fenner & Smith served as underwriter of each of the Securitizations, and sold 47 of the Certificates to Freddie Mac, and as such, is liable for the misstatements and omissions in the Registration Statements under Section 11 of the Securities Act.

180. Defendant Merrill Lynch Government Securities sold 39 of the Certificates to Fannie Mae, and as such, is liable for the misstatements and omission in the Registration Statements under Section 11 of the Securities Act.

181. Defendant Merrill Lynch Mortgage Investors filed three Registration Statements under which 62 of the 72 Securitizations were carried out. As depositor, Defendant Merrill Lynch Mortgage Investors was the issuer of the GSE Certificates issued pursuant to the Registration Statements they filed within the meaning of Section 2(a)(4) of the Securities Act, 15 U.S.C. § 77b(a)(4), and in accordance with Section 11(a), 15 U.S.C. § 77k(a). As such, they are liable for the misstatements and omissions in those Registration Statements under Section 11 of the Securities Act.

182. At the time Defendant Merrill Lynch Mortgage Investors filed three Registration Statements applicable to 62 of the Securitizations, the Individual Defendants were officers and/or directors of Merrill Lynch Mortgage Investors. In addition, the Individual Defendants signed those Registration Statements and either signed or authorized another to sign on their behalf the amendments to those Registration Statements. As such, the Individual Defendants are liable for the misstatements and omissions in those Registration Statements under Section 11 of the Securities Act.

183. At the time that they became effective, each of the Registration Statements contained material misstatements of fact and omitted information necessary to make the facts

stated therein not misleading, as set forth above. The facts misstated or omitted were material to a reasonable investor reviewing the Registration Statements.

184. The untrue statements of material facts and omissions of material fact in the Registration Statements are set forth above in Section IV and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and the accuracy of the assigned credit ratings.

185. Fannie Mae and Freddie Mac purchased or otherwise acquired the GSE Certificates pursuant to the false and misleading Registration Statements. Fannie Mae and Freddie Mac made these purchases in the primary market. At the time they purchased the GSE Certificates, Fannie Mae and Freddie Mac did not know of the facts concerning the false and misleading statements and omissions alleged herein, and if the GSEs would have known those facts, they would not have purchased the GSE Certificates.

186. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities, owed to Fannie Mae, Freddie Mac, and other investors a duty to make a reasonable and diligent investigation of the statements contained in the Registration Statements at the time they became effective to ensure that such statements were true and correct and that there were no omissions of material facts required to be stated in order to make the statements contained therein not misleading. Merrill Lynch Mortgage Investors and the Individual Defendants owed the same duty with respect to the three Registration Statements that they signed, which are applicable to 62 of the Securitizations.

187. Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and the Individual Defendants did not exercise such due diligence and failed to conduct a reasonable investigation. In the exercise of reasonable care,

these Defendants should have known of the false statements and omissions contained in or omitted from the Registration Statements filed in connection with the Securitizations, as set forth herein. In addition, Merrill Lynch Mortgage Investors, though subject to strict liability without regard to whether it performed diligence, also failed to take reasonable steps to ensure the accuracy of the representations.

188. Fannie Mae and Freddie Mac sustained substantial damages as a result of the misstatements and omissions in the Registration Statements.

189. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac, and is thus timely under 12 U.S.C. § 4617(b)(12).

190. By reason of the conduct herein alleged, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and the Individual Defendants are jointly and severally liable for their wrongdoing in connection with the depositor Defendant Registration Statements.

SECOND CAUSE OF ACTION

Violation of Section 12(a)(2) of the Securities Act of 1933

(Against Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors)

191. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

192. This claim is brought by Plaintiff pursuant to Section 12(a)(2) of the Securities Act of 1933 and is asserted on behalf of Fannie Mae and Freddie Mac, which purchased the GSE Certificates issued pursuant to the Registration Statements in the Securitizations listed in paragraph 2.

193. This claim is predicated upon Merrill Lynch, Pierce, Fenner & Smith's and Merrill Lynch Government Securities' negligence for making false and materially misleading statements in the Prospectuses (as supplemented by the Prospectus Supplements, hereinafter referred to in this Section as "Prospectuses") for each of the Securitizations listed in paragraph 2, other than the OOMLT 2007-1 Securitization, for which neither Merrill Lynch, Pierce, Fenner & Smith nor Merrill Lynch Government Securities was the entity that sold the Certificates to the GSEs and as to which the allegations in this section do not apply. Defendant Merrill Lynch Mortgage Investors acted negligently in making false and materially misleading statements in the Prospectus for the Securitizations carried out under the Registration Statements they filed, which were applicable to 62 Securitizations.

194. Merrill Lynch, Pierce, Fenner & Smith offered and sold the GSE Certificates to Freddie Mac, and Merrill Lynch Government Securities offered and sold the GSE Certificates to

Fannie Mae by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities reviewed and participated in drafting the Prospectuses.

195. Merrill Lynch, Pierce, Fenner & Smith successfully solicited Freddie Mac's purchases of the GSE Certificates. Merrill Lynch Government Securities successfully solicited Fannie Mae's purchases of the GSE Certificates. As the sellers, Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities obtained substantial commissions based upon the amount received from the sale of the Certificates.

196. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities offered the GSE Certificates for sale, sold them, and distributed them by the use of means or instruments of transportation and communication in interstate commerce.

197. Merrill Lynch Mortgage Investors is prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell Certificates for the 62 Securitizations under those Defendant Registration Statements. Merrill Lynch Mortgage Investors offered the Certificates publically and actively solicited their sale, including to Fannie Mae and Freddie Mac the GSE Certificates.

198. With respect to the 62 Securitizations for which they filed Registration Statements, Merrill Lynch Mortgage Investors offered the GSE Certificates pursuant to Fannie Mae and Freddie Mac by means of the Prospectuses which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the

circumstances under which they were made, not misleading. Upon information and belief, Merrill Lynch Mortgage Investors reviewed and participated in drafting the Prospectuses.

199. Merrill Lynch Mortgage Investors offered the GSE Certificates for sale by the use of means or instruments of transportation and communication in interstate commerce.

200. Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors actively participated in the solicitation of the GSEs' purchase of the GSE Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and assisting in marketing the GSE Certificates.

201. Each of the Prospectuses contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

202. The untrue statements of material facts and omissions of material fact in the Registration Statements, which include the Prospectuses, are set forth above in Section IV, and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and the accuracy of the assigned credit ratings.

203. Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors offered and sold the GSE Certificates offered pursuant to the Registration Statements directly to Fannie Mae and Freddie Mac pursuant to the false and misleading Prospectuses.

204. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities owed to Fannie Mae and Freddie Mac, as well as to other investors in these trusts, a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure

that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. Merrill Lynch Mortgage Investors owed the same duty with respect to the Prospectuses for the Securitizations carried out under the three Registration Statements filed by them.

205. Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors failed to exercise such reasonable care. These defendants in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

206. In contrast, Fannie Mae and Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Prospectuses at the time they purchased the GSE Certificates. If the GSEs would have known of those untruths and omissions, they would not have purchased the GSE Certificates.

207. Fannie Mae and Freddie Mac acquired the GSE Certificates in the primary market pursuant to the Prospectuses.

208. Fannie Mae and Freddie Mac sustained substantial damages in connection with their investments in the GSE Certificates and have the right to rescind and recover the consideration paid for the GSE Certificates, with interest thereon.

209. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought

within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac, and is thus timely under 12 U.S.C. § 4617(b)(12).

THIRD CAUSE OF ACTION

Violation of Section 15 of the Securities Act of 1933

(Against Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch & Co., and the Individual Defendants)

210. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

211. This claim is brought under Section 15 of the Securities Act of 1933, 15 U.S.C. §77o (“Section 15”), against Merrill Lynch & Co., Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants for controlling-person liability with regard to the Section 11 and Section 12(a)(2) causes of actions set forth above.

212. The Individual Defendants at all relevant times participated in the operation and management of Merrill Lynch Mortgage Investors and their related subsidiaries, and conducted and participated, directly and indirectly, in the conduct of Merrill Lynch Mortgage Investors’ business affairs. Defendant Matthew Whalen was the President and Chairman of the Board of Director of Merrill Lynch Mortgage Investors. Defendant Brian T. Sullivan was the Vice President, Treasurer, and Controller of Merrill Lynch Mortgage Investors. Defendant Michael M. McGovern was a Director of Merrill Lynch Mortgage Investors. Defendant Donald J. Puglisi served as a Director of Merrill Lynch Mortgage Investors. Defendant Paul Park served as President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors. Defendant Donald C. Han was the Treasurer of Merrill Lynch Mortgage Investors.

213. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were the sponsors for 60 of the Securitizations carried out under the three Registration Statements filed by Merrill Lynch Mortgage Investors, and culpably participated in the violations of Sections 11 and 12(a)(2) set forth above with respect to the offering of the GSE Certificates by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting Merrill Lynch Mortgage Investors as the special purpose vehicle, and selecting Merrill Lynch, Pierce, Fenner & Smith as underwriter. In their roles as sponsor, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the cashflows would be issued by the relevant trusts.

214. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also acted as the seller of the mortgage loans for 60 the Securitizations carried out under the three Registration Statements filed by Defendant Merrill Lynch Mortgage Investors, in that they conveyed such mortgage loans to Merrill Lynch Mortgage Investors pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement.

215. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also controlled all aspects of the business of Merrill Lynch Mortgage Investors, as Merrill Lynch Mortgage Investors was merely a special purpose entity created for the purpose of acting as a pass-through for the issuance of the Certificates. In addition, because

of their positions as sponsors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were able to, and did in fact, control the contents of the three Registration Statements filed by Merrill Lynch Mortgage Investors, including the Prospectuses and Prospectus Supplements, which pertained to 62 Securitizations and which contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

216. Defendant Merrill Lynch & Co. controlled the business operations of Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities. Defendant Merrill Lynch & Co. is the corporate parent of Merrill Lynch Mortgage Investors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities. As the sole corporate parent of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors, Merrill Lynch & Co. had the practical ability to direct and control the actions of Merrill Lynch, Pierce, Fenner & Smith, Merrill Government Securities, and Merrill Lynch Mortgage Investors in issuing and selling the Certificates, and in fact, exercised such direction and control over the activities of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors in connection with the issuance and sale of the Certificates.

217. Merrill Lynch & Co. expanded its share of the residential mortgage-backed securitization market in order to increase revenue and profits. The push to securitize large volumes of mortgage loans contributed to the inclusion of untrue statements of material facts and omissions of material facts in the Registration Statements.

218. Merrill Lynch & Co. culpably participated in the violations of Section 11 and 12(a)(2) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as Merrill Lynch Mortgage Investors and the issuing trusts to serve as conduits for the mortgage loans.

219. Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants are controlling persons within the meaning of Section 15 by virtue of their actual power over, control of, ownership of, and/or directorship of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

220. Fannie Mae and Freddie Mac purchased in the primary market Certificates issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

221. Fannie Mae and Freddie Mac did not know of the misstatements and omissions in the Registration Statements; had the GSEs known of those misstatements and omissions, they would not have purchased the GSE Certificates.

222. Fannie Mae and Freddie Mac have sustained damages as a result of the misstatements and omissions in the Registration Statements, for which they are entitled to compensation.

223. The time period from April 10, 2009 through August 30, 2011 has been tolled for statutes of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac and is thus timely under 12 U.S.C. § 4617(b)(12).

FOURTH CAUSE OF ACTION

Primary Violations of the Virginia Securities Act

(Against Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors)

224. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

225. This claim is brought by Plaintiff pursuant to Section 13.1-522(A)(ii) of the Virginia Code and is asserted on behalf of Freddie Mac. The allegations set forth below in this cause of action pertain to only those GSE Certificates identified in Table 13 above that were purchased by Freddie Mac on or after September 6, 2006.

226. This claim is predicated upon Merrill Lynch, Pierce, Fenner & Smith's negligence for making false and materially misleading statements in the Prospectuses (as supplemented by the Prospectus Supplements, hereinafter referred to in this Section as "Prospectuses") for each of the Securitizations listed in paragraph 2, other than the OOMLT 2007-1 Securitization, for which Merrill Lynch, Pierce, Fenner & Smith was not the entity that sold the Certificates to Freddie Mac and as to which the allegations in this section do not apply. Defendant Merrill Lynch Mortgage Investors acted negligently in making false and materially misleading statements in the

Prospectus for the Securitizations carried out under the Registration Statements they filed, which were applicable to 62 Securitizations.

227. Merrill Lynch, Pierce, Fenner & Smith offered and sold the GSE Certificates to Freddie Mac by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. Merrill Lynch, Pierce, Fenner & Smith reviewed and participated in drafting the Prospectuses.

228. Merrill Lynch, Pierce, Fenner & Smith successfully solicited Freddie Mac's purchases of the GSE Certificates. As the seller, Merrill Lynch, Pierce, Fenner & Smith obtained substantial commissions based upon the amount received from the sale of the Certificates.

229. Merrill Lynch, Pierce, Fenner & Smith offered the GSE Certificates for sale, sold them and distributed them to Freddie Mac in the State of Virginia.

230. Merrill Lynch Mortgage Investors is prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell Certificates for the 62 Securitizations under those Defendant Registration Statements. Merrill Lynch Mortgage Investors offered the Certificates publically and actively solicited their sale, including to Freddie Mac the GSE Certificates.

231. With respect to the 62 Securitizations for which they filed Registration Statements, Merrill Lynch Mortgage Investors offered the GSE Certificates pursuant to Freddie Mac by means of the Prospectuses which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances

under which they were made, not misleading. Upon information and belief, Merrill Lynch Mortgage Investors reviewed and participated in drafting the Prospectuses.

232. Both of Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors actively participated in the solicitation of Freddie Mac's purchase of the GSE Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and assisting in marketing the GSE Certificates.

233. Each of the Prospectuses contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

234. The untrue statements of material facts and omissions of material fact in the Registration Statements, which include the Prospectuses, are set forth above in Section IV, and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and the accuracy of the assigned credit ratings.

235. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors offered and sold the GSE Certificates offered pursuant to the Registration Statements directly to Freddie Mac, pursuant to the false and misleading Prospectuses.

236. Merrill Lynch, Pierce, Fenner & Smith owed to Freddie Mac, as well as to other investors in these trusts, a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. Merrill Lynch Mortgage Investors owed the same duty with

respect to the Prospectuses for the Securitizations carried out under the three Registration Statements it filed.

237. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors failed to exercise such reasonable care. These defendants in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

238. In contrast, Freddie Mac did not know, and in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Prospectuses at the time it purchased the GSE Certificates. If Freddie Mac would have known of those untruths and omissions, it would not have purchased the GSE Certificates.

239. Freddie Mac sustained substantial damages in connection with its investments in the GSE Certificates and has the right to rescind and recover the consideration paid for the GSE Certificates, with interest thereon.

240. This action is brought within three years of the date that FHFA was appointed as Conservator of Freddie Mac, and is thus timely under 12 U.S.C. § 4617(b)(12).

FIFTH CAUSE OF ACTION

Violation of Section 13.1-522(C) of the Virginia Code

(Against Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch & Co., and the Individual Defendants)

241. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

242. This claim is brought under Section 13.1-522(C) of the Virginia Code and is asserted on behalf of Freddie Mac. The allegations set forth below in this cause of action pertain

only to those GSE Certificates identified in Table 13 above that were purchased by Freddie Mac on or after September 6, 2006. This claim is brought against Merrill Lynch & Co., Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants for controlling-person liability with regard to the Fourth Cause of Action set forth above.

243. The Individual Defendants at all relevant times participated in the operation and management of Merrill Lynch Mortgage Investors and its related subsidiaries, and conducted and participated, directly and indirectly, in the conduct of Merrill Lynch Mortgage Investors' business affairs. Defendant Matthew Whalen was the President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors. Defendant Brian T. Sullivan was the Vice President, Treasurer, and Controller of Merrill Lynch Mortgage Investors. Defendant Michael M. McGovern was a Director of Merrill Lynch Mortgage Investors. Defendant Donald J. Puglisi served as a Director of Merrill Lynch Mortgage Investors. Defendant Paul Park served as President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors. Defendant Donald C. Han was the Treasurer of Merrill Lynch Mortgage Investors.

244. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were the sponsors for 60 of the Securitizations carried out under the three Registration Statements filed by Merrill Lynch Mortgage Investors, and culpably participated in the violations of Section 13.1-522(A)(ii) set forth above with respect to the offering of the GSE Certificates by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting Merrill Lynch Mortgage Investors as the special purpose vehicle, and selecting Merrill Lynch, Pierce, Fenner & Smith as underwriter. In their roles as sponsor, Merrill Lynch Mortgage Lending, Merrill Lynch

Mortgage Capital, and First Franklin Financial knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the cashflows would be issued by the relevant trusts.

245. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also acted as the seller of the mortgage loans for 60 the Securitizations carried out under the three Registration Statements filed by Defendant Merrill Lynch Mortgage Investors, in that they conveyed such mortgage loans to Merrill Lynch Mortgage Investors pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement.

246. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also controlled all aspects of the business of Merrill Lynch Mortgage Investors, as Merrill Lynch Mortgage Investors was merely a special purpose entity created for the purpose of acting as a pass-through for the issuance of the Certificates. In addition, because of their positions as sponsors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were able to, and did in fact, control the contents of the three Registration Statements filed by Merrill Lynch Mortgage Investors, including the Prospectuses and Prospectus Supplements, which pertained to 62 Securitizations and which contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

247. Defendant Merrill Lynch & Co. controlled the business operations of Merrill Lynch Mortgage Investors and Merrill Lynch, Pierce, Fenner & Smith. Defendant Merrill Lynch

& Co. is the corporate parent of Merrill Lynch Mortgage Investors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch, Pierce, Fenner & Smith. As the sole corporate parent of Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors, Merrill Lynch & Co. had the practical ability to direct and control the actions of Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors in issuing and selling the Certificates, and in fact, exercised such direction and control over the activities of Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors in connection with the issuance and sale of the Certificates.

248. Merrill Lynch & Co. expanded its share of the residential mortgage-backed securitization market in order to increase revenue and profits. The push to securitize large volumes of mortgage loans contributed to the inclusion of untrue statements of material facts and omissions of material facts in the Registration Statements.

249. Merrill Lynch & Co. culpably participated in the violations of Section 11 and 12(a)(2) set forth above. It oversaw the actions of its subsidiaries and allowed them to misstate the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as Merrill Lynch Mortgage Investors and the issuing trusts to serve as conduits for the mortgage loans.

250. Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants are controlling persons within the meaning of Section 13.1-522(C) by virtue of their actual power over, control of, ownership of, and/or directorship of Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Mortgage Investors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

251. Freddie Mac purchased Certificates issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

252. Freddie Mac did not know of the misstatements and omissions in the Registration Statements; had Freddie Mac known of those misstatements and omissions, it would not have purchased the GSE Certificates.

253. Freddie Mac has sustained damages as a result of the misstatements and omissions in the Registration Statements, for which it is entitled to compensation.

254. This action is brought within three years of the date that FHFA was appointed as Conservator of Freddie Mac and is thus timely under 12 U.S.C. § 4617(b)(12).

SIXTH CAUSE OF ACTION

Violation of Section 31-5606.05(a)(1)(B) of the District of Columbia Code (Against Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors)

255. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

256. This claim is brought by Plaintiff pursuant to Section 31-5606.05(a)(1)(B) of the District of Columbia Code and is asserted on behalf of Fannie Mae. The allegations set forth below in this cause of action pertain only to those GSE Certificates identified in Table 12 above that were purchased by Fannie Mae.

257. This claim is predicated upon Merrill Lynch Government Securities' negligence for making false and materially misleading statements in the Prospectuses (as supplemented by the Prospectus Supplements, hereinafter referred to in this Section as "Prospectuses") for each of the Securitizations listed in paragraph 2, other than the OOMLT 2007-1 Securitization, for which Merrill Lynch Government Securities was not the entity that sold the Certificates to Fannie Mae and as to which the allegations in this section do not apply. Defendant Merrill Lynch Mortgage Investors acted negligently in making false and materially misleading statements in the Prospectus for the Securitizations carried out under the Registration Statements they filed, which were applicable to 62 Securitizations.

258. Merrill Lynch Government Securities offered and sold the GSE Certificates to Fannie Mae by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. Merrill Lynch Government Securities reviewed and participated in drafting the Prospectuses.

259. Merrill Lynch Government Securities successfully solicited Fannie Mae's purchases of the GSE Certificates. As the seller, Merrill Lynch Government Securities obtained substantial commissions based upon the amount received from the sale of the Certificates.

260. Merrill Lynch Government Securities offered the GSE Certificates for sale, sold them, and distributed them to Fannie Mae in the District of Columbia.

261. Merrill Lynch Mortgage Investors is prominently identified in the Prospectuses for the Securitizations carried out under the Registration Statements that they filed. These Prospectuses were the primary documents each used to sell Certificates for the 62 Securitizations

under those Defendant Registration Statements. Merrill Lynch Mortgage Investors offered the Certificates publically and actively solicited their sale, including to Fannie Mae.

262. With respect to the 62 Securitizations for which they filed Registration Statements, Merrill Lynch Mortgage Investors offered the GSE Certificates to Fannie Mae by means of the Prospectuses, which contained untrue statements of material facts and omitted to state material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading. Upon information and belief, Merrill Lynch Mortgage Investors reviewed and participated in drafting the Prospectuses.

263. Both of Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors actively participated in the solicitation of Fannie Mae's purchase of the GSE Certificates, and did so in order to benefit themselves. Such solicitation included assisting in preparing the Registration Statements, filing the Registration Statements, and assisting in marketing the GSE Certificates.

264. Each of the Prospectuses contained material misstatements of fact and omitted information necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Prospectuses.

265. The untrue statements of material facts and omissions of material fact in the Registration Statements, which include the Prospectuses, are set forth above in Section IV, and pertain to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and the accuracy of the assigned credit ratings.

266. Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors offered and sold the GSE Certificates offered pursuant to the Registration Statements directly to Fannie Mae, pursuant to the false and misleading Prospectuses.

267. Merrill Lynch Government Securities owed to Fannie Mae, as well as to other investors in these trusts, a duty to make a reasonable and diligent investigation of the statements contained in the Prospectuses, to ensure that such statements were true, and to ensure that there was no omission of a material fact required to be stated in order to make the statements contained therein not misleading. Merrill Lynch Mortgage Investors owed the same duty with respect to the Prospectuses for the Securitizations carried out under the three Registration Statements it filed.

268. Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors failed to exercise such reasonable care. These defendants in the exercise of reasonable care should have known that the Prospectuses contained untrue statements of material facts and omissions of material facts at the time of the Securitizations as set forth above.

269. In contrast, Fannie Mae did not know, and in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Prospectuses at the time they purchased the GSE Certificates. If Fannie Mae would have known of those untruths and omissions, it would not have purchased the GSE Certificates.

270. Fannie Mae sustained substantial damages in connection with its investments in the GSE Certificates and has the right to rescind and recover the consideration paid for the GSE Certificates, with interest thereon.

271. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought

within three years of the date that FHFA was appointed as Conservator of Fannie Mae, and is thus timely under 12 U.S.C. § 4617(b)(12).

SEVENTH CAUSE OF ACTION

Violation of Section 31-5606.05(c) of the District of Columbia

(Against Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch & Co., and the Individual Defendants)

272. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

273. This claim is brought under Section 31-5606.05(c) of the District of Columbia and is asserted on behalf of Fannie Mae. The allegations set forth below in this cause of action pertain only to those GSE Certificates identified in Table 12 above. This claim is brought against Merrill Lynch & Co., Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants for controlling-person liability with regard to the Sixth Cause of Action set forth above.

274. The Individual Defendants at all relevant times participated in the operation and management of Merrill Lynch Mortgage Investors and their related subsidiaries, and conducted and participated, directly and indirectly, in the conduct of Merrill Lynch Mortgage Investors' business affairs. Defendant Matthew Whalen was the President and Chairman of the Board of Director of Merrill Lynch Mortgage Investors. Defendant Brian T. Sullivan was the Vice President, Treasurer, and Controller of Merrill Lynch Mortgage Investors. Defendant Michael M. McGovern was a Director of Merrill Lynch Mortgage Investors. Defendant Donald J. Puglisi served as a Director of Merrill Lynch Mortgage Investors. Defendant Paul Park served as

President and Chairman of the Board of Directors of Merrill Lynch Mortgage Investors.

Defendant Donald C. Han was the Treasurer of Merrill Lynch Mortgage Investors.

275. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were the sponsors for 60 of the Securitizations carried out under the three Registration Statements filed by Merrill Lynch Mortgage Investors, and culpably participated in the violations of Section 31-5606.05(a)(1)(B) set forth above with respect to the offering of the GSE Certificates by initiating these Securitizations, purchasing the mortgage loans to be securitized, determining the structure of the Securitizations, selecting Merrill Lynch Mortgage Investors as the special purpose vehicle, and selecting Merrill Lynch, Pierce, Fenner & Smith as underwriter. In their roles as sponsor, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial knew and intended that the mortgage loans they purchased would be sold in connection with the securitization process, and that certificates representing the ownership interests of investors in the cashflows would be issued by the relevant trusts.

276. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also acted as the seller of the mortgage loans for 60 the Securitizations carried out under the three Registration Statements filed by Defendant Merrill Lynch Mortgage Investors, in that they conveyed such mortgage loans to Merrill Lynch Mortgage Investors pursuant to a mortgage loan purchase agreement, mortgage loan sale and assignment agreement, pooling and servicing agreement, or other substantially similar agreement.

277. Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial also controlled all aspects of the business of Merrill Lynch Mortgage

Investors, as Merrill Lynch Mortgage Investors was merely a special purpose entity created for the purpose of acting as a pass-through for the issuance of the Certificates. In addition, because of their positions as sponsors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial were able to, and did in fact, control the contents of the three Registration Statements filed by Merrill Lynch Mortgage Investors, including the Prospectuses and Prospectus Supplements, which pertained to 62 Securitizations and which contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading.

278. Defendant Merrill Lynch & Co. controlled the business operations of Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities. Defendant Merrill Lynch & Co. is the corporate parent of Merrill Lynch Mortgage Investors, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities. As the sole corporate parent of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors, Merrill Lynch & Co. had the practical ability to direct and control the actions of Merrill Lynch, Pierce, Fenner & Smith, Merrill Government Securities, and Merrill Lynch Mortgage Investors in issuing and selling the Certificates, and in fact, exercised such direction and control over the activities of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors in connection with the issuance and sale of the Certificates.

279. Merrill Lynch & Co. expanded its share of the residential mortgage-backed securitization market in order to increase revenue and profits. The push to securitize large

volumes of mortgage loans contributed to the inclusion of untrue statements of material facts and omissions of material facts in the Registration Statements.

280. Merrill Lynch & Co. culpably participated in the violations of Section 31-5606.05(a)(1)(B) set forth above. It oversaw the actions of its subsidiaries and allowed them to misrepresent the mortgage loans' characteristics in the Registration Statements and established special-purpose financial entities such as Merrill Lynch Mortgage Investors and the issuing trusts to serve as conduits for the mortgage loans.

281. Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and the Individual Defendants are controlling persons within the meaning of Section 31-5606.05(c) by virtue of their actual power over, control of, ownership of, and/or directorship of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors at the time of the wrongs alleged herein and as set forth herein, including their control over the content of the Registration Statements.

282. Fannie Mae purchased in the primary market Certificates issued pursuant to the Registration Statements, including the Prospectuses and Prospectus Supplements, which, at the time they became effective, contained material misstatements of fact and omitted facts necessary to make the facts stated therein not misleading. The facts misstated and omitted were material to a reasonable investor reviewing the Registration Statements.

283. Fannie Mae did not know of the misstatements and omissions in the Registration Statements; had Fannie Mae known of those misstatements and omissions, it would not have purchased the GSE Certificates.

284. Fannie Mae has sustained damages as a result of the misstatements and omissions in the Registration Statements, for which it is entitled to compensation.

285. The time period from April 10, 2009 through August 30, 2011 has been tolled for statutes of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought within three years of the date that FHFA was appointed as Conservator of Fannie Mae and is thus timely under 12 U.S.C. § 4617(b)(12).

EIGHTH CAUSE OF ACTION

Common Law Negligent Misrepresentation

(Against Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors)

286. Plaintiff realleges each allegation in paragraphs 1 through 131 above as well as paragraphs 163 through 175 as if fully set forth herein, except to the extent that Plaintiff expressly excludes any allegation that could be construed as alleging fraud.

287. This is a claim for common law negligent misrepresentation against Defendants Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities and Merrill Lynch Mortgage Investors.

288. Between September 29, 2005 and October 10, 2007, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors sold the GSE Certificates to the GSEs as described above. Because Merrill Lynch Mortgage Investors owned and then conveyed the underlying mortgage loans that collateralized the Securitizations for which it served as depositor, Merrill Lynch Mortgage Investors had unique, exclusive, and special knowledge about the mortgage loans in the Securitizations through its possession of the loan files and other documentation.

289. Likewise, because Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities underwrote the Securitizations and/or acted as the entities that sold the GSE Certificates to the GSEs, under the Securities Act they were obligated to—and had the opportunity to—perform sufficient due diligence to ensure that the Registration Statements, including without limitation the relevant Prospectus Supplements, for which they served as the entities that sold the GSE Certificates to the GSEs, did not contain an untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. As a result of this privileged position as the entities which sold the GSE Certificates to the GSEs, Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities had access to loan file information and were obligated to perform adequate due diligence to ensure the accuracy of the Registration Statements. As such, Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities had unique, exclusive, and special knowledge about the underlying mortgage loans in the Securitizations.

290. Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities also had unique, exclusive, and special knowledge of the work of third-party due diligence providers, such as Clayton. The GSEs, like other investors, had no access to borrower loan files prior to the closing of the Securitizations and their purchases of the Certificates. Accordingly, when determining whether to purchase the GSE Certificates, the GSEs could not evaluate the underwriting quality or the servicing practices of the mortgage loans in the Securitizations on a loan-by-loan basis. The GSEs therefore reasonably relied on Merrill Lynch, Pierce, Fenner & Smith and Merrill Lynch Government Securities' knowledge and their express representations made prior to the closing of the Securitizations regarding the underlying mortgage loans.

291. Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors were aware that the GSEs reasonably relied on Merrill Lynch, Pierce, Fenner & Smith's, Merrill Lynch Government Securities', and Merrill Lynch Mortgage Investors' reputations and unique, exclusive, and special expertise and experience, as well as their express representations made prior to the closing of the Securitizations, and depended upon these Defendants for complete, accurate, and timely information. The standards under which the underlying mortgage loans were actually originated were known to these Defendants and were not known, and could not be determined, by the GSEs prior to the closing of the Securitizations. In purchasing the GSE Certificates from Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors, the GSEs relied on their special relationship with those Defendants, and the purchases were made, in part, in reliance on that relationship.

292. Based on their unique, exclusive, and special knowledge and expertise about the loans held by the trusts in the Securitizations, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors had a duty to provide the GSEs complete, accurate, and timely information regarding the mortgage loans and the Securitizations. Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors negligently breached their duty to provide such information to the GSEs by instead making to the GSEs untrue statements of material facts in the Securitizations, or otherwise misrepresenting to the GSEs material facts about the Securitizations. The misrepresentations are set forth in Section IV above, and include misrepresentations as to compliance with underwriting guidelines, occupancy status, loan-to-

value ratios, and the accuracy of the assigned credit ratings, as disclosed in the term sheets and Prospectus Supplements.

293. In addition, having made actual representations about the underlying collateral in the Securitizations and the facts bearing on the riskiness of the Certificates, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors had a duty to correct misimpressions left by their statements, including with respect to any “half truths.” The GSEs were entitled to rely upon these Defendants’ representations about the Securitizations, and these Defendants failed to correct in a timely manner any of their misstatements or half truths, including misrepresentations as to compliance with underwriting guidelines for the mortgage loans.

294. The GSEs reasonably relied on the information Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors did provide, and Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors knew that the GSEs were acting in reliance on such information. The GSEs were damaged in an amount to be determined at trial as a direct, proximate, and foreseeable result of Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors’ misrepresentations, including any half truths.

295. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought

within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac and is thus timely under 12 U.S.C. § 4617(b)(12).

NINTH CAUSE OF ACTION

Common Law Fraud

(Against Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Government Securities, Merrill Lynch Mortgage Investors, and Merrill Lynch, Pierce, Fenner & Smith)

296. Plaintiff realleges each allegation above in paragraphs 1 through 175 as if fully set forth herein.

297. This is a claim for common law fraud against Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Government Securities, and Merrill Lynch Mortgage Investors with respect to the Securitizations that Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial sponsored.

298. The material representations set forth above were fraudulent, and Merrill Lynch, Pierce, Fenner & Smith's representations to the GSEs in the term sheets and Prospectus Supplements falsely and misleadingly misrepresented and omitted material statements of fact. The misrepresentations are set forth in Section IV above, and include misrepresentations as to compliance with underwriting guidelines, occupancy status, loan-to-value ratios, and the accuracy of the assigned credit ratings, as disclosed in the term sheets and Prospectus Supplements. The representations on which the GSEs relied were directly communicated to them by Merrill Lynch, Pierce, Fenner & Smith. Merrill Lynch, Pierce, Fenner & Smith knew, or was reckless in not knowing, that its representations and omissions were false and/or misleading at the time they were made. Merrill Lynch, Pierce, Fenner & Smith made the misleading statements for the purpose of inducing the GSEs to purchase the GSE Certificates.

299. The basis for the false representations in the term sheets and Prospectus Supplements that Merrill Lynch, Pierce, Fenner & Smith made to the GSEs was information that Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and Merrill Lynch Mortgage Investors provided to Merrill Lynch, Pierce, Fenner & Smith as to the strength of the collateral underlying the GSE Certificates and the structure of the Securitizations. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and Merrill Lynch Mortgage Investors communicated this information to Merrill Lynch, Pierce, Fenner & Smith with the knowledge and intent that Merrill Lynch, Pierce, Fenner & Smith would communicate this information to purchasers of the GSE Certificates. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, and Merrill Lynch Mortgage Investors all had reason to expect that the GSEs were among the class of persons who would receive and rely on such representations.

300. Each of Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Government Securities, Merrill Lynch Mortgage Investors, and Merrill Lynch, Pierce, Fenner & Smith intended that the above misleading statements were to be made for the purpose of inducing the GSEs to purchase the GSE Certificates.

301. The GSEs justifiably relied on Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Government Securities, Merrill Lynch Mortgage Investors, and Merrill Lynch, Pierce, Fenner & Smith's false representations and misleading omissions.

302. Had the GSEs known the true facts regarding Merrill Lynch's underwriting practices and quality of the mortgage loans collateralizing the GSE Certificates, they would not have purchased the GSE Certificates.

303. As a result of the foregoing, the GSEs have suffered damages in an amount to be determined at trial. In the alternative, Plaintiff hereby demands rescission and makes any necessary tender of the GSE Certificates.

304. The misconduct by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities was intentional and wanton. The immediate victims of their fraud were Fannie Mae and Freddie Mac, two government-sponsored entities whose primary mission was assuring affordable housing to millions of Americans. Further, the public nature of the harm caused by Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Merrill Lynch Mortgage Investors, Merrill Lynch, Pierce, Fenner & Smith, and Merrill Lynch Government Securities is apparent in—and conclusively demonstrated by—the Congressional hearings and federal enforcement actions that have been pursued against them as a direct result of their fraudulent conduct at issue in this Complaint. *See, e.g.,* the Senate PSI Report; the FCIC Report; *Prosecutors Widen Probes Into Subprime –U.S. Attorney’s Office Seeks Merrill Material; SEC Upgrades Inquiry*, Wall St. J., Feb. 8, 2008. Punitive damages are therefore warranted for these Defendants’ actions in order to punish and deter it from future misconduct.

305. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae, Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought

within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac and is thus timely under 12 U.S.C. § 4617(b)(12).

TENTH CAUSE OF ACTION

Aiding and Abetting Fraud

(Against Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors)

306. Plaintiff realleges each allegation in paragraphs 1 through 175 above as if fully set forth herein.

307. This is a claim for aiding and abetting fraud against Defendants Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors with respect to the Securitizations that Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial sponsored.

308. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial, as the sponsors for 60 of the Securitizations, substantially assisted Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith's fraud by choosing which mortgage loans would be included in those Securitizations. They also extended warehouse lines of credit to mortgage originators that they *knew* had shoddy standards with the intent of later purchasing and securitizing those loans to purchasers, such as the GSEs. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial's actions in assisting in the origination of, and then purchasing, poorly underwritten loans was an integral part of the Securitizations.

309. Likewise, Merrill Lynch Mortgage Investors, as depositor for 62 of the Securitizations, substantially assisted Merrill Lynch Government Securities' and Merrill Lynch, Pierce, Fenner & Smith's fraud by issuing the Registration Statements that were used to offer

publicly the Certificates. As the issuer of the Certificates, Merrill Lynch Mortgage Investors was an integral part of Merrill Lynch, Pierce, Fenner & Smith's and Merrill Lynch Government Securities' sale of the Certificates to the GSEs.

310. As described above, Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith made fraudulent and untrue statements of material fact and omitted to state material facts regarding the true credit quality of the GSE Certificates, the true rate of owner occupancy, the true LTV and CLTV ratio of the underlying mortgage loans, compliance by the originators with applicable underwriting guidelines, and the accuracy of the assigned credit ratings.

311. All of Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors had unique access to the loan files, and therefore were aware of the extreme weakness of the loans. Accordingly, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors were aware that the representations and omissions of Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith were fraudulent.

312. The central role of Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors in of Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith vertically integrated sales strategy for the Certificates substantially assisted in Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith's fraud. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, and First Franklin Financial, as the purchasers of the underlying mortgage loans, worked closely with Merrill Lynch Mortgage Investors, as the vehicle for securitizing the mortgage loans, which in turn worked closely with Merrill Lynch Government Securities and

Merrill Lynch, Pierce, Fenner & Smith, as the distribution arm for the Certificates that were collateralized by those mortgage loans and then sold to the GSEs. All of Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors worked hand-in-glove to provide Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith with Certificates that they could fraudulently sell to the GSEs.

313. Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors' substantial assistance in Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith's fraud played a significant and material role in inducing the GSEs to purchase the GSE Certificates. As a direct, proximate and foreseeable result of Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors aiding and abetting Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith in their fraud against the GSEs, the GSEs have been damaged in an amount to be determined at trial.

314. Because Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors aided and abetted Merrill Lynch Government Securities and Merrill Lynch, Pierce, Fenner & Smith's fraud willfully and wantonly, and because by their acts Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial and Merrill Lynch Mortgage Investors knowingly affected the general public, including but not limited to all persons with interests in the Certificates, Plaintiff is entitled to recover punitive damages.

315. The time period from April 10, 2009 through August 30, 2011 has been tolled for statute of limitations purposes by virtue of a tolling agreement entered into between Fannie Mae,

Merrill Lynch, Pierce, Fenner & Smith, Merrill Lynch Mortgage Investors, Merrill Lynch & Co, Merrill Lynch Mortgage Lending, Merrill Lynch Mortgage Capital, First Franklin Financial, Bank of America Corporation, and Bank of America, N.A. In addition, this action is brought within three years of the date that FHFA was appointed as Conservator of Fannie Mae and Freddie Mac and is thus timely under 12 U.S.C. § 4617(b)(12).

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for relief as follows:

316. An award in favor of Plaintiff against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, but including:

- a. Rescission and recovery of the consideration paid for the GSE Certificates, with interest thereon;
- b. Each GSE's monetary losses, including any diminution in value of the GSE Certificates, as well as lost principal and lost interest payments thereon;
- c. Punitive damages;
- d. Attorneys' fees and costs;
- e. Prejudgment interest at the maximum legal rate; and
- f. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

317. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all issues triable by jury.

DATED: New York, New York
September 2, 2011

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