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FILED

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Division of Consumer Affairs

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973-648-2500

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of

Administrative Action

PHH MORTGAGE CORPORATION,

Respondent.

CONSENT ORDER

This matter was initiated by the New Jersey Attorney General (“Attorney General”) and the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”) (collectively “New Jersey”), as an Investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), have been or are being committed by PHH Mortgage Corporation, (“Respondent” or “PHH”), which is a New Jersey corporation with its principal place of business at 3000 Leadenhall Road, Mount Laurel, Burlington County, New Jersey. The Attorney General and the Division, in the interest of preserving resources and without prejudicing the public interest, and Respondent, in the interest of preserving PHH’s resources, have agreed to resolve all

issues in controversy in this matter on the terms set forth in this Consent Order, which terms have been reviewed and approved by the Director of the Division, Eric T. Kanefsky (“Director”) as confirmed by his entering this Consent Order. The Acting Attorney General and the Director also find that the remedial provisions of this Consent Order are in the public interest, for the protection of consumers and consistent with the purposes of the CFA.

I. Stipulations

1. PHH Mortgage Corporation is a wholly-owned subsidiary of PHH Corporation and has its principal place of business in Mount Laurel, New Jersey.
2. PHH represents that, according to the rankings reported by Inside Mortgage Finance, as of the 1st quarter of 2013, PHH is the fourth largest non-bank residential mortgage servicer in the United States and the ninth largest residential mortgage servicer.
3. From 2007 through the present, PHH serviced approximately one million loans at any given time.

II. Investigation by the State of New Jersey

4. In early 2011, based on the receipt of more than 100 complaints against PHH to the New Jersey Division of Consumer Affairs (the “Division”) over a period of years from both New Jersey and out-of-state borrowers, New Jersey commenced an investigation (the “Investigation”) to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), have been or are being committed by PHH. The Investigation included the review of hundreds of thousands of pages of documents, data and e-mails subpoenaed from PHH, hundreds of hours of audio tapes of customer contact calls with PHH representatives, numerous interviews of borrowers who complained to the Division or were identified through the investigation, and an

investigative interview of a PHH representative. New Jersey acknowledges PHH's cooperation throughout the investigation.

5. The State of New Jersey contends, based the Investigation, that PHH committed violations of the CFA. PHH denies any legal violations. New Jersey contends the following violations occurred:

a. Loss Mitigation Delays.

- i. PHH informed certain borrowers they would learn whether they received requested loan modifications within 30-60 days of PHH's receipt of the borrowers' complete financial documentation, but PHH frequently failed to decide modification applications within that timeframe.
- ii. While requests for loan modifications were pending, certain borrowers who did not pay their mortgages accumulated arrears, interest charges and late and other fees.
- iii. PHH contributed to these delays through practices that included:
 - (a) Failing to communicate with certain borrowers seeking information about requested loan modifications;
 - (b) Directing calls from certain borrowers seeking information about loan modifications to PHH's collections department;
 - (c) Failing to maintain sufficient staffing levels and technology;
 - (d) Failing to adequately train and supervise staff and third party vendors;
 - (e) Failing to send applications for loan modifications to certain borrowers in a reasonable period of time;
 - (f) Misplacing or losing certain borrowers' documents;
 - (g) Failing to inform certain borrowers when additional information was required;

- (h) Failing to conclude trial modifications as agreed;
- (i) Failing to timely advise certain borrowers whether they had been approved or denied for permanent modifications;
- (j) Offering loan modifications on terms deemed unreasonable by New Jersey including, but not limited to, offering higher monthly payments than certain borrowers' existing mortgage payments; and
- (k) Providing unclear and inaccurate calculations and information concerning fees, charges, contribution amounts and overall financial impact of proposed loan modification terms.

b. PHH's Practices Regarding Payments and Fees.

- i. In several instances, PHH incorrectly allocated certain borrowers' payments and in certain cases assessed improper late and other ancillary fees.

c. Dual Tracking and Foreclosures.

- i. PHH was required by many of its investors, including the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), to continue foreclosure proceedings even when borrowers were actively pursuing loss mitigation alternatives. While FNMA and FHLMC required servicers to continue with foreclosure proceedings while loss mitigation options were being explored, they required that loan modifications be fairly evaluated within a reasonable period. FNMA and FHLMC also did not permit servicers to proceed with foreclosure sales while applications for modifications were pending, except in limited circumstances depending on the relative timing of a modification request and the scheduled Sheriff's sale.

ii. However, PHH:

- (a) Told certain borrowers to ignore foreclosure and sheriffs' sales notices as long as the borrowers were proceeding with trial modifications;
- (b) Caused certain borrowers' homes to be sold at sheriffs' sales, after approving trial modifications or while modification applications were pending;
- (c) Foreclosed on certain borrowers' homes and then sent them approved loan modifications, seemingly unaware the homes had been foreclosed; and
- (d) Pursued foreclosure proceedings after approving loan modifications.

d. Delinquency Reports to Credit Bureaus.

- i. New Jersey contends that in several instances, PHH issued inaccurate delinquency reports to credit bureaus.

e. Balloon Payments and Trial Modifications.

- i. PHH failed to disclose to certain borrowers applying for loan modifications and forbearances that balloon payments would be required immediately at the end of the trial or forbearance periods.
- ii. At the end of trial modification-periods, PHH failed to disclose to certain borrowers whether their applications for permanent modifications had been approved; what steps they must take to finalize their permanent modifications; and the required amounts of their next monthly payments.

6. PHH disputes the investigation's findings and denies that there has been any violation of the CFA or any other laws.

III. Contentions of PHH

7. PHH disputes the investigation's findings and denies that there has been any violation of the CFA or any other laws. PHH further notes that the approximately 100 borrower complaints nationwide made to New Jersey is out of the approximately 1 million loans serviced by PHH at any one time, or approximately 0.01% of the Company's servicing portfolio. It is also significant that PHH was operating in a complex environment resulting from the meltdown of the housing market, as well as the collapse of its largest investors, FNMA and FHLMC, and their subsequent placement into conservatorship. FNMA, FHLMC and PHH have struggled to respond to the housing crisis and related issues. As a result, for example, FNMA announced more than 100 program changes to its servicing guidelines in two years, for an average of more than four changes a month. PHH contends there is no evidence that the borrower complaints against PHH were caused by systemic, continuing servicing issues. PHH contends that a combination of consumer stressors -- such as unsupported expectations that everyone qualifies for a loan modification and individual circumstances, such as unemployment and illness, increased the volume of loss mitigation requests.

8. PHH represents that, as of the 1st quarter of 2013, PHH is the fourth largest non-bank residential mortgage servicer in the United States and the ninth largest residential mortgage servicer as reported by Inside Mortgage Finance. From 2007 through the present, of approximately one million loans in PHH's servicing portfolio, over 70% are loans owned by FNMA, FHLMC and the Government National Mortgage Association ("GNMA"). The remaining approximately 30% of PHH's servicing portfolio is owned by approximately 615 investors. PHH is contractually obligated to service loans in accordance with its investors' guidelines. Among other things, through most of the time period covered by the investigation, FNMA and FHLMC required servicers to continue with foreclosure proceedings while loss mitigation options were being explored and even today FNMA

and FHLMC require servicers to process borrowers in default for foreclosure while the borrower prepares his or her loss mitigation application package and they expect servicers to adhere to their foreclosure timelines.

9. PHH represents that it has made a number of improvements to its servicing operations including, for example, the voluntary implementation of a comprehensive servicing default review and enhancement project based on: a) OCC Bulletin 2011-29 (Foreclosure Management Supervisory Guidance); b) the Interagency Review of Foreclosure Policies and Practices Report, dated April 2011; and c) the Federal Housing Finance Agency (“FHFA”) GSE Servicing Standards Alignment Initiative from April 28, 2011. Also during 2011, PHH developed and implemented a Single Point of Contact model (“SPOC”), and implemented an escalation prevention management program. PHH Mortgage increased staffing resources by over 300% from the second quarter of 2008 to the end of 2011 and the Company has instituted new comprehensive training on issues specifically tailored to dealing with borrowers in default.

10. New Jersey does not adopt the foregoing contentions.

IV. Resolution of the Matter

11. To save the expense and delay of any further legal action, and without the trial of any issues, the Parties have agreed to enter into this Consent Order. As explained in detail below, this Consent Order creates a framework for PHH to provide restitution to borrowers within and outside New Jersey identified through the investigation, and adopt certain servicing standards. This Consent Order also creates, as explained below, a reporting requirement, whereby PHH will provide New Jersey with ongoing information related to PHH’s efforts to provide timely and accurate foreclosure prevention assistance to borrowers nationwide.

12. THEREFORE, based on the above investigation by the State of New Jersey and for good cause shown IT IS ORDERED AND AGREED as follows:

V. PHH Shall Pay \$6.25 Million

13. In consideration of this Consent Order, PHH shall provide a total payment of \$6.25 million to certain borrowers nationwide and to New Jersey, as detailed below.

VI. Restitution Payments for Borrowers

A. Payments to Identified Borrowers

14. Within five days of the Effective Date PHH will deposit \$3,612,000 in a separate, interest-bearing account (“the Restitution Account”), and will provide written notification to New Jersey that it has done so.

15. PHH shall provide restitution to the borrowers nationwide that PHH and New Jersey identified as entitled to relief in the amounts agreed to by the Parties and detailed on the attached Confidential Appendix C to this Consent Order as follows:

- a. \$10,000 to each of 44 borrowers nationwide whose homes were sold in sheriffs’ sales while a loan modification decision was pending; totaling \$440,000;
- b. \$4,000 to each of 310 borrowers nationwide who waited 180 days or more for a loan modification decision after PHH had all of the borrowers’ relevant documentation; totaling \$1,240,000;
- c. \$800 to each of 711 borrowers nationwide who waited between 90 and 180 days for a loan modification decision after PHH had all of the borrowers’ relevant documentation; totaling \$568,800; and

- d. \$200 to each of 736 borrowers nationwide who waited an undetermined number of days for a modification decision; totaling \$147,200;
- e. \$4,000 to each of 179 borrowers nationwide whom, the investigation found, suffered similar related harms to those set forth in this paragraph, but were not otherwise included in these categories as reported by PHH; totaling \$716,000; and
- f. \$500,000 shall be set aside and used for borrower restitution as set forth in Paragraphs 19 and 20.

16. PHH utilized information in its servicing system and did not perform a file-by-file review for each borrower identified above. Given that limitation, PHH represents and warrants that it exercised reasonable diligence in determining the number and identities of borrowers entitled to restitution in Paragraphs 15 a. through 15 e. of this Consent Order, and represents and warrants that to the best of its knowledge as of the Effective Date of this Consent Order, those numbers are complete with respect to loans PHH serviced between 2010 and 2012. PHH advised New Jersey of the source of the information and the Company further acknowledges that New Jersey relied on its representations of the number and identities of consumers in entering this Consent Order.

17. PHH will take all necessary steps to locate borrowers eligible for restitution (identified on Confidential Appendix C) and make payment disbursements from the restitution account within thirty days of the Effective Date of this Consent Order. Specifically, PHH will obtain the most current mailing address for all eligible borrowers from its own records, public records, or from an appropriate vendor, and will mail restitution checks to those borrowers at the most current address.

18. PHH shall continue to make diligent efforts to locate borrowers identified on Confidential Appendix C who are eligible for restitution for a period of six months from the Effective Date.

B. Payments to Other Borrowers

19. PHH shall reserve \$500,000 from the restitution account in Paragraph 15, which shall be designated as the “residual restitution fund,” and PHH shall disburse this fund to borrowers nationwide who can demonstrate they (a) suffered delays greater than 90 days in having their completed loan modification applications decided between 2008 and the Effective Date, and/or (b) had their homes sold in sheriffs’ sales while a completed loan modification package was pending between 2008 and the Effective Date, in accordance with paragraph 20 below.

20. For any borrowers claiming rights to restitution from PHH for the matters listed in Paragraph 19 within six months from the Effective Date, and who are not borrowers eligible for restitution under this Consent Order, PHH shall make reasonable efforts to evaluate claims and determine whether they fall under one of three categories as follows:

- a. Category A - waited between 90 and 180 days for a loan modification decision after all relevant and necessary documentation was submitted to PHH;
- b. Category B - waited 180 days or more for a loan modification decision after all relevant and necessary documentation was submitted to PHH; or
- c. Category C - home was sold in a sheriff’s sale while a loan modification application was pending and the borrower had submitted all relevant and necessary documentation to PHH.
- d. If PHH determines that a borrower falls into any of the above categories, it shall include that borrower in a list to receive restitution from the residual restitution fund no later than nine months after the Effective Date. If PHH reasonably determines in good faith that restitution is not appropriate for any particular borrower, it shall advise New Jersey of its

basis for its determination and PHH shall be under no obligation to make a restitution payment to the borrower.

- e. Borrowers eligible for restitution from the residual restitution fund shall receive \$800 for Category A, \$4,000 for Category B, and \$10,000 for Category C, except that if a borrower falls into either Category A or B, and also under Category C, the consumer shall receive compensation under Category A or Category B as applies, and under Category C.
- f. PHH shall make all such payments from the residual restitution fund. In no event shall PHH be liable to reserve more than \$500,000 for the residual restitution fund.

B. Restitution Payment Reports Requirement

21. Starting sixty (60) days from the Effective Date, PHH shall report to New Jersey on a monthly basis the number of borrowers that have received restitution in that month and cumulatively for each category of consumer in Paragraph 15, and provide New Jersey statements for the restitution account. Starting at the end of the first calendar quarter from the Effective Date, PHH shall report to New Jersey on a quarterly basis any payments made pursuant to Paragraph 20.

22. PHH shall maintain complete and accurate records of its actions taken to locate, pay and determine eligibility for borrowers entitled to restitution as set forth in Paragraphs 15 and 20 of this Consent Order, and New Jersey shall be entitled to inspect those records on demand.

C. Unused Restitution to be Paid to New Jersey

23. In the event that any funds in the restitution account, the residual restitution fund, or otherwise designated for restitution are not delivered to, or claimed by borrowers after eighteen (18) months from the Effective Date of this Consent Order, those funds shall be turned over to the Attorney General to be used for foreclosure relief or home preservation assistance, or for other

investigatory or enforcement efforts related to consumer fraud. All funds unclaimed by borrowers shall be delivered to the Attorney General no later than 12 months after the last check is delivered.

VII. Additional Payments

24. Within fourteen (14) days of the execution of this Consent Order, PHH shall make a payment to New Jersey in the amount of \$2,638,000. Of that payment, \$500,000 shall be designated for the Attorney General's use for investigative or enforcement efforts related to foreclosure relief or home preservation, or for other investigatory or enforcement efforts related to consumer fraud.

25. Five hundred thousand dollars (\$500,000) of the payment to New Jersey shall be designated to reimburse New Jersey for costs of the investigation.

VIII. Injunctive Relief and PHH's Business Practices

26. PHH shall not engage in any unfair or deceptive acts or practices in the conduct of its servicing business and shall comply with such State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended, including the New Jersey Consumer Fraud Act.

27. PHH agrees to adopt on a nationwide basis the servicing standards set forth in Appendix A. To the extent the Consumer Financial Protection Bureau ("CFPB") implements national servicing standards that conflict in any way with any of the servicing standards set forth in Appendix A, PHH shall follow the CFPB's servicing standards. In the event of such a conflict, PHH shall notify New Jersey of the conflict.

28. PHH has already implemented the provisions of Appendix A except for the following provisions: 1.b., 1.d, 1.f., 1.h., 1.k., 2.a.vi(b), 2.a.ix., 4.b.i, all of paragraph 5, 6.c, 6.i., 8.a., 8.b., 8.e., 9.f., 9g., 10.b.iii., 10.b.iv.(c), and 10.c.i.(c). All injunctive relief is to be in place no later than the date of implementation of the similar CFPB servicing standards. If injunctive relief is not

implemented by the CFPB for a servicing standard set forth in Appendix A, then PHH shall implement the standard by January 10, 2014.

IX. Reporting Requirements

29. Within thirty (30) days from the end of the calendar quarter of the Effective Date, and on a quarterly basis for the following eight quarters, PHH will provide quarterly reports to New Jersey with the information indicated in Appendix B to this Consent Order, with data provided for the current quarter reported as well as cumulatively from the fourth quarter of 2013 through the last reported quarter.

30. The Attorney General and Division agree that all confidential information disclosed to them by PHH, its parent, subsidiaries or any of its affiliates, including but not limited to the periodic reports that will be provided pursuant to Paragraph 29, shall be kept confidential. The Attorney General and Division shall not disclose or use any confidential information without the prior written consent of the disclosing party, except to the extent required by law, regulation or court order (and in any of these circumstances, only upon prior written notice to PHH).

X. Enforcement, Release and Additional Terms

31. PHH will appoint an internal compliance coordinator to implement this Consent Order and to be the point of contact with New Jersey for purposes of this Consent Order.

32. The Parties consent to the entry of this Consent Order for the purposes of settlement only and this Consent Order does not constitute any admission of liability or wrongdoing, either express or implied, by PHH or any other party.

33. PHH consented to this Consent Order upon advice of counsel as its own free and voluntary act and with full knowledge and understanding of the nature of the investigation and the obligations

and duties imposed upon it by this Consent Order, and PHH consents to the Consent Order without further notice, and avers that no offer, agreement or inducements of any nature whatsoever have been made to it by New Jersey or New Jersey's employees to procure this Consent Order.

34. This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey. In any action or dispute relating to this Consent Order, the jurisdiction and venue shall be in the Superior Court of the State of New Jersey.

35. This Consent Order is not intended to confer upon any person not a party to this Consent Order any rights or remedies, including rights as a third-party beneficiary. This Consent Order is not intended to create a private right of action on the part of any person or entity, other than the Parties hereto.

36. The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

37. This Consent Order and its appendices contain the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

38. PHH waives its right to argue, submit, propose, seek to establish or otherwise contend before any court or tribunal that New Jersey's claims against it or any of its bankruptcy estates, including claims or debt based on this Consent Order, are dischargeable debt or claims under the United States Bankruptcy Code (including under 11 U.S.C. § 523, including 11 U.S.C. § 523 (a)(7), (a)(19)) or any other federal or state law. This waiver is limited solely to New Jersey and does not constitute a

waiver of any rights in bankruptcy that PHH may possess against third parties, even if those claims are based in whole or in part upon the claims investigated by New Jersey.

39. This Consent Order shall bind PHH, its officers, directors, agents, representatives, and employees, and shall be binding on any and all successors and assigns, future purchasers, acquired parties, acquiring parties, successors-in-interest, shareholders, and their officers, agents, representatives, and employees, directly or indirectly or through any corporation or anyone acting directly or indirectly on its behalf. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

40. In exchange for the consideration set forth herein, the Attorney General and the Division agree to release PHH from civil claims or borrower-related administrative claims, to the extent permitted by New Jersey law, which New Jersey could have brought prior to the Effective Date against PHH for violations of the CFA arising from servicing residential mortgage loans from 2008 to the Effective Date. This Consent Order, when fully executed and performed by PHH, will resolve all Consumer Fraud Act claims against PHH arising from servicing residential mortgage loans from 2008 to the Effective Date. However, nothing in this Consent Order is intended to, nor shall, limit the Attorney General's investigatory or compliance review powers otherwise provided by law. The release language in this paragraph is not intended to apply to any private right of action brought by any individual or entity, or to any Federal authority, or to any other State authority for conduct not related to PHH's responses to mortgage loan modification requests or other loss mitigation requests.

41. Notwithstanding any term of this Consent Order, the following do not comprise released claims: (a) private rights of action, provided however, that nothing herein shall prevent PHH from raising the defense of set-off against a borrower who has received Restitution; (b) actions to enforce this Consent Order; (c) any claims against PHH by any other agency or subdivision of the State,

including the Division of Criminal Justice; and (d) claims, enforcement actions or prosecutions by any person or entity not a party to this Consent Order.

42. If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

43. The signatories to this Consent Order warrant and represent that they have read and understand this Consent Order, that they are duly authorized to execute it, and that they have the authority to take all appropriate action required to be taken pursuant to the Consent Order to effectuate its terms.

44. This Consent Order may be executed in multiple counterparts, each of which shall be deemed a duplicate original.

45. This Consent Order is final and binding on the Parties, including all principals, agents, representatives, successors in interest, assigns, and legal representatives thereof. Each party has a duty to so inform any such successor in interest of the terms of this Consent Order.

46. All of the terms of this Consent Order are contractual and not merely recitals and none may be amended or modified except by a writing executed by all Parties hereto.

47. This Consent Order supersedes and renders null and void any and all written or oral prior undertakings or agreements between the Parties regarding the subject matter hereof.

48. If PHH fails to comply with any provision of this Consent Order, New Jersey may take any and all steps available to enforce this Consent Order, including commencing an action in New Jersey Superior Court, after providing PHH with the specific details of the alleged noncompliance and providing PHH sixty (60) days to cure any such noncompliance.

49. Failure by any party to seek enforcement of this Consent Order pursuant to its terms with respect to any instance or provision shall not be construed as a waiver to such enforcement with regard to other instances or provisions.

50. Nothing in this Consent Order shall preclude a right of action by any person not a party to this Consent Order and nothing in this Consent Order shall preclude PHH from asserting any defense to any action brought by a person not a party to this Consent Order.

51. In the event PHH enters into any agreement or consent order with any other State, group of States, or federal entity in connection with PHH's servicing practices that results in the obligation of PHH to make a payment of funds to New Jersey, regardless of how the payments of such funds are characterized by any such agreement or consent order, PHH shall be entitled to an offset against any such future payments in the amount of any funds paid to New Jersey pursuant to Paragraphs 23 and 24 of this Consent Order, but excluding from the total the State's litigation costs, set forth in Paragraph 25, which shall not be subject to an offset.

52. This Consent Order shall remain in effect for a period of two (2) years from the Effective Date.

53. All communications and notices regarding this Consent Order shall be sent by first class mail and facsimile, if twenty-five (25) pages or less in length, to:

Office of the Attorney General

Janine N. Matton
State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Division of Law
124 Halsey Street, 5th Floor
Newark, New Jersey 07101

Respondent

Madeline Flanagan
Senior Vice President and General Counsel
PHH Mortgage Corporation
1 Mortgage Way
Mt. Laurel, NJ 08054
Fax: 856-917-0950

Copy to:

Mitchel H. Kider
Weiner Brodsky Kider PC
1300 19th Street, N.W., 5th Floor
Washington, D.C. 20036
Fax: 202-628-2011

Attorneys for PHH Mortgage Corporation

IT IS ON THE 4th DAY OF December, 2013 ("Effective Date") SO ORDERED.

JOHN J. HOFFMAN

ACTING ATTORNEY GENERAL OF NEW JERSEY

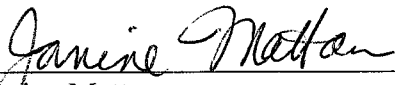
By: 

ERIC T. KANEFSKY, DIRECTOR
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.


FOR THE DIVISION:

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:  Dated: 12/2, 2013
Janine Matton
Deputy Attorney General
Kevin R. Jespersen
Brian McDonough
Assistant Attorneys General
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FOR THE RESPONDENT:

PHH MORTGAGE CORPORATION

By:  Dated: 11/27, 2013
Martin Foster
Senior Vice President – Servicing
PHH Mortgage Corporation
1 Mortgage Way
Mt. Laurel, NJ 08054

APPENDIX A – NATIONWIDE SERVICING STANDARDS

The provisions outlined below are intended to apply to loans secured by owner-occupied properties that serve as the primary residence of the borrower unless otherwise noted herein. PHH services loans for FNMA, FHLMC, FHA, VA and approximately 615 private investors (collectively “investors”). For avoidance of doubt, the provisions below are subject to all Applicable Requirements (as defined below) and where there is a conflict between the provisions below and the Applicable Requirements, PHH shall adhere to the Applicable Requirements.

The servicing standards and any modifications or other actions taken in accordance with the servicing standards are expressly subject to, and shall be interpreted in accordance with, (a) applicable federal, state and local laws, rules and regulations, including, but not limited to, any requirements of the federal banking regulators, (b) the terms of the applicable mortgage loan documents, (c) Section 201 of the Helping Families Save Their Homes Act of 2009, and (d) the terms and provisions of the Servicer Participation Agreement with the Department of Treasury, any servicing agreement, subservicing agreement under which PHH services for others, special servicing agreement, mortgage or bond insurance policy or related agreement or requirements to which PHH is a party and by which it or its servicing is bound pertaining to the servicing or ownership of the mortgage loans, including without limitation the requirements, binding directions, or investor requirements of the applicable investor (such as Fannie Mae or Freddie Mac), mortgage or bond insurer, or credit enhancer (collectively, the “Applicable Requirements”).

1. **Requirements for Accuracy and Verification of Borrower’s Account Information.**
 - a. PHH shall maintain procedures to ensure accuracy and timely updating of borrower’s account information, including posting of payments and imposition of fees. PHH shall also maintain adequate documentation of borrower account information, which may be in either electronic or paper format.
 - b. PHH shall credit a periodic payment to the borrower’s loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the borrower or in the reporting of negative information to a consumer reporting agency. However, if PHH specifies in writing requirements for the borrower to follow in making payments, but accepts a payment that does not conform to the requirements, PHH shall credit the payment as of five days after receipt. A periodic payment, as used in this paragraph, is an amount sufficient to cover principal, interest, and escrow (if applicable) for a given billing cycle. A payment qualifies as a periodic payment even if it does not include amounts required to cover late fees, other fees, or non-escrow payments a servicer has advanced on a borrower’s behalf.
 - c. If PHH retains a partial payment, meaning any payment less than a periodic payment, in a suspense or unapplied funds account, PHH shall, on accumulation of sufficient funds to cover a periodic payment in any suspense or unapplied funds account, treat such funds as a periodic payment received and credit such payment in accordance with paragraph (b) of this section.
 - d. PHH shall not take funds from suspense or unapplied funds accounts to pay fees until all unpaid contractual interest, principal, and escrow amounts are paid and brought current or other final disposition of the loan.
 - e. Notwithstanding the provisions above, PHH shall not be required to accept payments which are insufficient to pay the full balance due after the borrower has been provided

written notice that the contract has been declared in default and the remaining payments due under the contract have been accelerated.

- f. PHH shall provide to borrowers (other than borrowers in bankruptcy or borrowers who have been referred to or are going through foreclosure) adequate information on monthly billing or other account statements to show in clear and conspicuous language:
 - i. total amount due;
 - ii. allocation of payments, including a notation if any payment has been posted to a “suspense or unapplied funds account”;
 - iii. unpaid principal;
 - iv. fees and charges for the relevant time period; and
 - v. current escrow balance.

In lieu of a billing or account statement, where a borrower is provided with a coupon book, PHH will establish a system that permits the borrower to obtain this information through electronic access to his or her account.

- g. Prior to referring a loan to foreclosure counsel, PHH shall validate the note or, if necessary, create a lost note affidavit, and PHH shall conduct a legal entity review, which will include a chain of title review and validation as well as verification of the identity of the current investor that owns the loan.
- h. Concurrent with the referral of a loan to foreclosure, PHH shall send borrowers a letter (“Notice of Foreclosure Counsel Letter”) that will inform the borrower that they may receive, upon written request:
 - i. A copy of the borrower’s payment history since the borrower was last less than 60 days past due;
 - ii. A copy of the borrower’s note;
 - iii. If PHH has commenced foreclosure or filed a POC, copies of any assignments of mortgage or deed of trust required to demonstrate the right to foreclose on the borrower’s note under applicable state law; and
 - iv. The name of the investor that holds the borrower’s loan.

The letter will also include clear language that:

- i. PHH may have sent the borrower one or more borrower solicitation communications;
 - ii. The borrower can still be evaluated for alternatives to foreclosure even if he or she had previously shown no interest;
 - iii. The borrower should contact PHH to obtain a loss mitigation application package;
 - iv. The borrower must submit a loan modification application to PHH to request consideration for available foreclosure prevention alternatives; and
 - v. Provides PHH’s toll-free number for obtaining a loan modification application
- i. PHH shall adopt enhanced billing dispute procedures, including for disputes regarding fees. These procedures will include:
 - i. Establishing readily available methods for customers to lodge complaints and pose questions, such as by providing toll-free numbers and accepting disputes by email;

- ii. Assessing and ensuring adequate and competent staff to answer and respond to borrower disputes promptly;
 - iii. Establishing a process for dispute escalation;
 - iv. Tracking the resolution of complaints; and
 - v. Providing a toll-free number on monthly billing statements.
- j. PHH shall take appropriate action to promptly remediate any inaccuracies in borrowers' account information, including:
 - i. Correcting the account information;
 - ii. Providing cash refunds or account credits; and
 - iii. Correcting inaccurate reports to consumer credit reporting agencies.
- k. PHH's systems to record account information shall be periodically independently reviewed for accuracy and completeness by an independent reviewer.
- l. PHH shall in accordance with contractual and legal requirements and prior to foreclosure referral send a delinquent borrower a periodic statement or, as applicable, a delinquency notice, or the Notice of Foreclosure Counsel Letter, setting forth each of the following items, to the extent applicable:
 - i. The total amount needed to reinstate or bring the account current, and the amount of the principal obligation under the mortgage;
 - ii. The date through which the borrower's obligation is paid;
 - iii. The date of the last full payment;
 - iv. The current interest rate in effect for the loan (if the rate is effective for at least 30 days);
 - v. The date on which the interest rate may next reset or adjust (unless the rate changes more frequently than once every 30 days);
 - vi. The amount of any prepayment fee to be charged, if any;
 - vii. A description of any late payment fees;
 - viii. A telephone number or electronic mail address that may be used by the borrower to obtain information regarding the mortgage; and
 - ix. The Website to access either the Consumer Financial Protection Bureau list or the HUD list of homeownership counselors and counseling organizations and the HUD toll-free telephone number to access contact information for homeownership counselors or counseling organizations.
- m. In active Chapter 13 cases, PHH shall ensure that:
 - i. Prompt and proper application of payments is made on account of (a) pre-petition arrearage amounts and (b) post-petition payment amounts and posting thereof as of the successful consummation of the effective confirmed plan;
 - ii. The debtor is treated as being current so long as the debtor is making payments in accordance with the terms of the then-effective confirmed plan and any later effective payment change notices; and
 - iii. As of the date of dismissal of a debtor's bankruptcy case, entry of an order granting PHH relief from the stay, or entry of an order granting the debtor a discharge, there is a reconciliation of payments received with respect to the debtor's obligations during the case and PHH's systems of record are appropriately updated. In connection with such reconciliation, PHH shall

reflect the waiver of any fee, expense or charge that has not been disclosed to the borrower and approved by the bankruptcy court.

2. Third-Party Provider Oversight.

- a. ***Oversight Duties Applicable to All Third-Party Providers.*** PHH shall adopt policies and processes to oversee and manage foreclosure firms, law firms, foreclosure trustees, subservicers and other agents, independent contractors, entities and third parties (including subsidiaries and affiliates) retained by or on behalf of PHH that provide foreclosure, bankruptcy or mortgage servicing activities (including loss mitigation) (collectively, such activities are “Servicing Activities” and such providers are “Third-Party Providers”), including:
- i. PHH shall perform appropriate due diligence of Third-Party Providers’ qualifications, expertise, capacity, reputation, complaints, information security, document custody practices, business continuity, and financial viability.
 - ii. PHH shall amend agreements, engagement letters, or oversight policies, or enter into new agreements or engagement letters, with Third-Party Providers to require them to comply with PHH’s applicable policies and procedures (which will incorporate any applicable aspects of this Consent Order) and applicable state and federal laws and rules.
 - iii. PHH shall ensure that agreements, contracts or oversight policies provide for adequate oversight, including measures to enforce Third-Party Provider contractual obligations, and to ensure timely action with respect to Third-Party Provider performance failures.
 - iv. PHH shall ensure that foreclosure and bankruptcy counsel and foreclosure trustees have appropriate access to information from PHH’s books and records necessary to perform their duties in preparing pleadings and other documents submitted in foreclosure and bankruptcy proceedings.
 - v. PHH shall ensure that all information provided by or on behalf of PHH to Third-Party Providers in connection with providing Servicing Activities is accurate and complete.
 - vi. PHH shall conduct periodic reviews of Third-Party Providers. These reviews shall include:
 - (a) A review of a sample of the foreclosure and bankruptcy documents prepared by the Third-Party Provider, to provide for compliance with applicable state and federal law and this Consent Order in connection with the preparation of the documents, and the accuracy of the facts contained therein;
 - (b) A review of the fees and costs assessed by the Third-Party Provider to provide that only fees and costs that are lawful, reasonable and actually incurred are charged to borrowers and that no portion of any fees or charges incurred by any Third-Party Provider for technology usage, connectivity, or electronic invoice submission is charged as a cost to the borrower;
 - (c) A review of the Third-Party Provider’s processes to provide for compliance with PHH’s policies and procedures concerning Servicing Activities;

- (d) A review of the security of original loan documents maintained by the Third-Party Provider; and
 - (e) A requirement that the Third-Party Provider disclose to PHH any imposition of sanctions or professional disciplinary action taken against them for misconduct related to performance of Servicing Activities.
 - vii. The quality agreement steps set forth above shall be conducted by PHH employees who do not prepare foreclosure or bankruptcy affidavits, sworn documents, declarations or other foreclosure or bankruptcy documents.
 - viii. PHH shall take appropriate remedial steps if problems are identified through this review or otherwise, including, when appropriate, terminating its relationship with the Third-Party Provider.
 - ix. PHH shall adopt processes for reviewing and appropriately addressing customer complaints it receives about Third-Party Provider services.
 - x. PHH shall regularly review and assess the adequacy of its internal controls and procedures with respect to its obligations under this Section, and take appropriate remedial steps if deficiencies are identified, including appropriate remediation in individual cases.
 - b. ***Additional Oversight of Activities by Third-Party Providers.***
 - i. PHH shall require a certification process for law firms (and recertification of existing law firm providers) that provide residential mortgage foreclosure and bankruptcy services for PHH, on a periodic basis, as qualified to serve as a Third-Party Provider to PHH, including that attorneys have the experience and competence necessary to perform the services requested.
 - ii. PHH shall ensure that attorneys are licensed to practice in the relevant jurisdiction, have the experience and competence necessary to perform the services requested, and that their services comply with applicable rules, regulations and applicable law (including state law prohibitions on fee splitting).
 - iii. PHH shall ensure that foreclosure and bankruptcy counsel and foreclosure trustees have an appropriate PHH contact to assist in legal proceedings and to facilitate loss mitigation questions on behalf of the borrower.
 - iv. PHH shall adopt policies requiring Third-Party Providers to maintain records that identify all notarizations of PHH documents executed by each notary employed by the Third-Party Provider.
3. **Loss Mitigation Requirements.**
 - a. PHH shall be required to notify potentially eligible borrowers of currently available loss mitigation options prior to foreclosure referral. Upon the timely receipt of a complete loan modification application, PHH shall evaluate borrowers for all available loan modification options for which they are eligible prior to referring a borrower to foreclosure and shall facilitate the submission and review of loss mitigation applications. The foregoing notwithstanding, PHH shall have no obligation to solicit borrowers who are in bankruptcy.
 - b. PHH shall offer and facilitate loan modifications for borrowers eligible for HAMP or other available investor approved loan modification programs rather than initiate

foreclosure when such loan modifications for which they are eligible are net present value (NPV) positive and meet other investor, guarantor, insurer and program requirements. Nothing in this paragraph will require PHH to utilize NPV for purposes of evaluating loan modifications where the investor does not accept NPV for purposes of evaluating loan modifications.

- c. PHH shall allow borrowers enrolled in a trial period plan under prior HAMP guidelines (where borrowers were not pre-qualified) and who made all required trial period payments, but were later denied conversion to permanent modification, the opportunity to reapply for a HAMP modification or to apply for an investor approved loan modification using current financial information, subject to the timeline requirements as provided by 12 C.F.R. § 1024.41 and applicable investor guidelines.
 - d. PHH shall promptly send a final modification agreement to borrowers who have enrolled in a trial period plan under current HAMP guidelines (or fully underwritten or streamlined modification programs with a trial payment period including FNMA or FHLMC streamlined programs if trial periods are applicable) and who have made the required number of timely trial period payments, where the modification is underwritten prior to the trial period and PHH has received any necessary investor, guarantor or insurer approvals. The borrower shall then be converted by PHH to a permanent modification upon execution of the final modification documents, consistent with applicable program guidelines, absent evidence of fraud.
4. **Independent Evaluation of First Lien Loan Modification Denials.**
- a. Except when evaluated as provided in paragraphs 5(h) or 5(i), PHH's initial denial of an eligible borrower's request for first lien loan modification following the submission of a complete loan modification application shall be subject to an independent evaluation. Such evaluation shall be performed by an independent entity or a different employee who has not been involved with the particular loan modification.
 - b. Denial Notice.
 - i. When a first lien loan modification is denied after independent review, PHH shall send a written non-approval notice to the borrower identifying the specific reason or reasons for denial. The notice shall inform the borrower that he or she has 14 days from the date of the denial letter to provide evidence that the eligibility determination was in error.
 - ii. If the first lien modification is denied because disallowed by investor, PHH shall summarize in the written non approval notice the reasons for investor denial. Where feasible and not disallowed and upon borrower request, PHH shall also disclose the name of the investor that owns the loan.
 - iii. For those cases where a first lien loan modification denial is the result of a net present value ("NPV") calculation, if, within 14 days of receiving the denial the borrower submits a written request, PHH shall provide the monthly gross income and property value used in the calculations.
 - c. Appeal Process.
 - i. After the automatic review in paragraph 4(a) has been completed and PHH has issued the written non-approval notice, in the circumstances described in the first sentences of paragraphs 5(c), 5(e), or 5(g), except when otherwise required by federal or state law or investor directives, borrowers

shall have 14 days to request an appeal and obtain a review by an alternative employee that has not previously reviewed/worked on the file of the first lien loan modification denial in accordance with the terms of this Consent Order. PHH shall ensure that the borrower has 14 days from the date of the written non-approval notice to provide information as to why PHH's determination of eligibility for a loan modification was in error, unless the reason for non-approval is (1) ineligible mortgage, (2) ineligible property, (3) offer not accepted by borrower or request withdrawn, or (4) the loan was previously modified.

- ii. Subject to Applicable Requirements, for those cases in which the first lien loan modification denial is the result of an NPV calculation, if a borrower disagrees with the property value used by PHH in the NPV test, the borrower can request that a full appraisal be conducted of the property by an independent licensed appraiser (at borrower expense) consistent with Making Home Affordable Directive 10-15. PHH shall comply with the process set forth in Making Home Affordable Directive 10-15, including using such value in the NPV calculation.
- iii. PHH shall review the information submitted by borrower and use its best efforts to communicate the disposition of borrower's appeal to borrower no later than 30 days after receipt of the information unless investor timeframe allows for longer time period for investor to consider appeal and respond to borrower in which case PHH shall communicate the status of the appeal within 30 days of receipt of the borrower's information.
- iv. If PHH denies borrower's appeal, PHH's appeal denial letter shall include a description of other available loss mitigation, including short sales and deeds in lieu of foreclosure.

5. Dual Track Restricted.

- a. Subject to Applicable Requirements, if a borrower has not already been referred to foreclosure, PHH shall not refer an eligible borrower's account to foreclosure while the borrower's complete application for any loan modification program is pending if PHH received (a) a complete loan modification application no later than day 120 of delinquency, or (b) a substantially complete loan modification application (missing only any required documentation of hardship) no later than day 120 of delinquency and PHH receives any required hardship documentation no later than day 130 of delinquency. PHH shall not make a referral to foreclosure of an eligible borrower who so provided an application until:
 - i. PHH determines (after the automatic review in paragraph 4(a)) that the borrower is not eligible for a loan modification, or
 - ii. If borrower does not accept an offered loan modification within 14 days of the evaluation notice, the earlier of (i) such 14 days, and (ii) borrower's rejection of the loan modification offer.
- b. Subject to Applicable Requirements, if borrower accepts the loan modification resulting from PHH's evaluation of the complete loan modification application referred to in paragraph 5(a) (verbally, in writing (including e-mail responses) or by submitting the first trial modification payment) within 14 days of PHH's offer of a loan modification, then PHH shall delay referral to foreclosure until (a) if PHH fails timely to receive the

- first trial period payment, the last day for timely receiving the first trial period payment, and (b) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- c. If the loan modification requested by a borrower as described in paragraph 5(a) is denied, except when otherwise required by federal or state law or investor directives, if borrower is entitled to an appeal under paragraph 4(c), PHH will not proceed to a foreclosure sale until the later of (if applicable):
- i. expiration of the 14-day appeal period; and
 - ii. if the borrower appeals the denial, until the later of (if applicable) (i) if PHH denies borrower's appeal, 15 days after the letter denying the appeal, (ii) if PHH sends borrower a letter granting his or her appeal and offering a loan modification, 14 days after the date of such offer, (iii) if the borrower timely accepts the loan modification offer (verbally, in writing (including e-mail responses), or by making the first trial period payment), after PHH fails timely to receive the first trial period payment, and (iv) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- d. Subject to Applicable Requirements, if, after an eligible borrower has been referred to foreclosure, PHH receives a complete application from the borrower within 30 days after the Notice of Foreclosure Counsel Letter, then while such loan modification application is pending, PHH shall not move for foreclosure judgment or order of sale (or, if a motion has already been filed, shall take reasonable steps to avoid a ruling on such motion), or seek a foreclosure sale. If PHH offers the borrower a loan modification, PHH shall not move for judgment or order of sale, (or, if a motion has already been filed, shall take reasonable steps to avoid a ruling on such motion), or seek a foreclosure sale until the earlier of (a) 14 days after the date of the related offer of a loan modification, and (b) the date the borrower declines the loan modification offer. If the borrower accepts the loan modification offer (verbally, in writing (including e-mail responses) or by submitting the first trial modification payment) within 14 days after the date of the related offer of loan modification, PHH shall continue this delay until the later of (if applicable) (A) the failure by PHH timely to receive the first trial period payment, and (B) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- e. If the loan modification requested by a borrower described in paragraph 5(d) is denied, then, except when otherwise required by federal or state law or investor directives, if borrower is entitled to an appeal under paragraph 4(c), PHH will not proceed to a foreclosure sale until the later of (if applicable):
- i. expiration of the 14-day appeal period; and
 - ii. if the borrower appeals the denial, until the later of (if applicable) (i) if PHH denies borrower's appeal, 15 days after the letter denying the appeal, (ii) if PHH sends borrower a letter granting his or her appeal and offering a loan modification, 14 days after the date of such offer, (iii) if the borrower timely accepts the loan modification offer (verbally, in writing (including e-mail responses), or by making the first trial period payment), after the failure of PHH timely to receive the first trial period payment,

and (iv) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.

- f. Subject to Applicable Requirements, if, after an eligible borrower has been referred to foreclosure, PHH receives a complete loan modification application more than 30 days after the Notice of Foreclosure Counsel Letter, but more than 37 days before a foreclosure sale is scheduled, then while such loan modification application is pending, PHH shall not proceed with the foreclosure sale. If PHH offers a loan modification, then PHH shall delay the foreclosure sale until the earlier of (i) 14 days after the date of the related offer of loan modification, and (ii) the date the borrower declines the loan modification offer. If the borrower accepts the loan modification offer (verbally, in writing (including e-mail responses) or by submitting the first trial modification payment) within 14 days, PHH shall delay the foreclosure sale until the later of (if applicable) (A) the failure by PHH timely to receive the first trial period payment, and (B) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- g. If the loan modification requested by a borrower described in paragraph 5(f) is denied and it is reasonable to believe that more than 90 days remain until a scheduled foreclosure date or the first date on which a sale could reasonably be expected to be scheduled and occur, then, except when otherwise required by federal or state law or investor directives, if borrower is entitled to an appeal under paragraph 4(c)(i), PHH will not proceed to a foreclosure sale until the later of (if applicable):
 - i. expiration of the 14-day appeal period; and
 - ii. if the borrower appeals the denial, until the later of (if applicable) (i) if PHH denies borrower's appeal, 15 days after the letter denying the appeal, (ii) if PHH sends borrower a letter granting his or her appeal and offering a loan modification, 14 days after the date of such offer, (iii) if the borrower timely accepts the loan modification offer (verbally, in writing (including e-mail responses), or by making the first trial period payment), after PHH fails timely to receive the first trial period payment, and (iv) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- h. Subject to Applicable Requirements, if, after an eligible borrower has been referred to foreclosure, PHH receives a complete loan modification application more than 30 days after the Notice of Foreclosure Counsel Letter, but within 37 to 15 days before a foreclosure sale is scheduled, then PHH shall conduct an expedited review of the borrower and, if the borrower is extended a loan modification offer, PHH shall postpone any foreclosure sale until the earlier of (a) 14 days after the date of the related evaluation notice, and (b) the date the borrower declines the loan modification offer. If the borrower timely accepts the loan modification offer (either in writing or by submitting the first trial modification payment), PHH shall delay the foreclosure sale until the later of (if applicable) (A) the failure by PHH timely to receive the first trial period payment, and (B) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.
- i. Subject to Applicable Requirements, if, after an eligible borrower has been referred to foreclosure, PHH receives a complete loan modification application more than 30 days after the Notice of Foreclosure Counsel Letter and less than 15 days before a scheduled

foreclosure sale, PHH must notify the borrower before the foreclosure sale date as to PHH's determination (if its review was completed) or inability to complete its review of the loan modification application. If PHH makes a loan modification offer to the borrower, then PHH shall postpone any sale until the earlier of (a) 14 days after the date of the related evaluation notice, and (b) the date the borrower declines the loan modification offer. If the borrower timely accepts a loan modification offer (either in writing or by submitting the first trial modification payment), PHH shall delay the foreclosure sale until the later of (if applicable) (A) the failure by PHH timely to receive the first trial period payment, and (B) if PHH timely receives the first trial period payment, after the borrower breaches the trial plan.

- j. For purposes of this section 5, PHH shall not be responsible for failing to obtain a delay in a ruling on a judgment or failing to delay a foreclosure sale if PHH made a request for such delay, pursuant to any state or local law, court rule or customary practice, and such request was not approved or PHH did not make request on advice of local counsel that such request will be viewed by the court as without merit and subject PHH to potential sanctions or judicial rebuke.
 - k. PHH shall not move to judgment or order of sale or proceed with a foreclosure sale under any of the following circumstances:
 - i. The borrower is in compliance with the terms of a trial loan modification, forbearance, or repayment plan; or
 - ii. A short sale has been approved or deed-in-lieu of foreclosure has been approved by all parties (including, for example, first lien investor, junior lien holder and mortgage insurer, as applicable), and proof of funds or financing has been provided to PHH.
 - l. PHH shall send to all eligible borrowers the required loss mitigation communications for the HAMP program. Unless prohibited by investor requirements, PHH shall send letters containing similar loss mitigation options and efforts to borrowers with non-HAMP eligible loans.
 - m. PHH shall ensure timely and accurate communication of or access to relevant loss mitigation status and changes in status to its foreclosure attorneys, bankruptcy attorneys and foreclosure trustees and, where applicable, to court-mandated mediators.
6. **Single Point of Contact.**
- a. PHH shall establish an easily accessible and reliable single point of contact ("SPOC") for each potentially-eligible first lien mortgage borrower so that the borrower has access to an employee of PHH to obtain information throughout the loss mitigation, loan modification and foreclosure processes.
 - b. PHH shall initially identify the SPOC to the borrower promptly after a potentially-eligible borrower requests loss mitigation assistance. PHH shall provide one or more direct means of communication with the SPOC on loss mitigation-related correspondence with the borrower. PHH shall promptly provide updated contact information to the borrower if the designated SPOC is reassigned, no longer employed by PHH, or otherwise not able to act as the primary point of contact.
 - c. PHH shall ensure that debtors in bankruptcy are assigned to a SPOC specially trained in bankruptcy issues.
 - d. The SPOC shall have primary responsibility for:

- i. Communicating the options available to the borrower, the actions the borrower must take to be considered for these options and the status of PHH's evaluation of the borrower for these options;
 - ii. Coordinating receipt of all documents associated with loan modification or loss mitigation activities;
 - iii. Being knowledgeable about the borrower's situation and current status in the delinquency/imminent default resolution process; and
 - iv. Ensuring that a borrower who is not eligible for the Making Home Affordable programs is considered for proprietary or other investor loss mitigation options.
- e. The SPOC shall, at a minimum, provide the following services to borrowers:
 - i. Contact borrower and introduce himself/herself as the borrower's SPOC;
 - ii. Explain programs for which the borrower is eligible;
 - iii. Explain the requirements of the programs for which the borrower is eligible;
 - iv. Explain program documentation requirements;
 - v. Provide basic information about the status of borrower's account, including pending loan modification applications, other loss mitigation alternatives, and foreclosure activity;
 - vi. Notify borrower of missing documents and provide an address or electronic means for submission of documents by borrower in order to complete the loan modification application;
 - vii. Communicate PHH's decision regarding loan modification applications and other loss mitigation alternatives to borrower in writing;
 - viii. Assist the borrower in pursuing alternative non-foreclosure options upon denial of a loan modification;
 - ix. If a loan modification is approved, call borrower to explain the program;
 - x. Provide information regarding credit counseling where necessary;
 - xi. Help to clear for borrower any internal processing requirements; and
 - xii. Have access to individuals with the ability to stop foreclosure proceedings when necessary to comply with the Making Home Affordable programs or this Consent Order.
- f. The SPOC shall remain assigned to borrower's account and available to borrower until such time as PHH determines in good faith that all loss mitigation options have been exhausted, borrower's account becomes current or, in the case of a borrower in bankruptcy, the borrower has exhausted all loss mitigation options for which the borrower is potentially eligible and has applied.
- g. PHH shall ensure that a SPOC can refer and transfer a borrower to an appropriate supervisor upon request of the borrower.
- h. PHH shall ensure that relevant records relating to borrower's account are promptly available to the borrower's SPOC, so that the SPOC can timely, adequately and accurately inform the borrower of the current status of loss mitigation, loan modification, and foreclosure activities.
- i. PHH shall establish and make available to Chapter 13 trustees a toll-free number staffed by persons trained in bankruptcy to respond to inquiries from Chapter 13 trustees.

7. Loss Mitigation Communication with Borrowers.

- a. PHH shall commence outreach efforts to communicate loss mitigation options for first lien mortgage loans to all potentially eligible delinquent borrowers in accordance with applicable laws and investor requirements. PHH shall conduct affirmative outreach efforts to inform delinquent second lien borrowers (other than those in bankruptcy) about the availability of payment reduction options. The foregoing notwithstanding, PHH shall have no obligation to solicit borrowers who are in bankruptcy.
- b. PHH shall disclose and provide accurate information to borrowers relating to review requirements and loss mitigation programs.
- c. PHH shall communicate, at the written request of the borrower, with the borrower's authorized representatives, including housing counselors. PHH shall communicate with representatives from state attorneys general and financial regulatory agencies acting upon a written complaint filed by the borrower and forwarded by the state attorney general or financial regulatory agency to PHH. When responding to the borrower regarding such complaint, PHH shall include the applicable state attorney general on the written response with the borrower regarding such complaint.
- d. PHH shall cease all default-related collection efforts, excluding the transmission or mailing of periodic statements that include delinquency information, and referrals to foreclosure, while the borrower (i) is making timely payments under a trial loan modification or (ii) has submitted a complete loan modification application, and a modification decision is pending. Notwithstanding the above, PHH reserves the right to contact a borrower to gather required loss mitigation documentation or to assist a borrower with performance under a trial loan modification plan.

8. Loan Modification Timelines.

- a. PHH shall subject to 12 C.F.R. § 1024.41, notify the borrower in writing within 5 days (excluding legal public holidays, Saturdays, and Sundays) after receiving the loss mitigation application that PHH acknowledges receipt of the loss mitigation application. In its initial acknowledgment, PHH shall briefly describe the loan modification process and identify expiration dates for submitted documents.
- b. PHH shall notify borrower of any known deficiency in borrower's initial submission of information, no later than 5 business days after discovery of the deficient documents and no later than 30 business days after receipt, including any missing information or documentation required for the loan modification to be considered complete.
- c. Subject to section 5, and subject to Applicable Requirements, PHH shall afford borrower 30 days from the date of PHH's notification of any missing information or documentation to supplement borrower's submission of information prior to making a determination on whether or not to grant an initial loan modification.
- d. Subject to Applicable Requirements, PHH shall review the complete first lien loan modification application submitted by borrower and shall determine the disposition of borrower's trial or preliminary loan modification request no later than 30 days after receipt of the complete loan modification application, absent compelling circumstances beyond PHH's control.
- e. PHH shall implement processes to ensure that second lien loan modification requests are evaluated on a timely basis. When a borrower qualifies for a second lien loan modification after a first lien loan modification, PHH as the servicer of the second lien loan shall (absent compelling circumstances beyond PHH's control) send loan

modification documents to borrower no later than 45 days after PHH receives official notification of the successful completion of the related first lien loan modification and the essential terms.

- f. For all proprietary first lien loan modification programs, PHH shall allow properly submitted borrower financials to be used for 90 days from the date the documents are dated, unless PHH learns that there has been a material change in circumstances or unless investor requirements mandate a shorter time frame.
- g. PHH shall notify borrowers of the final denial of any first lien loan modification request within 10 business days of the denial decision.

9. **General Loss Mitigation Requirements.**

- a. PHH shall maintain adequate staffing and systems for tracking borrower documents and information that are relevant to foreclosure, loss mitigation, and other PHH operations. PHH shall make periodic assessments to ensure that its staffing and systems are adequate.
- b. PHH shall maintain adequate staffing and caseload limits for SPOCs and employees responsible for handling foreclosure, loss mitigation and related communications with borrowers and housing counselors. PHH shall make periodic assessments to ensure that its staffing and systems are adequate.
- c. PHH shall establish reasonable minimum experience, educational and training requirements for loss mitigation staff.
- d. PHH shall document electronically key actions taken on a foreclosure, loan modification, bankruptcy, or other servicing file, including verbal communications between the borrower and SPOC.
- e. PHH shall not adopt compensation arrangements for its employees that encourage foreclosure over loss mitigation alternatives.
- f. PHH shall not make inaccurate payment delinquency reports to credit reporting agencies when the borrower is making timely reduced payments pursuant to a trial or other loan modification agreement. PHH shall provide the borrower, prior to entering into a trial loan modification, with clear and conspicuous written information that adverse credit reporting consequences may result from the borrower making reduced payments during the trial period.
- g. Where PHH grants a loan modification, PHH shall provide borrower with a copy of the fully executed loan modification agreement within 45 days of receipt of the executed copy from the borrower. If the modification is not in writing, PHH shall provide the borrower with a written summary of its terms, as promptly as possible, within 45 days of the approval of the modification.
- h. PHH shall not instruct, advise or recommend that borrowers go into default in order to qualify for loss mitigation relief.
- i. PHH shall not discourage borrowers from working or communicating with legitimate non-profit housing counseling services.
- j. PHH shall not, in the ordinary course, require a borrower to waive or release claims and defenses as a condition of approval for a loan modification program or other loss mitigation relief. However, nothing herein shall preclude PHH from requiring a waiver or release of claims and defenses with respect to a loan modification offered in connection with the resolution of a contested claim.

- k. PHH shall not charge borrower an application fee in connection with a request for a loan modification. PHH shall provide borrower with a pre-paid overnight envelope or pre-paid address label for return of a loan modification application or a portal to electronically submit the loan modification application.
 - l. Notwithstanding any other provision of this Consent Order, and to minimize the risk of borrowers submitting multiple loss mitigation requests for the purpose of delay, PHH shall not be obligated to evaluate requests for loss mitigation options from (a) borrowers who have already been evaluated or afforded a fair opportunity to be evaluated consistent with the requirements of HAMP or proprietary modification programs, or (b) borrowers who were evaluated after the date of implementation of this Consent Order, consistent with this Consent Order, unless there has been a material change in the borrower's financial circumstances that is documented by borrower and submitted to PHH, and the evaluation of the loss mitigation request is not inconsistent with the investor's requirements.
10. **Restrictions on Servicing Fees.**
- a. **General Requirements.**
 - i. All default, foreclosure and bankruptcy-related service fees, including third-party fees, collected from the borrower by PHH shall be bona fide and reasonable in amount.
 - b. **Specific Fee Provisions.**
 - i. PHH shall maintain and keep current a schedule of common non-state specific fees or ranges of fees that may be charged to borrowers by or on behalf of PHH. PHH shall make this schedule available on its website and to the borrower or borrower's authorized representative upon request. The schedule shall identify each fee, provide a plain language explanation of the fee, and state the maximum amount of the fee or how the fee is calculated or determined.
 - ii. PHH may collect a default-related fee only if the fee is for reasonable and appropriate services actually rendered and one of the following conditions is met:
 - (a) the fee is expressly or generally authorized by the loan instruments and not prohibited by law or this Consent Order;
 - (b) the fee is permitted by law and not prohibited by the loan instruments or this Consent Order; or
 - (c) the fee is not prohibited by law, this Consent Order or the loan instruments and is a reasonable fee for a specific service requested by the borrower that is collected only after clear and conspicuous disclosure of the fee is made available to the borrower.
 - iii. In addition to the limitations in paragraph 10(b)(ii) above, attorneys' fees charged in connection with a foreclosure action or bankruptcy proceeding shall only be for work actually performed and shall not exceed reasonable and customary fees for such work. In the event a foreclosure action is terminated prior to the final judgment and/or sale for a loss mitigation option, a reinstatement, or payment in full, the borrower shall be liable only for reasonable and customary fees for work actually performed. Notwithstanding the same, PHH may provide an estimate of such

attorneys' fees to borrower with good through dates in order to prepare payoff or reinstatement figures in advance to borrower. Once such attorneys' fees have been received and applied to the loan account, PHH shall reconcile the estimated attorneys' fees charged to the actual attorneys' fees incurred and provide refunds or credits, if necessary.

iv. Late Fees.

- (a) PHH shall not assess any late fee or delinquency charge when the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment, and the payment is otherwise a full payment for the applicable period and is paid on or before its due date or within any applicable grace period.
- (b) PHH shall not collect late fees (i) based on an amount greater than the past due amount; (ii) collected from the escrow account or from escrow surplus without the approval of the borrower; or (iii) deducted from any regular payment.
- (c) PHH shall not collect any late fees for periods during which (i) a complete loan modification application is under consideration; (ii) the borrower is making timely trial modification payments; or (iii) a short sale offer is being evaluated by PHH.

c. *Third-Party Fees.*

- i. Subject to Applicable Requirements, PHH shall not impose unnecessary or duplicative property inspection, property preservation or valuation fees on the borrower, including, but not limited to, the following:
 - (a) No property preservation fees shall be imposed on eligible borrowers who have a pending application with PHH for loss mitigation relief or are performing under a loss mitigation program, unless PHH has a reasonable basis to believe that property preservation is necessary for the maintenance of the property, such as when the property is vacant or listed on a violation notice from a local jurisdiction;
 - (b) No property inspection fee shall be imposed on a borrower any more frequently than the timeframes allowed under GSE or HUD guidelines unless PHH has identified specific circumstances supporting the need for further property inspections; and
 - (c) PHH shall be limited to imposing property valuation fees (*e.g.*, BPO) once every 12 months, unless other valuations are requested by the borrower to facilitate a short sale or to support a loan modification as outlined in paragraph 4(c)(i), or required as part of the default or foreclosure valuation process.
- ii. Default, foreclosure and bankruptcy-related services performed by third parties shall be at reasonable market value.
- iii. PHH shall not assess any fee for default, foreclosure or bankruptcy-related services by an affiliate unless the amount of the fee does not exceed the lesser of (a) any fee limitation or allowable amount for the service under applicable state law, and (b) the market rate for the service. To determine the market rate, PHH shall obtain annual market reviews of its affiliates'

pricing for such default and foreclosure-related services; such market reviews shall be performed by a qualified, objective, independent third-party professional using procedures and standards generally accepted in the industry to yield accurate and reliable results. The independent third-party professional shall determine in its market survey the price actually charged by third-party affiliates and by independent third party vendors.

- iv. PHH shall be prohibited from collecting any unearned fee, or giving or accepting referral fees in relation to third-party default or foreclosure-related services.
- v. PHH shall not impose its own mark-ups on PHH initiated third-party default or foreclosure-related services.

d. ***Certain Bankruptcy Related Fees.***

- i. PHH must not collect any attorney's fees or other charges with respect to the preparation or submission of a POC or MRS document that is withdrawn or denied, or any amendment thereto that is required, as a result of a substantial misstatement by PHH of the amount due.
11. PHH shall not collect late fees due to delays in receiving full remittance of debtor's payments, including trial period or permanent modification payments as well as post-petition conduit payments in accordance with 11 U.S.C. § 1322(b)(5), that debtor has timely (as defined by the underlying Chapter 13 plan) made to a Chapter 13 trustee.
 12. In addition to the reporting requirements set forth in the Consent Order, within thirty days of the Effective Date, and on a quarterly basis for the following eight quarters, the compliance coordinator shall provide New Jersey with a report describing how PHH has incorporated the obligations of this Appendix into its policies and procedures, and any failures to bring its practices in line with these enumerated Business Practices.
 13. The Attorney General and Division agree that all confidential information disclosed to them by PHH, its parent, subsidiaries or any of its affiliates, including but not limited to the periodic reports that will be provided pursuant to Paragraph 12 of this Appendix, shall be kept confidential. The Attorney General and Division shall not disclose or use any confidential information without the prior written consent of the disclosing party, except to the extent required by law, regulation or court order (and in any of these circumstances, only upon prior written notice to PHH).

APPENDIX B - REPORTING REQUIREMENTS

1. The number of loans PHH services.
2. Number of borrowers delinquent as of the last day of the quarter.
3. Number of borrowers who are 30 -59 days delinquent as of the last day of the quarter.
4. Number of borrowers who are 60-89 days delinquent as of the last day of the quarter.
5. Number of borrowers who are 90-120 days delinquent as of the last day of the quarter.
6. Number of borrowers who are more than 120 days delinquent.
7. Number of borrowers referred to foreclosure counsel for the initiation of a foreclosure action.
8. Number of foreclosure judgments received in a judicial foreclosure.
9. Number of foreclosure sales completed.
10. For loan modifications requiring trial periods, for the quarter:
 - a. Total number of trial modifications requested;
 - b. Total number from 10a. that were assigned a SPOC;
 - c. Total number of trial modifications offered (financial package required);
 - d. Total number of trial modifications offered (no financial package required);
 - e. Total number of trial modifications where the first trial payment has been received and recorded in the servicing system;
 - f. Total number of final modification agreements mailed to the borrower;
 - g. Total number of borrowers that have submitted all trial payments ;
 - h. Total number of borrowers that submitted all trial payments and PHH has received and accepted the executed and notarized final modification agreement from borrower.
11. For loan modifications that do not require a trial period, for the quarter:
 - a. Total number of borrowers requesting loss mitigation assistance by submitting a package;
 - b. Of the borrowers in 11a. the number that have been assigned a SPOC by PHH;
 - c. Total number of final modification agreements mailed to the borrower for execution and notarization;
 - d. Total number of borrowers that have submitted required funds;
 - e. Total number in 11d. for whom PHH has received and accepted the executed and notarized final modification agreement.
12. The average case load of a PHH “Single Point of Contact” representative who is assisting a borrower who has requested loss mitigation assistance.
13. The number and percentage of loan modification requests (both those that require a trial period and those that do not) evaluated and denied, including each reason for denial and the number and percentage of borrowers to which that reason applies.
14. The average length of trial modifications where borrowers made all required payments.

15. The number and percentage of borrowers who had trial modifications that lasted for more than four months.
16. The number and percentage of borrowers who received permanent loan modifications after having trial modifications lasting longer than four months.
17. The average number of days for PHH to approve or deny requests for loan modifications:
 - a. from initial borrower request to initial decision;
 - b. from the date some documentation is received to initial decision; and
 - c. from the date all documentation is received to initial decision.
18. The number and percentage of borrowers who had or have requests for loan modifications pending after submitting all required documentation for more than:
 - a. thirty days;
 - b. ninety days;
 - c. 180 days; and
 - d. One year.
19. The average call hold times for borrowers wishing to speak with PHH's loss mitigation department or SPOC.

**CONFIDENTIAL APPENDIX C - RESTITUTION FOR IDENTIFIED
CONSUMERS**