

MEMORANDUM

February 4, 2016

PRIVILEGED AND CONFIDENTIAL

TO: Non-Agency Mortgage-Backed Securities Investor

FROM: Keller Rohrbach L.L.P. and Talcott Franklin P.C.

SUBJECT: Merrill Lynch and Countrywide Repurchase Initiative

I. OVERVIEW

We represent a group of institutional investors that are pursuing repurchase initiatives on two categories of mortgage-backed security (“MBS”) trusts: (1) non-Countrywide trusts that contain Countrywide mortgages (“Countrywide Trusts”); and (2) trusts sponsored by Merrill Lynch (“Merrill Lynch Trusts,” collectively “the Trusts”). Bank of America, as successor in interest to both Countrywide and Merrill Lynch, is ultimately liable for repurchasing defective loans in the Trusts.

We believe an opportunity exists for a negotiated resolution regarding Bank of America’s outstanding repurchase liability. Bank of America has previously demonstrated a willingness to resolve its repurchase liability through negotiated resolution.

In connection with our repurchase initiatives, at our request trustees for the Trusts have issued notices to certificateholders (consent solicitations) informing them of our efforts and inviting them to express support for it. The responses we have received to date have been overwhelmingly positive. In light of this support, and as indicated in the various public notices, we will contact Bank of America and seek to reach a negotiated resolution that will compensate the various Trusts for the defective loans backing the Trusts.

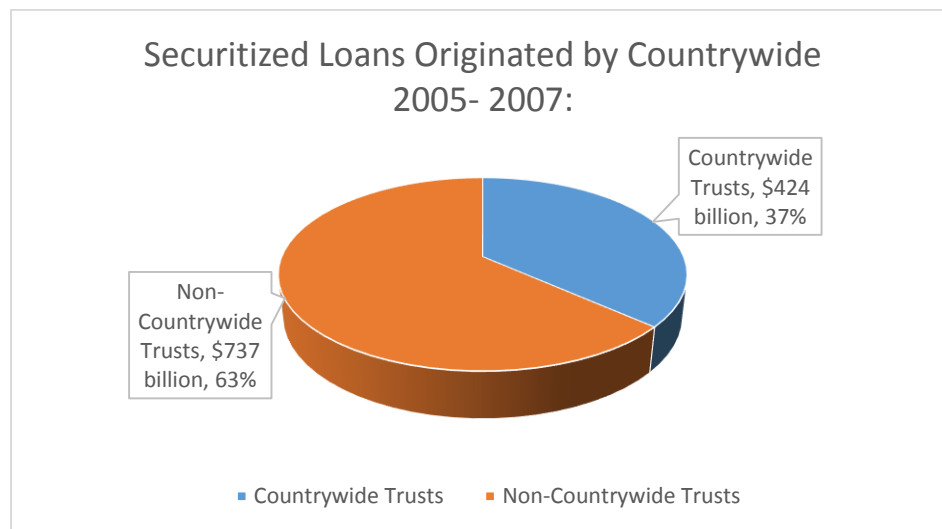
The trustee notices were limited to Trusts for which we already have an investor in our group with holdings in the trust. As a result, the notices were issued only with regard to a subset of the Trusts sponsored by Merrill Lynch or backed in whole or in part by Countrywide loans. We consequently urge investors that support the repurchase initiatives to contact us directly and provide us with their full holdings for Merrill Lynch and Countrywide trusts. For ease of reference, lists of Trusts are attached as Exhibit A to this memorandum.

Your participation in these initiatives will not be public and will not require you to become involved in litigation against Bank of America or any other entity. Nor will your participation in these initiatives make you liable for any legal fees or costs. If there is a resolution, we will seek to have fees and costs paid by Bank of America directly, or the fees and costs will come out of the overall recovery for the trusts.

II. COUNTRYWIDE

On June 28, 2011, the Bank of New York Mellon initiated an Article 77 proceeding in New York State Supreme Court in which it sought approval of an \$8.5 billion settlement to resolve all Bank of America and Countrywide put-back and servicing liability arising out of 530 Residential MBS issued by Countrywide from 2004 through 2007 (“BoA Settlement”). The BoA Settlement resolved claims related to the sale of loans by Countrywide/Bank of America to the trusts. The loans at issue breached representations and warranties about the quality, history, and nature of the loans underlying those trusts.

While the BoA Settlement covers Countrywide sponsored trusts, it does not address defective Countrywide mortgage loans that were placed in MBS sponsored by non-Countrywide entities. As the graphic below illustrates, the majority of Countrywide mortgage loans were placed in non-Countrywide Trusts.



We will pursue repurchase and servicing negotiations with Countrywide and Bank of America with regard to these Countrywide loans, as they were originated and serviced pursuant to the same flawed processes as Countrywide loans backing Countrywide-issued MBS. Like the BoA Settlement, if successful, this initiative will result in payment to the trusts included in the initiative, and via the trust waterfall, to certificateholders in the trusts.

III. MERRILL LYNCH

Between 2004 and 2008, Merrill Lynch securitized over one hundred and fifty MBS trusts. While many of these trusts have suffered substantial collateral losses, relatively few of these trusts have been subject to repurchase actions. As a result, there remains substantial repurchase and servicing liability that has not yet been resolved. In fact, Bank of America’s 2014 10-K Annual

Report estimates its liability for representations and warranties – including representations and warranties made by legacy companies such as Merrill Lynch – at \$12 billion, with the caveat that “it is reasonably possible that future representations and warranties losses may occur in excess” of this amount. Annual Report at 203.

Between 2004 and 2008, Merrill Lynch sponsored 10 MANA deals, 25 MLCC deals, 75 MLMI deals, 23 SURF deals, 10 FFML deals and 12 OwnIt deals. Many of these deals – particularly the 2006 and 2007 vintages – have performed poorly, with cumulative collateral losses perhaps ultimately reaching hundreds of millions of dollars. These losses are not surprising given some of the originators that provided the mortgages for Merrill’s securities, including Argent, First Franklin, Fremont, New Century, Option One, and WMC. There is ample information in the public domain regarding the poor quality of mortgages by these originators, and all of them were prominently featured on the U.S. Treasury Department’s list of “Worst Subprime Originators.” Thus, as with the Countrywide Trusts, we will pursue repurchase and servicing negotiations with Bank of America with regard to Merrill Lynch Trusts.

IV. STATUTE OF LIMITATIONS

Given the passage of time, defendants’ primary defenses will likely be based on the statute of limitations. Defendants will likely argue that under the New York Court of Appeals decision in *Ace Securities Corp. v. DB Structured Products, Inc.* (“*Ace*”), all repurchase actions are time-barred. We believe this is an overbroad reading of the *Ace* decision.

First, a number of Trusts are covered by tolling agreements between the trustee and the Bank of America. *Ace* expressly recognized the validity of such tolling agreements, noting that tolling agreements are “hardly unheard-of” in connection with repurchase litigation and that there was no such agreement in the *Ace* case. *Ace* at 6 & n.2. While the existence of a tolling agreement is not publicly-available information, the trustee is arguably obligated to disclose this information to a directing certificateholder, and, at any rate, if there are negotiations with Bank of America this information likely will come to light.

Second, the Court of Appeals decision is premised on its conclusion, that “nothing in the contract specified that the cure or repurchase obligation would continue for the life of the loans.” *Ace* at 12. According to the Court, defendant’s repurchase obligation was dependent on and derivative of the representations and warranties in the contract, and these “did not survive the closing” of the securitization. Many of the Trusts sponsored by Merrill Lynch have markedly different language than the contract interpreted in *Ace*. The Merrill Trusts have repurchase language that generally provide that “the representations, warranties and indemnification” set forth in the governing agreements “shall each survive delivery of the Mortgage Files and the Assignment of Mortgage of each Mortgage Loan to the Trustee *and shall continue throughout the term of this Agreement.*” This language makes clear that the representations and warranties do survive the

closing of the securitization, and that the cure repurchase obligation would continue for the life of the loans (i.e. the term of the Agreement.)

V. STRATEGY

There is a rapidly closing window of time to attempt to negotiate a resolution with Bank of America regarding losses sustained by Countrywide and Merrill Lynch Trusts. We have assembled a group of certificateholders with interests in the Trusts issued between 2004 and 2008, and intend to seek compensation for the Trusts from Bank of America for representation and warranty violations and servicing abuses. The negotiations will necessarily focus on Trusts in which our clients are invested. If you join in the initiatives, we will expand our negotiations to include Trusts in which you are invested. In addition, our ability to negotiate a successful resolution depends in part on the ownership interests our clients have in each of the Trusts included in the repurchase initiatives. Thus, if your participation increases the percentage ownership of Trusts already held by other clients, this will increase the likelihood of success.

In the event we are able to negotiate a resolution with Bank of America, we will put that resolution to a vote of all certificateholders in the Trusts through a subsequent public notice through the Trustees. That vote will include certificateholder approval of any negotiated resolution, as well as our fees, which we will seek to have paid by Bank of America. If approved by certificateholders, the recovery would then be paid to the Trusts for distribution through the Trust waterfalls to certificateholders.

VI. IDENTIFICATION OF INVESTMENTS

Included with this memorandum is a list of Merrill Lynch trusts. We have also included a partial list of Trusts backed by Countrywide loans. Both lists are attached as Exhibit A. Because Countrywide sold loans to hundreds of Trusts, it is not practical to send a list of all Trusts backed in whole or in part by Countrywide loans. Any certificate that is backed by 10 percent or more of Countrywide loans must disclose this in the prospectus supplement for the certificate. If you would like us evaluate your holdings and determine if you own certificates backed by Countrywide loans, we will do so confidentially and without any costs to you, pursuant to a non-disclosure agreement.

VII. CONTACT INFORMATION

If you are interested in participating in this initiative, please complete the ballot attached as Exhibit B. If you have any questions about these repurchase initiatives, or would like additional information, please contact Derek Loeser, Dean Kawamoto, or Tal Franklin.

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A copy of this memorandum and additional information is available on our website at: <http://krcomplexlit.com/practiceareas/mortgage-put-back-litigation/>

EXHIBIT A

PLMBS TRUSTS WITH COUNTRYWIDE LOANS

ACE 2006-CW1	GSR 2006-1F	LMT 2006-3
ARMT 2006-3	GSR 2006-2F	LXS 2005-5N
ARMT 2007-1	GSR 2006-5F	LXS 2005-7N
ARMT 2007-2	GSR 2006-7F	LXS 2006-10N
BAFC 2004-B	GSR 2006-8F	LXS 2006-2N
BAFC 2005-A	GSR 2006-OA1	LXS 2007-18N
BAFC 2005-H	GSR 2007-AR1	LXS 2007-2N
BAFC 2007-4	HALO 2006-2	LXS 2007-4N
BALTA 2004-7	HALO 2007-2	LXS 2007-7N
BALTA 2004-8	HVMLT 2004-11	MALT 2007-1
BALTA 2005-7	HVMLT 2004-2	MARM 2005-6
BALTA 2006-2	HVMLT 2004-7	MARM 2006-OA2
BALTA 2006-4	HVMLT 2004-8	MARM 2007-3
BALTA 2006-5	HVMLT 2005-1	MSM 2004-5AR
BCAP 2007-AA1	HVMLT 2005-10	MSM 2004-6AR
BCAP 2007-AA2	HVMLT 2005-12	MSM 2005-6AR
BSABS 2004-AC6	HVMLT 2005-13	SAMI 2004-AR4
BSARM 2004-1	HVMLT 2005-14	SAMI 2005-AR2
BSARM 2004-12	HVMLT 2005-16	SAMI 2005-AR4
BSARM 2006-2	HVMLT 2005-2	SAMI 2006-AR1
BSARM 2007-4	HVMLT 2005-3	SAMI 2006-AR3
BVMBS 2005-1	HVMLT 2005-8	SAMI 2006-AR4
BVMBS 2005-2	HVMLT 2006-11	SAMI 2006-AR6
CMLTI 2005-3	HVMLT 2006-12	SAMI 2007-AR1
CSAB 2007-1	HVMLT 2006-4	SARM 2006-11
CSMC 2006-7	HVMLT 2006-9	SARM 2006-12
CSMC 2006-8	HVMLT 2007-1	SARM 2006-3
CSMC 2006-9	JPALT 2006-A2	SARM 2007-1
CSMC 2007-1	JPALT 2006-A6	SARM 2007-2
CSMC 2007-3	JPALT 2006-A7	SARM 2007-5
CSMC 2007-5	JPALT 2006-S1	SASC 2005-10
CWHEL 2006-H	JPALT 2006-S4	SASC 2005-15
GSAA 2006-1	JPALT 2007-A1	SASC 2006-BC3
GSAA 2006-5	JPALT 2007-A2	SEMT 2004-3
GSAA 2007-3	JPMAC 2006-CW1	SEMT 2004-7
GSAA 2007-6	JPMAC 2006-CW2	SEMT 2005-4
GSCC 2006-1	JPMMT 2006-A6	SVHE 2005-4
GSR 2004-8F	JPMMT 2006-S3	WMALT 2006-AR8
GSR 2005-9F	JPMMT 2007-S1	

PLMBS TRUSTS SPONSORED BY MERRILL LYNCH

FFMER 2007-1	MLCC 2007-1	MLMI 2005-SD1	MLMI 2007-MLN1
FFML 2004-FF1	MLCC 2007-2	MLMI 2005-SL1	MLMI 2007-SD1
FFML 2004-FFC	MLCC 2007-3	MLMI 2005-SL2	MLMI 2007-SL1
FFML 2005-FF12	MLMBS 2007-1	MLMI 2005-SL3	OWNIT 2004-1
FFML 2005-FF6	MLMBS 2007-2	MLMI 2005-WMC1	OWNIT 2005-1
FFML 2005-FFH1	MLMBS 2007-3	MLMI 2005-WMC2	OWNIT 2005-2
FFML 2006-FF18	MLMI 2004-A1	MLMI 2006-A1	OWNIT 2005-3
FFML 2007-FF1	MLMI 2004-A2	MLMI 2006-A2	OWNIT 2005-4
FFML 2007-FF2	MLMI 2004-A3	MLMI 2006-A3	OWNIT 2005-5
FFML 2007-FFA	MLMI 2004-A4	MLMI 2006-A4	OWNIT 2006-2
FFML 2007-FFC	MLMI 2004-FM1	MLMI 2006-AF1	OWNIT 2006-3
MANA 2007-A1	MLMI 2004-HE1	MLMI 2006-AF2	OWNIT 2006-4
MANA 2007-A2	MLMI 2004-HE2	MLMI 2006-AHL1	OWNIT 2006-5
MANA 2007-A3	MLMI 2004-OPT1	MLMI 2006-AR1	OWNIT 2006-6
MANA 2007-AF1	MLMI 2004-SL1	MLMI 2006-F1	OWNIT 2006-7
MANA 2007-F1	MLMI 2004-SL2	MLMI 2006-FF1	SURF 2004-AA1
MANA 2007-OAR1	MLMI 2004-WMC1	MLMI 2006-FM1	SURF 2004-BC1
MANA 2007-OAR2	MLMI 2004-WMC2	MLMI 2006-HE1	SURF 2004-BC2
MANA 2007-OAR3	MLMI 2004-WMC3	MLMI 2006-HE2	SURF 2004-BC3
MANA 2007-OAR4	MLMI 2004-WMC4	MLMI 2006-HE3	SURF 2004-BC4
MANA 2007-OAR5	MLMI 2004-WMC5	MLMI 2006-HE4	SURF 2005-AB1
MLCC 2004-1	MLMI 2005-A1	MLMI 2006-HE5	SURF 2005-AB2
MLCC 2004-A	MLMI 2005-A10	MLMI 2006-HE6	SURF 2005-AB3
MLCC 2004-B	MLMI 2005-A2	MLMI 2006-MLN1	SURF 2005-BC1
MLCC 2004-C	MLMI 2005-A3	MLMI 2006-OPT1	SURF 2005-BC2
MLCC 2004-D	MLMI 2005-A4	MLMI 2006-RM1	SURF 2005-BC3
MLCC 2004-E	MLMI 2005-A5	MLMI 2006-RM2	SURF 2005-BC4
MLCC 2004-F	MLMI 2005-A6	MLMI 2006-RM3	SURF 2006-AB1
MLCC 2004-G	MLMI 2005-A7	MLMI 2006-RM4	SURF 2006-AB2
MLCC 2004-HB1	MLMI 2005-A8	MLMI 2006-RM5	SURF 2006-AB3
MLCC 2005-1	MLMI 2005-AR1	MLMI 2006-SD1	SURF 2006-BC1
MLCC 2005-2	MLMI 2005-FM1	MLMI 2006-SL1	SURF 2006-BC2
MLCC 2005-3	MLMI 2005-HE1	MLMI 2006-SL2	SURF 2006-BC3
MLCC 2005-A	MLMI 2005-HE2	MLMI 2006-WMC1	SURF 2006-BC4
MLCC 2005-B	MLMI 2005-HE3	MLMI 2006-WMC2	SURF 2006-BC5
MLCC 2006-1	MLMI 2005-NC1	MLMI 2007-HE1	SURF 2007-AB1
MLCC 2006-2	MLMI 2005-NCA	MLMI 2007-HE2	SURF 2007-BC1
MLCC 2006-3	MLMI 2005-NCB	MLMI 2007-HE3	SURF 2007-BC2