



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549-4561

March 14, 2011

Martin P. Dunn
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, DC 20006-4001

Re: JPMorgan Chase & Co.
Incoming letter dated January 11, 2011

Dear Mr. Dunn:

This is in response to your letters dated January 11, 2011, January 24, 2011, February 25, 2011, and March 10, 2011 concerning the shareholder proposal submitted to JPMorgan Chase by the New York City Employees' Retirement System, the New York City Fire Department Pension Fund, the New York City Teachers' Retirement System, the New York City Police Pension Fund, and the New York City Board of Education Retirement System. We also have received letters on the proponents' behalf dated February 11, 2011, March 3, 2011, and March 14, 2011. Our response is attached to the enclosed photocopy of your correspondence. By doing this, we avoid having to recite or summarize the facts set forth in the correspondence. Copies of all of the correspondence also will be provided to the proponents.

In connection with this matter, your attention is directed to the enclosure, which sets forth a brief discussion of the Division's informal procedures regarding shareholder proposals.

Sincerely,

Gregory S. Belliston
Special Counsel

Enclosures

cc: Valerie Budzik
1st Deputy General Counsel
Bureau of General Counsel
The City of New York
Office of the Comptroller
1 Centre Street Room 602
New York, NY 10007-2341

March 14, 2011

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: JPMorgan Chase & Co.
Incoming letter dated January 11, 2011

The proposal requests that the board have its audit committee conduct an independent review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and to report to shareholders its findings and recommendations.

There appears to be some basis for your view that JPMorgan Chase may exclude the proposal under rule 14a-8(i)(11). We note that the proposal is substantially duplicative of a previously submitted proposal that will be included in JPMorgan Chase's 2011 proxy materials. Accordingly, we will not recommend enforcement action to the Commission if JPMorgan Chase omits the proposal from its proxy materials in reliance on rule 14a-8(i)(11). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which JPMorgan Chase relies.

Sincerely,

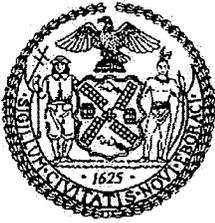
Hagen Ganem
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.



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March 14, 2011

BY EMAIL AND EXPRESS MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *JPMorgan Chase & Co. – Shareholder Proposal Submitted by the Comptroller of the City of New York on Behalf of the New York City Pension Funds*

Dear Ladies and Gentlemen:

This letter is a brief reply on behalf of the New York City Pension Funds (the “Funds”) to the March 10, 2011 letter submitted to the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission by Martin Dunn of O’Melveny & Myers LLP, on behalf of JPMorgan Chase & Co. (“JPMC” or the “Company”), in further support of its no-action request regarding the Fund’s shareholder proposal requesting that the Company’s Audit Committee conduct an independent review of the Company’s internal controls related to loan modifications, foreclosures and securitizations (the “Proposal”).

The Company’s March 10th letter purports to offer new grounds for no-action relief that were not previously articulated by the Company in its January 11 and February 25, 2011 letters to the Commission, and to distinguish the Company’s ordinary business arguments from those presented in *Citigroup, Inc* (March 2, 2011), in which the Commission determined that an identical proposal sufficiently focused on a significant social policy issue and was not excludable on ordinary business grounds. After review of the March 10 letter, it is clear that the Company offers no new arguments to support its no-action request and the Funds’ respectfully refer the Commission to their February 11, 2011 and March 3, 2011 letters. It is equally clear that the Commission’s determination in *Citigroup, Inc.* is controlling precedent with respect to the Company’s ordinary business arguments, notwithstanding the Company’s efforts to suggest that there is a material difference between a proposal that is “focused” on a significant policy issue (including internal controls on loan modifications, foreclosures and securitizations) and one that is “sufficiently focused” on those same issues. There is simply no basis to suggest that securitizations are not encompassed by the Commission’s *Citigroup, Inc.* decision.

March 14, 2011

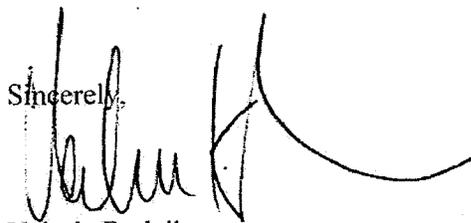
Page 2

The Company provides no new argument to support its arguments on excludability based on pending litigation or its incorrect view that the Proposal is duplicative of the Presbyterian Church (USA) ("PCUSA") proposal.

CONCLUSION

The Staff has concluded that the Proposal focuses on a significant social policy issue. The Company's arguments for excluding the Proposal under 14a-8(i)(7) are accordingly without merit. In addition, because the Proposal's principal thrust and focus differs fundamentally from the PCUSA proposal, the Company has failed to meet its burden of establishing that the Proposal is excludable under 14a-8(i)(11). Therefore, the Funds respectfully renew their request that the Company's request for no-action relief be denied.

Sincerely,



Valerie Budzik
First Deputy General Counsel

c: Martin P. Dunn, Esq.
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001



O'MELVENY & MYERS LLP

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1934 Act/Rule 14a-8

March 10, 2011

VIA ELECTRONIC MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: JPMorgan Chase & Co.
Shareholder Proposal of the Comptroller of the City of New York
Securities Exchange Act of 1934 Rule 14a-8

Dear Ladies and Gentlemen:

This letter concerns the request dated January 11, 2011 (the "*Initial Request Letter*") that we submitted on behalf of JPMorgan Chase & Co. seeking confirmation that the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934, the Company omits the shareholder proposal submitted by the Comptroller of the City of New York on behalf of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Police Pension Fund, the New York City Fire Department Pension Fund and the New York City Board of Education Retirement System from the Company's proxy materials for its 2011 Annual Meeting of Shareholders. Unless otherwise noted, defined terms in this letter have the same meaning as in the Initial Request Letter.

On March 3, 2011, the Proponent submitted a letter to the Staff (the "*Second Proponent Letter*"), asserting its view that the Proposal and Supporting Statement are required to be included in the 2011 Proxy Materials.¹ The Second Proponent Letter is attached hereto as Exhibit A. We submit this letter on behalf of the Company to supplement the Initial Request

¹ The Proponent also submitted correspondence to the Staff on February 11, 2011 (herein referred to as the "*First Proponent Letter*") and, on behalf of the Company, we submitted a response to that correspondence on February 25, 2011 (the "*First Supplemental Request Letter*").

Letter and respond to some of the claims made in the Second Proponent Letter with regard to the application of Rule 14a-8 to the Proposal.

II. EXCLUSION OF THE PROPOSAL

A. The Proposal May Be Omitted Pursuant to Rule 14a-8(i)(7) as it Relates, in part, to Matters Regarding the Company's Ordinary Business Operations

In *Citigroup Inc.* (March 2, 2011), the Staff expressed the view that Citigroup could not omit a proposal identical to the Proposal in reliance on Rule 14a-8(i)(7) because "of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations." The Second Proponent Letter asserts this letter as conclusive evidence that the Company's views regarding the application of Rule 14a-8(i)(7) are, therefore, "clearly without merit." We respectfully disagree with such a conclusion.

The Staff indicated in *Staff Legal Bulletin No. 14* (July 13, 2001) that it considers only the arguments presented in a company's no-action request when expressing its view of the application of Rule 14a-8 to proposal. In this regard, the Company has asserted a number of bases for omission of the Proposal that were not asserted in *Citigroup*. Specifically, the Company believes that the Proposal is not sufficiently focused on a significant policy issue to preclude omission under Rule 14a-8(i)(7). See Section III.B.5 of the Initial Request Letter. The Company is also named as a defendant in numerous pending lawsuits and government investigations regarding matters identical to those addressed in the Proposal.

1. The Proposal relates to ordinary business matters outside those relating to "widespread deficiencies in the foreclosure and modification processes for real estate loans"

It appears that the Staff has determined "widespread deficiencies in the foreclosure and modification processes for real estate loans" to be a significant policy issue for purposes of Rule 14a-8(i)(7).² However, the subject matter of the Proposal extends well beyond that issue and seeks information regarding ordinary business matters outside that issue. Specifically, the Proposal seeks information regarding internal controls over securitizations, compliance with applicable laws and regulations regarding securitizations, and compliance with the Company's own policies and procedures regarding securitizations. Neither the Proposal, the Supporting Statement, the First Proponent Letter nor the Second Proponent Letter assert the view that securitizations are related to or address matters regarding "widespread deficiencies in the foreclosure and modification processes for real estate loans." Commission guidance is clear that

² In this regard, we note that the Staff's response in *Citigroup* refers to "the increasing recognition that these issues raise significant policy considerations," which differs significantly from the manner in which it has recently identified other significant policy issues. See, e.g., *The Goldman Sachs Group, Inc.* (March 1, 2011) (noting that "the proposal focuses on the significant policy issue of global warming") and *Dominion Resources, Inc.* (February 9, 2011) (noting that "the determination whether to construct a nuclear power plant and the development of renewable energy generating systems are significant policy issues").

a proposal must be sufficiently focused on a significant policy issue to preclude exclusion under the ordinary business exception of Rule 14a-8(i)(7). *See Exchange Act Release No. 34-40018* (May 21, 1998). This argument was not asserted by Citigroup in its letter and, therefore, was not considered by the Staff in formulating its response to that letter.

The Company believes that the Proposal may be properly omitted in reliance on Rule 14a-8(i)(7) because the Proposal and Supporting Statement fail to demonstrate a sufficient nexus between the securitization of loans and compliance with the law and internal procedures regarding securitization of loans and a significant policy issue. As such, regardless of whether the Staff determines that the Proposal relates, in part, to a significant policy issue, it is clear that the Proposal relates to matters in addition to that issue. In this regard, the Staff consistently taken the position that a proposal relating to BOTH a significant policy issue and matters outside of that significant policy issue may be excluded in reliance on Rule 14a-8(i)(7). *See, e.g., Wal-Mart Stores, Inc.* (March 15, 1999) (concurring in the exclusion of a proposal requesting a report on Wal-Mart's actions to ensure it does not purchase from suppliers who manufacture items using forced labor, convict labor, child labor or who fail to comply with laws protecting employees' rights in reliance on Rule 14a-8(i)(7) because "paragraph 3 of the description of matters to be included in the report relates to ordinary business operations"); *and General Electric Company* (Feb. 10, 2000) (concurring in the exclusion of a proposal relating to the discontinuation of an accounting method and use of funds related to an executive compensation program in reliance on Rule 14a-8(i)(7) as dealing with both the significant policy issue of senior executive compensation and the ordinary business matter of choice of accounting method).

2. *The subject matter of the Proposal relates to issues at the core of pending litigation involving the Company*

Unlike in *Citigroup*, the Company also believes that the Proposal may be omitted in reliance on Rule 14a-8(i)(7) because the subject matter of the Proposal addresses allegations that are at the center of several lawsuits pending against the Company. Contrary to the views expressed in the First Proponent Letter, the Proposal and the Company's circumstances are consistent with precedent in which the Staff has concurred in the exclusion of a proposal under Rule 14a-8(i)(7) because the subject matter of the proposal is the basis of ongoing litigation.

First, in *Citigroup*, the Staff recognized that an identical proposal related to "widespread deficiencies in the foreclosure and modification processes for real estate loans." As addressed in the Initial Request Letter, the Company's loan modification practices under HAMP (as defined below) are a central issue in at least one putative class action cited by the Company. *See Durmic v. J.P. Morgan Chase Bank, N.A.*, No. 10-cv-10380-RGS (D. Mass. 2010) (attached as Exhibit B to the Initial Request Letter). The Company's HAMP modification practices also are directly at issue in *Morales v. Chase Home Financing LLC*, 10-cv-02068-JSW (N.D. Cal. filed May 14, 2010).³ In *Durmic*, the putative class challenges "the failure of [the Company] to honor its agreements with borrowers to modify mortgages and prevent foreclosures under the United States Treasury's Home Affordable Modification Program ("HAMP")" and alleges that as a

³ Attached hereto as Exhibit B.

result of the Company's actions, "homeowners are wrongfully being deprived of an opportunity to cure their delinquencies, pay their mortgage loans and save their homes." (*Durmic* Compl. at ¶¶ 1, 5.) In arguing for the predominance of classwide issues in this action, the *Durmic* plaintiffs allege that common questions of law and fact pertain to "the nature, scope and operation of [the Company's] obligations to homeowners under HAMP" and that their "claims are based on form contracts and uniform loan modification processing requirements." (*Id.* at ¶ 93.) The same is true for *Morales*, where among the allegations of illegalities in the Company's administration of loan modifications under HAMP, the putative plaintiff class claims that:

Though Chase entered into a contract obligating it to comply with HAMP and to extend loan modifications to benefit distressed homeowners, Chase has systematically failed to comply with the terms of the HAMP directives and has regularly and repeatedly violated its rules and prohibitions.

Chase has serially extended, delayed, and otherwise hindered the modification processes that it contractually undertook when it accepted billions of dollars from the United States. Chase's obstruction and delay tactics have a common result: homeowners with loans serviced by Chase, who meet requirements for participation in the HAMP program, who have entered into trial modifications, and who have complied with all obligations, have not received the permanent loan modifications to which they are entitled.

Chase profits from extending trial periods and from foreclosing rather than modifying loans. Instead of complying with its contracts to enter into permanent modification with individual borrowers and the federal government, Chase has bowed to the many powerful financial incentives for it to delay or avoid permanently modifying the loans it services.

(*Morales* Compl. at ¶¶ 5-7.) HAMP applies to the significant majority of the loans the Company services as an owner and servicer. Indeed, as a participant in the Troubled Asset Relief Program, the Company is legally obligated, subject to certain pooling and servicing agreement constraints, to review for HAMP modifications loans that are delinquent or are facing imminent delinquency. Further, the Proposal does not in any way distinguish between "internal controls" for loan modifications and foreclosures under HAMP and any other modification program. In fact, to the extent the Staff were to find that the Proposal relates to "deficiencies in the foreclosure and modification processes for real estate loans," it would necessarily also find that the Proposal directly relates to the subject matter of ongoing litigation regarding the Company's modification and foreclosure practices under HAMP as alleged in *Durmic* and *Morales*.

As discussed above and in the Initial Request Letter, the Staff has consistently agreed with the omission of shareholder proposals that relate to BOTH significant policy issues and ordinary business matters. The Staff has specifically taken this position with regard to the existence of ongoing litigation, even where the subject matter of that existing litigation has been determined to be a significant policy issue for purposes of Rule 14a-8(i)(7). *See, e.g., Philip*

Morris Companies Inc. (February 4, 1997) (the Staff stating that it “has taken the position that proposals directed at the manufacture and distribution of tobacco-related products by companies involved in making such products raise issues of significance that do not constitute matters of ordinary business” but that because “the proposal at issue primarily addresses the litigation strategy of the Company, which is viewed as inherently the ordinary business of management to direct,” the company may exclude the proposal); *see also R.J. Reynolds Tobacco Holdings, Inc.* (February 21, 2003). Similar to the proposal in *Reynolds American Inc.* (February 10, 2006), the Company’s loan modification practices are the subject matter of both the Proposal and ongoing litigation in which the Company is named as defendant. The Proposal’s requirement to report on the Company’s past compliance with the law and its own procedures regarding loan modification and foreclosure policies to shareholders by September 30, 2011 will expose the Company to premature or otherwise improper disclosure of information relevant to that ongoing litigation. The lawsuits against the Company regarding compliance with HAMP cite statistics regarding the number of loan modifications by the Company as support for their claim that the Company has demonstrated a pattern of refusal to modify loans of struggling homeowners. (*See, e.g., Durmic Compl.* at ¶ 40.) Disclosure of the “results” of the Company’s compliance with modification and foreclosure policies and practices will entail disclosure of loan level data and statistics that will be directly at issue in the litigation and may affect the class size and composition, and the viability of the claims against the Company.

Pending investigations by state and federal officials into the Company’s mortgage servicing practices and the so-called “robo-signing” lawsuits⁴ against the Company also relate to matters at the core of the Proposal. The federal regulators and state attorneys general who investigate the robo-signing issue and other foreclosure related practices by the national banks are now said to seek a settlement with the investigated entities, including the Company, that would specifically require loan modifications and write-downs to assist distressed borrowers. In addition, the state and federal investigators examining the Company’s foreclosure practices seek information pertaining to the Company’s loan servicing and foreclosure processes and procedures. The Company is in an ongoing dialogue with state and federal authorities regarding the evolution of its loan servicing practices, and the actions requested in the Proposal would interfere directly with the Company’s management of this process and its efforts to reach a resolution of the investigations. In light of the above facts and the Commission’s “ongoing litigation” line of no-action letters, the Company believes that the Proposal may be omitted properly in reliance on Rule 14a-8(i)(7).

3. Conclusion

Based upon the analysis above and that set forth in the Initial Request Letter and the First Supplemental Request Letter, the Company maintained and continues to be of the view that the Proposal and Supporting Statement may be omitted from the Company’s 2010 Proxy Materials in reliance on Rule 14a-8(i)(7), as relating to the Company’s ordinary business matters.

⁴ *See, e.g., Salinas v. Chase Home Finance, LLC*, 10-cv-09602-VBK (C.D. Cal. filed Feb. 18, 2011) (attached as Exhibit B to the Initial Request Letter); *Deutsch v. J.P. Morgan Chase Bank, N.A.*, 08CH4035 (Ill. Cir. Ct. 2008) (attached hereto as Exhibits D).

B. The Proposal May Be Excluded in Reliance on Rule 14a-8(i)(11), as it Substantially Duplicates Proposals Previously Submitted to the Company That Will Be Included in the 2011 Proxy Materials

The Second Proponent Letter reasserts the Proponent's view that the Proposal does not substantially duplicate the proposal and supporting statement that the Company received from the Board of Pensions of the Presbyterian Church (USA) (the "**PCUSA Proposal**").⁵ The Company has provided the Staff with a letter indicating its view that the PCUSA Proposal may be omitted properly under Rule 14a-8. In this regard, the Company has expressed the view that it may omit the PCUSA Proposal, in addition to other bases, in reliance on Rule 14a-8(i)(7). As noted above, the Staff has expressed the view in *Citigroup* that a proposal identical to the subject Proposal relates to "widespread deficiencies in the foreclosure and modification processes for real estate loans." If the Staff were to determine that the PCUSA Proposal may not be omitted in reliance on Rule 14a-8(i)(7) because it relates to the same issue as that identified by the Staff in *Citigroup*, then the Staff would necessarily be determining that the core issues of the Proposal and the PCUSA Proposal are substantially duplicative for the purpose of Rule 14a-8(i)(11) -- to find otherwise would mean that the Staff has determined that the subject matter of at least one of those proposals is an ordinary business matter. Based upon this analysis and that set forth in the Initial Request Letter and the First Supplemental Response Letter, the Company maintained and continues to be of the view that the Proposal and Supporting Statement may be omitted from the Company's 2010 Proxy Materials in reliance on Rule 14a-8(i)(11).

* * * * *

⁵ See Section III.C.1 of the Initial Request Letter for background on the PCUSA Proposal.

III. CONCLUSION

For the reasons set forth above and in the Initial Request Letter and the First Supplemental Request Letter, the Company previously maintained and continues to be of the view that the Proposal may be omitted in reliance on Rule 14a-8. The Company therefore renews its request that the Staff concur with the Company's view that the Proposal and Supporting Statement may be omitted from the 2011 Proxy Materials. If we can be of further assistance in this matter, please do not hesitate to contact me at (202) 383-5418.

Sincerely,



Martin P. Dunn
of O'Melveny & Myers LLP

Attachments

cc: Michael Garland
Executive Director of Corporate Governance
The City of New York Office of the Comptroller

Anthony Horan, Esq.
Corporate Secretary
JPMorgan Chase & Co.

*Shareholder Proposal of the Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT A



THE CITY OF NEW YORK
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March 3, 2011

BY EMAIL AND EXPRESS MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *JPMorgan Chase & Co. Shareholder Proposal Submitted by the Comptroller of the City of New York on Behalf of the New York City Pension Funds*

Dear Ladies and Gentlemen:

This letter is a reply on behalf of the New York City Pension Funds (the "Funds") to the February 25, 2011 letter submitted to the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission by Martin Dunn of O'Melveny & Meyers LLP, on behalf of JPMorgan Chase & Co. ("JPMC" or the "Company"), in further support of its no-action request regarding the Fund's shareholder proposal requesting that the Company's Audit Committee conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and securitizations (the "Proposal").

The Company's February 25th response essentially re-hashes the arguments the Company made in its January 11, 2011 initial no-action request, with the bottom line being the Company's position that the Proposal does not focus on a "significant social policy issue." The Funds adamantly disagree with this position and respectfully refer the Staff to its March 2, 2011 decision in the Citigroup, Inc. matter, involving an identical shareholder proposal, in which the Staff determined that "[i]n view of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7)." (March 2, 2011 Staff letter attached as Exhibit A). As the Staff has concluded that an identical proposal focuses sufficiently on significant policy issues, the Company's arguments that the Proposal does not are clearly without merit.

The Company provides no additional precedent to support its incorrect view that the Proposal is duplicative of the Presbyterian Church (USA) ("PCUSA") proposal. The Company

March 3, 2011

Page 2

simply repeats its mischaracterization of the Proposal's principal thrust and focus in an attempt to make it appear substantially duplicative of the PCUSA proposal. Accordingly, the Funds reiterate the arguments detailed in their February 11, 2011 letter. The principal thrust and focus of the PCUSA proposal is the equal treatment of low income and minority borrowers in loan modifications; the principal thrust and focus of the Proposal is ensuring the adequacy of the Company's internal controls through an independent review. It is clear that the principal thrust and focus of the proposals differ fundamentally and the mere fact that both proposals refer to loan modifications does not render them substantially duplicative. The Funds once again respectfully draw the Staff's attention to *Pulte Homes, Inc.* (February 27, 2008) and the other no-action letters cited in the Funds' February 11th letter, where the Staff found that proposals concerning the same broad subject matter were not substantially duplicative because they did not have the same principal thrust or focus.

CONCLUSION

The Staff has concluded that the focus of the Proposal is a significant social policy issue. Accordingly, the Company's arguments for excluding the Proposal under 14a-8(i)(7) are without merit. In addition, because the Proposal's principal thrust and focus differs fundamentally from the PCUSA proposal, the Company has failed to meet its burden of establishing that the Proposal is excludable under 14a-8(i)(11). Therefore, the Funds respectfully renew their request that the Company's request for no-action relief be denied.

Sincerely,



Valerie Budzik
1st Deputy General Counsel

c: Martin P. Dunn, Esq.
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001

March 2, 2011

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: Citigroup Inc.
Incoming letter dated December 17, 2010

The proposal requests that the board have its audit committee conduct an independent review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and to report to shareholders its findings and recommendations.

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(3). We are unable to conclude that the proposal is so inherently vague or indefinite that neither the shareholders voting on the proposal, nor the company in implementing the proposal, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. Accordingly, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(3).

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(7). That provision allows the omission of a proposal that "deals with a matter relating to the company's ordinary business operations." In view of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7).

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that Citigroup's practices and policies do not compare favorably with the guidelines of the proposal and that Citigroup has not, therefore, substantially implemented the proposal. Accordingly, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Hagen Ganem
Attorney-Adviser

*Shareholder Proposal of the Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT B

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Attorneys for Plaintiffs and the Putative Plaintiff Class

15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **(SAN FRANCISCO DIVISION)**

19 HERMINIA MORALES and MICHAEL
SURANOFSKY, individually and on behalf of
all others similarly situated,

20 Plaintiffs,

21 v.

22 CHASE HOME FINANCE LLC, a Delaware
23 limited liability company; CHASE HOME
FINANCE INC., a Delaware corporation;
24 JPMORGAN CHASE BANK, N.A., a national
banking association; JPMORGAN CHASE &
25 CO., a Delaware corporation; and Does 1-100,

26 Defendants.

Case No.:

2068

CLASS ACTION

**COMPLAINT FOR BREACH OF
CONTRACT, BREACH OF COVENANT
OF GOOD FAITH AND FAIR DEALING,
PROMISSORY ESTOPPEL (IN THE
ALTERNATIVE), VIOLATIONS OF
ROSENTHAL FAIR DEBT
COLLECTIONS PRACTICES ACT,
VIOLATIONS OF CALIFORNIA'S
UNFAIR COMPETITION LAW**

DEMAND FOR JURY TRIAL

E-filing

ORIGINAL
FILED
MAY 14 2010
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LB

INTRODUCTION

1
2 1. Plaintiffs Herminia Morales and Michelle Suranofsky (hereinafter “Plaintiffs”) bring
3 this case as a class action to challenge Defendants failure to comply with its obligations under federal
4 programs designed to modify mortgages to allow thousands of California residents to make affordable
5 payments on their mortgages rather than lose their homes.

6 2. On October 28, 2008, Defendant JPMorgan Chase & Co. (“Chase”) accepted \$25
7 billion in funds from the United States government as part of the Troubled Assets Relief Program, 12
8 U.S.C. § 5211 *et seq.* (“TARP”). By accepting this payment, Chase agreed that it would participate in
9 one or more programs that TARP authorized the Secretary of the Treasury Department (“Treasury”) to
10 establish in order to minimize foreclosures.

11 3. Consistent with the TARP mandate, the Treasury implemented the Home Affordable
12 Modification Program (“HAMP”) a detailed program designed to stem the foreclosure crisis by
13 providing affordable mortgage loan modifications and other alternatives to foreclosure to eligible
14 borrowers. Companies that accepted money under TARP are subject to mandatory inclusion in
15 HAMP.

16 4. Chase began its participation in the HAMP program in April, 2009, and signed a
17 contract with the Treasury on July 31, 2009¹ agreeing to comply with the HAMP requirements and to
18 perform loan modification and other foreclosure prevention services as prescribed by the program
19 guidelines. Guidelines issued by the Treasury set forth a detailed process whereby a participating
20 servicer such as Chase must, among other things:

- 21 • identify loans that are subject to modification under the HAMP program, both
22 through its own review and in response to requests for modification from
individual homeowners;
- 23 • collect financial and other personal information from homeowners to evaluate
24 whether homeowners are eligible for a loan modification under HAMP;
- 25 • institute a modified loan with a reduced payment amount set by a mandated
26 formula, which then is effective for a three-month trial period for eligible
homeowners;

27
28 ¹ July 31, 2009 Servicer Participation Agreement, available at
<http://www.financialstability.gov/docs/agreements/JP%20Morgan%20Chase%20Bank%20Servicer%20Participation%20Agreement.pdf> (last visited May 14, 2010).

- 1 • provide a permanently modified loan to those homeowners who comply with the requirements during the trial period; and
- 2 • send explanation letters to borrowers whose applications are denied within ten days of the denial and allow borrowers to dispute the denial under certain
- 3 circumstances.

4 5. Though Chase entered into a contract obligating it to comply with HAMP and to
5 extend loan modifications to benefit distressed homeowners, Chase has systematically failed to
6 comply with the terms of the HAMP directives and has regularly and repeatedly violated its rules and
7 prohibitions.

8 6. Chase has serially extended, delayed, and otherwise hindered the modification
9 processes that it contractually undertook when it accepted billions of dollars from the United States.
10 Chase's obstruction and delay tactics have a common result: homeowners with loans serviced by
11 Chase, who meet requirements for participation in the HAMP program, who have entered into trial
12 modifications, and who have complied with all obligations, have not received the permanent loan
13 modifications to which they are entitled.

14 7. Chase profits from extending trial periods and from foreclosing rather than modifying
15 loans. Instead of complying with its contracts to enter into permanent mortgage modification with
16 individual borrowers and the federal government, Chase has bowed to the many powerful financial
17 incentives for it to delay or avoid permanently modifying the loans that it services. For example, fees
18 that Chase charges its borrowers who are in default and unpaid interest are often added to the principal
19 of the loan, thereby increasing the balance on the pools of loans Chase services and the fees it charges
20 to the holders of the loans.

21 8. As a result, hundreds, if not thousands, of California homeowners are wrongfully
22 deprived of an opportunity to cure their delinquencies, pay their mortgage loans, and save their homes.
23 By failing to live up to its obligations under the terms of the contract it entered into with the Treasury,
24 and the terms of the contracts it formed with individual borrowers, Chase has left thousands of
25 homeowners in a state of limbo – often worse off than they were before they sought a modification
26 from Chase. Chase's actions violate its contractual obligations, thwart the purpose of HAMP, and are
27 illegal under California law.

28 9. Chase entered into written contracts with Plaintiffs for temporary trial modifications.

1 Although Plaintiffs performed their obligations under the contracts by submitting the required
2 documentation and making timely payments, Chase failed to fulfill its end of the bargain and has
3 ignored its contractual obligation to permanently modify Plaintiffs' loans at the close of the trial
4 modification period.

5 10. Plaintiffs Herminia Morales and Michelle Suranofsky bring this suit on behalf of
6 themselves and a Class of similarly situated California residents to challenge the failure of Chase to
7 honor the terms of its contract under HAMP, intended for their benefit, and its failure to comply with
8 contracts it has directly with Plaintiffs to modify mortgages to make them affordable and sustainable.

9 **JURISDICTION AND VENUE**

10 11. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and 1332(d)
11 in that the claims alleged herein arise under the laws of the United States, and the Plaintiffs are
12 citizens of a state other than Defendants' state of citizenship. This Court has supplemental
13 jurisdiction pursuant to 28 U.S.C. § 1367 to hear and determine Plaintiffs' state law claims because
14 those claims are related to Plaintiffs' federal claims and arise out of a common nucleus of operative
15 facts and form part of the same case or controversy under Article III of the United States Constitution.

16 12. This Court has personal jurisdiction over Chase because the unlawful conduct that
17 gave rise to these claims occurred in California and because Chase is authorized to and regularly
18 conducts business in California.

19 13. Venue is proper in the Northern District of California pursuant to 28 U.S.C.
20 § 1391(b)(2) in that the unlawful conduct that gave rise to these claims occurred within the Northern
21 District of California.

22 **INTRA-DISTRICT ASSIGNMENT**

23 14. Intra-district assignment in San Francisco, California is proper because the unlawful
24 conduct that gives rise to the alleged claims occurred in San Mateo County and Santa Clara County.

25 **PARTIES**

26 15. Plaintiff Herminia Morales is an individual and at all relevant times herein was a
27 resident of San Mateo County, California.

28 16. Plaintiff Michelle Suranofsky is an individual and at all relevant times herein was

1 resident of Santa Clara County, California.

2 17. Defendant Chase Home Finance LLC is a limited liability company organized under
3 the laws of the state of Delaware. Chase Home Finance is one of the world's largest providers of
4 mortgages and home equity loans. Chase Home Finance LLC is a wholly owned subsidiary of
5 Defendant Chase Home Finance Inc.

6 18. Defendant Chase Home Finance Inc. is corporation organized under the laws of the
7 state of Delaware. Chase Home Finance Inc. is a wholly owned subsidiary of Defendant JPMorgan
8 Chase & Co.

9 19. Defendant JPMorgan Chase Bank, N.A. is a national banking association with
10 branches in 23 states, including California. JPMorgan Chase Bank, N.A. is a wholly owned
11 subsidiary of Defendant JPMorgan Chase & Co.

12 20. Defendant JPMorgan Chase & Co. is a financial holding company incorporated under
13 the laws of Delaware and headquartered in New York City, New York. JPMorgan Chase is one of the
14 largest banking institutions in the United States of America, with \$2.0 trillion in assets, \$165.4 billion
15 in stockholders' equity and operations in more than 60 countries. (Hereafter, Defendants Chase Home
16 Finance LLC, Chase Home Finance Inc., JPMorgan Chase Bank, N.A., and JPMorgan Chase & Co.
17 will be collectively referred to as "Chase" or "Defendants".)

18 21. Defendants Does 1 through 100 are persons or entities whose true names and
19 identities are now unknown to Plaintiffs, and who therefore are sued by such fictitious names.
20 Plaintiffs will amend this complaint to allege the true names and capacities of these fictitiously named
21 defendants when they are ascertained. Each of the fictitiously named defendants is responsible for the
22 conduct alleged in this complaint, and Plaintiffs' damages and the damages of the Plaintiff Class were
23 actually and proximately caused by the conduct of the fictitiously named defendants.

24 22. At all times mentioned herein, each defendant acted as an authorized agent, employee
25 or other representative of each other defendant. Each act of each defendant complained of herein was
26 committed within the scope of said agency, employment or other representation, and/or each act was
27 ratified by each other defendant. Each defendant is liable, in whole or in part, for the damages and
28 injuries Plaintiffs suffered.

1 **FACTUAL BACKGROUND**

2 23. For the past three years, the United States has been in a foreclosure crisis. In late
3 2009, one in eight U.S. mortgages was in foreclosure or default, and 2.8 million homeowners received
4 foreclosure notices in 2009.²

5 24. California has been one of the states hardest hit by this crisis. California had the
6 highest number of foreclosures in the United States for all of 2009. RealtyTrac reports that the
7 number of total California properties with foreclosure filings in 2009 was 632,573.³ This represents a
8 nearly 21% increase over 2008 and a 153% increase from 2007.⁴ In the first quarter of 2010,
9 California posted the nation's fourth highest foreclosure rate; during that period, California accounted
10 for 23% of the nation's total foreclosure activity.⁵

11 25. The foreclosure crisis "continues unabated," as a Congressional oversight panel stated
12 in April 2010.⁶

13 **THE HOME AFFORDABLE MODIFICATION PROGRAM.**

14 26. Congress passed the Emergency Economic Stabilization Act of 2008, 12 U.S.C.
15 § 5201 *et seq.*, on October 3, 2008 and amended it with the American Recovery and Reinvestment Act
16 of 2009, Pub. L. No. 111-5, 123 Stat. 115, on February 17, 2009 (together, the "Act").

17 27. The purpose of the Act is to grant the Secretary of the Treasury the authority to
18 restore liquidity and stability to the financial system, and to ensure that such authority is used in a
19 manner that "protects home values" and "preserves homeownership." 12 U.S.C. § 5201.

20 _____
21 ² See Congressional Oversight Panel, *April Oversight Report – Evaluating Progress on*
22 *TARP Foreclosure Mitigation Programs*, Apr. 14, 2010 ("April 2010 Congressional Oversight
Report") at 3, available at <http://cop.senate.gov/documents/cop-041410-report.pdf> (last visited May
13, 2010).

23 ³ RealtyTrac, *RealtyTrac Year-End Report Shows Record 2.8 Million U.S. Properties*
24 *with Foreclosure Filings in 2009*, Jan. 14, 2010,
25 <http://www.realtytrac.com/contentmanagement/pressrelease.aspx?itemid=8333> (last visited May 13,
2010).

26 ⁴ *Id.*

27 ⁵ RealtyTrac, *Foreclosure Activity Increases 7 Percent in First Quarter*, Apr. 15, 2010,
28 <http://www.realtytrac.com/contentmanagement/pressrelease.aspx?itemid=8927> (last visited May 13,
2010).

⁶ See April 2010 Congressional Oversight Report, *supra*, at 5.

1 28. The Act grants the Secretary of the Treasury the authority to establish the Troubled
2 Asset Relief Program, or TARP. 12 U.S.C. § 5211 *et seq.* Under TARP, the Secretary may purchase
3 or make commitments to purchase troubled assets from financial institutions. *Id.* Congress allocated
4 up to \$700 billion to the Treasury for TARP. 12 U.S.C. § 5225.

5 29. The Act further mandates, with regard to any assets acquired by the Secretary of the
6 Treasury that are backed by residential real estate, that the Secretary “shall implement a plan that
7 seeks to maximize assistance for homeowners” and use the Secretary’s authority over servicers to
8 encourage them to take advantage of programs to “minimize foreclosures.” 12 U.S.C. § 5219. The
9 Act grants authority to the Secretary of the Treasury to use credit enhancement and loan guarantees to
10 “facilitate loan modifications to prevent avoidable foreclosures.” *Id.*

11 30. On February 18, 2009, pursuant to their authority under the Act, the Treasury
12 Secretary and the Director of the Federal Housing Finance Agency created the Making Home
13 Affordable initiative to help at-risk homeowners avoid foreclosure by restructuring their mortgages.

14 31. The Home Affordable Modification Program, or HAMP, is the portion of the Making
15 Home Affordable initiative, which provides mandatory directives for implementation, with which
16 Chase has not complied.⁷ HAMP creates a uniform loan modification protocol, and provides
17 financial incentives for participating servicers to modify loans. The Treasury Department has
18 allocated at least \$75 billion in federal funds to HAMP, of which at least \$50 billion is TARP money,
19 to keep up to “3 to 4 million homeowners” in their homes by 2012.⁸

20 **CHASE’S DUTIES UNDER HAMP.**

21 32. Because Chase accepted \$25 billion in federal funds and additional loan guarantees, it
22 was required to participate in HAMP for the loans on which it functions as a loan “servicer.” Chase
23 announced it would participate in HAMP, and begun processing loans under the HAMP Program on
24 April 6, 2009. On July 31, 2009, Chase entered into a “Servicer Participation Agreement” (the
25

26 ⁷ The other subprogram of the Making Home Affordable Program, the Home
27 Affordable Refinance Program or HARP, is not at issue in this case.

28 ⁸ Making Home Affordable.gov About Page,
<http://makinghomeaffordable.gov/about.html> (last visited May 13, 2010).

1 “SPA”) with the federal government.⁹ Chase entered into an “Amended and Restated” SPA on March
 2 24, 2010. (A copy of the March 2010 SPA is attached hereto as Exhibit I and incorporated by
 3 reference.)

4 33. The SPA Chase entered into incorporates supplemental documentation and guidance
 5 about the duties of Participating Servicers issued by the Treasury, Fannie Mae, or Freddie Mac –
 6 collectively known as the “Program Documentation.” (SPA § 1.A.) Fannie Mae issued the first
 7 “Supplemental Directive” (“SD 09-01”) in April, 2009.¹⁰ That Directive, together with others issued
 8 since, sets out the activities Chase must perform “for all mortgage loans it services.” (SPA § 2.A.)

9 34. First, Chase must evaluate all borrowers who are 60 or more days in default, in
 10 “imminent default,” or who request a loan modification to see if the loan and borrower meet basic
 11 eligibility criteria. (SD 09-01 at 1-2, 3-4.)¹¹

12 35. Next, the servicer is required to calculate whether, by taking certain modification
 13

14 ⁹ July 31, 2009 Servicer Participation Agreement, available at
 15 <http://www.financialstability.gov/docs/agreements/JP%20Morgan%20Chase%20Bank%20Servicer%20Participation%20Agreement.pdf> (last visited May 14, 2010).

16 ¹⁰ The Program Documentation also includes: Supplemental Directive 09-01 (“SD 09-
 17 01”), Apr. 6, 2009, https://www.hmpadmin.com/portal/docs/hamp_servicer/sd0901.pdf;
 Supplemental Directive 09-07 (“SD 09-07”), Oct. 8, 2009,
 18 https://www.hmpadmin.com/portal/docs/hamp_servicer/sd0907.pdf; Supplemental Directive 09-08
 (“SD 09-08”), Nov. 3, 2009, https://www.hmpadmin.com/portal/docs/hamp_servicer/sd0908.pdf;
 Supplemental Directive 10-01 (“SD 10-01”), Jan. 28, 2010,
 19 https://www.hmpadmin.com/portal/docs/hamp_servicer/sd1001.pdf; Supplemental Documentation –
 Frequently Asked Questions – Home Affordable Modification Program (“HAMP FAQs”), Apr. 2,
 20 2010, https://www.hmpadmin.com/portal/docs/hamp_servicer/hampfaqs.pdf; Supplemental
 Documentation – Frequently Asked Questions – Home Affordable Modification Program 2009-2010
 Conversion Campaign (“HAMP Conversion FAQs”), Jan. 8, 2010,
 21 https://www.hmpadmin.com/portal/docs/hamp_servicer/hampconversionfaqs.pdf; Checklist for
 Getting Started and Participating in HAMP for Non-GSE Loans, Guidance Effective
 22 for Verified Trial Period Plans, Feb. 22, 2010 (“HAMP Checklist”),
 23 https://www.hmpadmin.com/portal/docs/hamp_servicer/hampchecklistverified.pdf; and Home
 Affordable Modification Program Base Net Present Value (NPV) Model Specifications (“NPV
 24 Overview”), Jun. 11, 2009,
 25 https://www.hmpadmin.com/portal/docs/hamp_servicer/npvoverview.pdf (all last visited May 13,
 2010). These documents together describe the basic activities required under HAMP.

26 ¹¹ Aside from criteria that require that the loan be a first lien mortgage originated before
 27 2009, that the property be occupied, and that it be the borrower’s principal residence, the most
 28 salient conditions are that the loan must be delinquent or that default is reasonably foreseeable; that
 the borrower document a financial hardship, as defined in the Program Documentation, and that the
 “borrower has a monthly mortgage payment ratio of greater than 31 percent” of the borrower’s
 monthly income. (SD 09-01 at 1-2.)

1 steps such as reducing the interest rate or extending the term of the loan, the borrower's total housing
2 payment can be reduced to 31% of the borrower's monthly income. (SD 09-01 at 8-10; HAMP
3 Checklist at 6.) Finally, the servicer must perform a "net present value" (hereinafter "NPV") analysis,
4 comparing the net present value of cash flow from these modified loan terms to the NPV of the loan
5 without modification. (SD 09-01 at 4-5; NPV Overview; HAMP FAQs at 27-29, Q2314.)

6 36. If the NPV test yields a "positive" outcome (*i.e.*, the value of a performing modified
7 loan exceeds the value of foreclosing the property), the servicer is required to offer a trial
8 modification, or "Trial Period Plan," (hereinafter "TPP") under HAMP. (SD 09-01 at 4, 14-15.) If
9 the NPV test yields a "negative" outcome, the servicer is required to consider the borrower for other
10 foreclosure prevention measures. (SD 09-01 at 4; SD 09-08 at 2-3.)

11 37. The TPP consists of a three-month period in which the homeowner makes mortgage
12 payments based on adjusted loan terms derived from steps followed by the servicer under HAMP.
13 (SD 09-01 at 17-18; SD 10-01 at 8.)

14 38. Chase offers TPPs to eligible homeowners through a TPP Contract, which describes
15 the homeowner's duties and obligations. The TPP Contract promises a permanent HAMP
16 modification for those homeowners who make the required payments under the plan and fulfill the
17 documentation requirements.

18 39. If the homeowner makes all the TPP monthly payments and complies with
19 documentation requirements, then the second stage of the HAMP process is triggered and the
20 homeowner must be offered a permanent modification. (SD 09-01 at 18; SD 10-01 at 8.)

21 **CHASE IMPLEMENTATION OF HAMP.**

22 40. Chase has routinely failed to comply with its requirements and responsibilities under
23 HAMP and its TPP Contracts.

24 41. Chase regularly fails to evaluate borrowers' eligibility for the HAMP program or
25 perform an NPV test before placing borrowers into a TPP. Instead, it waits to underwrite the loan and
26 evaluate borrowers' eligibility until months after it has offered, and the homeowner has accepted, the
27 TPP Contract. Homeowners thus make months of TPP payments (and comply with stressful and
28 burdensome documentation requirements), without any assurance that Chase will comply with the

1 TPP and offer a permanent modification.

2 42. Throughout homeowners' TPP, Chase repeatedly and inappropriately demands that
3 borrowers update their application materials, while warning homeowners that their modification is at
4 risk and threatening to deny the modification if they fail to comply with the request. Typically, Chase
5 requests the same document(s) over and over. In other instances, it requests documentation that is
6 irrational or impossible to obtain – such as W-2 forms for elderly individuals surviving on social
7 security, or self-employment profit and loss statements for wage-earning employees. Chase's
8 demands that borrowers submit duplicative or unnecessary documentation creates opportunities for
9 Chase to reject otherwise eligible borrowers for permanent modifications. The requests for documents
10 are unnecessary, duplicative, burdensome, and harassing.

11 43. Chase has routinely failed to comply with the TPP Contract and offer permanent
12 modifications to homeowners, instead stringing them along for months and months in trial
13 modifications. In April, 2010 the Treasury reported that Chase had 431,341 HAMP-eligible loans in
14 its servicing portfolio. Trial periods have started on only 186,769 of these loans. Of those, just
15 31,460 have resulted in permanent modification (only 16% of the started Trial modifications and 7%
16 of the eligible pool) even though many more homeowners had made the payments and submitted the
17 documentation required by the TPP Contract.¹²

18 44. Chase has routinely failed to comply with the requirement that it give borrowers
19 written notification when they are denied a HAMP modification. Within ten days of the date of
20 determination that an official HAMP modification will not be offered, Chase must send a Borrower
21 Notice that explains the primary reason for the denial in clear, non-technical language, and set out any
22 other alternatives to foreclosure to which the borrower may be eligible. (SD 09-08 at 2-3.) If the
23 borrower was not approved because the result of the NPV test was negative, the borrower is entitled to
24 request the NPV values used and to dispute those values if they are incorrect. (*Id.*) The denial letter,
25 therefore, provides the sole formal opportunity for borrowers denied a modification to dispute or
26

27 ¹² The Treasury Report, *Making Home Affordable Program – Servicer Performance*
28 *Report through March 2010* is available at
<http://www.makinghomeaffordable.gov/docs/Mar%20MHA%20Public%20041410%20TO%20CLEAR.PDF> (last visited May 13, 2010).

1 appeal the denial.

2 **REMAINING IN LENGTHY OR INDEFINITE TRIAL MODIFICATIONS CAUSES**
3 **HOMEOWNERS HARDSHIPS.**

4 45. Chase's failure to comply with its obligations under its TPP Contracts and timely
5 convert TPPs into permanent modifications has serious consequences for borrowers.

6 46. A homeowner's total unpaid balance increases each month that he or she is in a TPP.
7 TPP payments are less than the amount ordinarily due under the mortgage. The rest of the amount
8 that would ordinarily be due – in most cases, primarily interest – is not waived. Instead, the remainder
9 of the ordinary payment is "recapitalized" or added to the unpaid loan balance the end of the trial
10 period. If the trial period lasts three months, only three months' worth of the difference between the
11 trial and regular payments are added to the unpaid balance. If the trial period continues longer than
12 three months, however, homeowners may find that six, seven, eight or more months' differential is
13 added to the loan balance. The more Chase delays, the more the homeowners owe.

14 47. Each payment under a TPP has negative credit consequences. Although borrowers
15 are paying all that Chase is asking them to pay – and an amount that will match their payments under
16 a permanent modification – their accounts are not reported as current to credit scoring agencies. The
17 HAMP directives require Chase to report borrowers who were previously delinquent "in such a
18 manner that accurately reflects the borrower's delinquency and workout status." (SD 09-01 at 22.)
19 The more months a borrower spends in a TPP, rather than a permanent modification, the more months
20 they are reported as delinquent, the more months they have derogatory credit reporting.

21 48. Chase's failure to honor the TPP Contracts leaves homeowners in long-term limbo,
22 unsure if they can save their homes, and unable to make rational decisions about the future. Money
23 that could be used to fund bankruptcy plans, relocation costs, short sales, or other means of curing
24 their default continued to go toward TPPs that stretch on indefinitely.

25 **PLAINTIFF HERMINIA MORALES**

26 49. Herminia and Conrado Morales purchased their home at 127 Francisco Drive in
27 South San Francisco, California in May, 2002. In February, 2007, after Mr. Morales became seriously
28 ill and incurred substantial medical bills, the Morales family refinanced their home, replacing their

1 \$436,000 mortgage with a \$607,750 mortgage in Herminia Morales's name from Washington Mutual,
2 now Chase. Ms. Morales's mortgage payments were \$3,798.85.

3 50. Ms. Morales could not afford and did not make her mortgage payment in February,
4 2009.

5 51. She first applied to Chase for a modification in March, 2009. Her application was
6 denied in May, 2009, purportedly because documentation was missing from her application.

7 52. On June 16, 2009, Ms. Morales again applied for a loan modification to Chase. She
8 submitted her own paystubs, documentation of boarder income, and both contribution letters and
9 income documentation from each of her five sons living with her. On or about June 20, 2009, Chase
10 called to tell Mrs. Morales that her application had been denied because her expenses were too high,
11 but instructed her to reapply by submitting an updated financial information form and income
12 documentation.

13 53. On or about July 8, 2009, Mrs. Morales submitted an updated form – showing the
14 same expenses – and updated income documentation. This documentation showed that she had a
15 gross income of \$2,704 per month, \$500 per month from her boarder, \$751 in Social Security
16 benefits, and monthly mortgage contributions from her sons of \$2,700, for a total gross income of
17 \$6,555.

18 54. On July 24, 2009, a Chase representative informed Elizabeth Letcher of Housing and
19 Economic Rights Advocates by electronic mail that Ms. Morales had been approved for a trial
20 modification under HAMP. She received the modification papers on July 30, 2009.

21 55. Chase sent and Ms. Morales executed and returned a standard form contract entitled
22 "Home Affordable Modification Trial Period Plan (Step One of Two-Step Documentation Process)"
23 (the "TPP Contract"). The first sentence stated:

24 If I am in compliance with this Trial Period Plan (the "Plan") and my representations
25 in Section 1 continue to be true in all material respects, then the Lender will provide
26 me with a Home Affordable Modification Agreement ("Modification Agreement") as
set forth in Section 3, that would amend and supplement (1) the Mortgage on the
Property, and (2) the Note secured by the Mortgage.

27 56. The representations in Section 1 were that: she was unable to make her regular
28 payments and was in default, that the property was her principal residence; there had been no change

1 in ownership of the property, that she had provided documentation for all income she was receiving;
2 and the documentation she provided was true and correct. Section 3 of the TPP Contract repeated that
3 if she made timely payments and the representations in Section 1 continued to be true, "the Lender
4 will send me a Modification Agreement" which will become a permanent modification of the loan.
5 (A partially redacted copy of Ms. Morales' TPP Contract is attached hereto as Exhibit 2 and
6 incorporated by reference.)

7 57. The TPP Contract provided that Mrs. Morales should make three trial period
8 payments of \$1,960.44.

9 58. Ms. Morales timely executed the TPP Contract and returned it by overnight mail on
10 July 30, 2009, along with all the documentation requested in the packet.

11 59. Ms. Morales timely made the August 1, 2009 payment by sending a cashier's check
12 for \$1,960.44 by overnight mail with her executed TPP Contract. She timely made the September 1,
13 2009 and October 1, 2009 payments as well.

14 60. On October 3, 2009, Chase sent Ms. Morales a letter headed "YOUR
15 MODIFICATION IS AT RISK – URGENT RESPONSE NEEDED!" The letter stated that Chase
16 was "still missing documentation necessary to evaluate" her modification request, and that Chase's
17 "records reflect that you have not yet provided some or all of the documents listed below." It
18 requested income documentation, proof that Ms. Morales occupied the home as her primary residence,
19 a signed IRS Form 4506-T, and a signed Hardship Affidavit.

20 61. While Ms. Morales was gathering the updated information, Chase sent another
21 request for documentation on October 14, 2009 – this one stating that Chase had received some of the
22 documents needed, but still needed a signed Hardship Affidavit and a completed and signed IRS Form
23 4506-T, with lines 1-9 completed. On October 16, 2009, Chase sent another "YOUR
24 MODIFICATION IS AT RISK" letter, again requesting income documentation, proof of occupancy,
25 IRS Form 4506-T, and a signed Hardship Affidavit.

26 62. Ms. Morales fully complied with the request for information by sending income
27 documentation, utility bills, checking account statements, a completed IRS Form 4506-T, and a
28 hardship letter on October 19, 2009.

1 63. Chase did not offer Ms. Morales a permanent modification at the end of October,
2 2009, which was the end of the originally identified Trial Period. Instead, she was asked to continue
3 to make trial period payments.

4 64. Over the next months, Ms. Morales received, at least, another eight demands for
5 updated information – which she provided on every occasion. She was asked seven times for income
6 documentation, three times for a third party authorization form, four times for a new IRS Form 4506-
7 T, and four times for a hardship letter. Each letter asking for information repeated that her
8 modification was “at risk” if she did not respond. Each time she provided Chase with the complete,
9 and virtually identical, responsive information.

10 65. Chase’s demands for income documentation continuously shifted. In November,
11 2009, Chase asked for and Ms. Morales submitted updated pay stubs. In December, 2009, Chase
12 asked for and Ms. Morales submitted her social security award letter and updated letters from her sons
13 stating the amount of their monthly contribution to the mortgage. In January, 2010, Chase demanded
14 proof of the contributions in the form of the last six months’ copies of canceled contribution checks
15 from each of her sons. Ms. Morales had to go to several banks with her sons to get electronic copies
16 of the checks, which she submitted in January and February, 2010. By letter dated January 31, 2010,
17 Chase again requested updated income documentation, and she submitted updated pay stubs and
18 checking account statements in early February.

19 66. On February 19, 2010, Chase wrote Ms. Morales “to confirm receipt of your recently
20 submitted documentation” and stating that she would be contacted “in the near future with a decision
21 on your modification request. In the meantime, please continue to make your trial period payments on
22 time.”

23 67. Ms. Morales timely made each of the payments required by the TPP Contract for
24 August, September, and October, 2009. She also continued to make payments in November 2009,
25 December 2009, January 2010, February 2010, March 2010, and April, 2010. Chase accepted each of
26 these payments.

27 68. Despite her compliance in all respects with the terms of the TPP Contract,
28 Ms. Morales was never offered a HAMP final modification – nor did Chase send her a written denial.

1 69. By letter dated March 11, 2010, she was offered a loan modification making her loan
2 interest-only for the next ten years, then principal and interest payments amortized over a term longer
3 than the life of the loan, and a balloon payment of \$399,766.63 at the end of the loan term. This
4 March 11, 2010 modification was not a modification under HAMP. A HAMP loan modification
5 would have modified her loan terms so that her total housing payments, including principal, interest,
6 property tax, and insurance were equal to 31% of Ms. Morales' income – that is, approximately the
7 amount of the \$1,960 trial period payments – for the first five years of the loan. Over the next five
8 years, the interest rate on the loan would gradually increase until it reached the Freddie Mac Survey
9 Rate at the date of the modification (on March 11, 2010, that rate was 4.95%).

10 70. Instead, the March 11, 2010 modification offered her demanded initial payments of
11 \$2,431.42, which would increase to payments that would top \$4,000 per month. The initial payment
12 was unaffordable to Ms. Morales.

13 71. Ms. Morales invested her limited resources in TPP payments for seven months, in
14 reliance on the representation that doing so would result in a permanent loan modification. Chase has
15 failed to live up to its end of the bargain.

16 72. Chase reported to credit reporting agencies that Ms. Morales's mortgage payments
17 from July, 2009 to January, 2010 were "180 days past due," and did not report that she was paying
18 under a modified payment contract.

19 **PLAINTIFF MICHELLE SURANOFSKY**

20 73. Michelle Suranofsky is a single mother working as a part-time manager of a small
21 business. She purchased her home at 108 Sierra Linda, Los Gatos, California from the Town of Los
22 Gatos through the Town's "below market rate" program. Under that program, the Town sells
23 properties to qualified buyers at below market rate, but records restrictions on the deed that give the
24 Town a right of first refusal on resale, and sets a maximum resale price in order to maintain a supply
25 of affordable housing. As of March, 2010, the allowable resale price was the same as the purchase
26 price, \$237,000.

27 74. In 2006, Ms. Suranofsky refinanced her mortgage loan with a \$190,000 loan at 8.25%
28 interest from Long Beach Mortgage, an affiliate of the Washington Mutual family of companies.

1 Chase, as successor in interest to Washington Mutual, services her loan.

2 75. Ms. Suranofsky lost her job in July 2008. During her period of unemployment, she
3 fell behind on her mortgage, making payments some months but not others. Although she found new
4 employment, she was unable to catch up on her mortgage. She tried several times to apply for a loan
5 modification in early 2009, but was denied because documents were purportedly missing from her
6 loan modification application. Each time, she was instructed to resubmit an application.

7 76. In July, 2009, Ms. Suranofsky sought the help of Project Sentinel, a housing
8 counseling agency approved by the Department of Housing and Urban Development. Ms. Suranofsky
9 submitted an application for a HAMP modification through a housing counselor.¹³

10 77. On or about July 31, 2009, Chase informed Ms. Suranofsky's representative that she
11 had been offered a Trial Period Plan under HAMP to begin August 1, 2009.

12 78. On August 3, 2009, Ms. Suranofsky received a Trial Period Plan packet from Chase.
13 Page 1, Step 2 of the packet stated, "Please let us know, no later than AUGUST 29, 2009 that you
14 accept the Trial Period Plan by returning the signed Trial Period Plan, along with the required
15 documents and first payment."

16 79. Ms. Suranofsky's packet included the standard TPP Contract entitled "Home
17 Affordable Modification Trial Period Plan (Step One of Two-Step Documentation Process)"
18 (the "TPP Contract"). Again, the first sentence of the TPP Contract stated:

19 If I am in compliance with this Trial Period Plan (the "Plan") and my representations
20 in Section 1 continue to be true in all material respects, then the Lender will provide
21 me with a Home Affordable Modification Agreement ("Modification Agreement") as
set forth in Section 3, that would amend and supplement (1) the Mortgage on the
Property, and (2) the Note secured by the Mortgage.

22 Section 3 of the TPP Contract repeated that if she made timely payments and the representations in
23 Section 1 continued to be true, "the Lender will send me a Modification Agreement" which will
24 ultimately become a permanent modification of the loan. (A partially redacted copy of Ms.
25 Suranofsky's TPP Contract is attached hereto as Exhibit 3.)

26 80. The TPP Contract provided that Ms. Suranofsky would make three trial period
27

28 ¹³ Most of Ms. Suranofsky's further dealings with Chase were made through her
representatives, either the housing counselor or a legal advocate.

1 payments of \$613.00. Those payments were due on August 1, 2009, September 1, 2009, and October
2 1, 2009.

3 81. Ms. Suranofsky executed the TPP Contract on August 6, 2009 and returned it on
4 August 15, 2009 by overnight mail, along with a cashier's check for \$613.00 and all the
5 documentation Chase requested: a Hardship affidavit and letter, signed IRS Form 4506-T, a 2008 tax
6 return, and pay stubs from May and June, 2009 showing an average \$2,740 per month gross income.

7 82. Ms. Suranofsky timely made her September 2009 payment to Chase on August 28,
8 2009 and her October 2009 payment on September 29, 2009.

9 83. On October 3, 9, and 16, 2009 Chase sent Ms. Suranofsky letters headed "YOUR
10 MODIFICATION IS AT RISK – URGENT RESPONSE NEEDED!" The letters stated that Chase
11 was "still missing documentation necessary to evaluate" her modification request. "Our records
12 reflect that you have not yet provided some or all of the documents listed below," and requested
13 income documentation, proof that Ms. Suranofsky occupied the home as her primary residence, a
14 signed IRS Form 4506-T, and a signed Hardship Affidavit.

15 84. On or about October 19, 2009, Ms. Suranofsky sent Chase the documentation
16 requested. Her average gross monthly income had risen slightly – from approximately \$2,740 to
17 \$2,850 per month – but otherwise, the information remained exactly the same.

18 85. On October 20, 2009, a Chase representative named "Greg" called Ms. Suranofsky
19 and informed her that she had been approved for a final modification and that her packet would be
20 sent within 30-60 days. He also told her that her monthly payment would be "within \$100" of her
21 trial period payment amount. The representative told her that she should, in the meantime, continue to
22 make payments under her Trial Period Plan. He sent her additional TPP coupons for November 2009,
23 December 2009, and January 2010.

24 86. In December, 2009, a real estate agent from Coldwell Banker came to
25 Ms. Suranofsky's house, informing her that a foreclosure had taken place the previous day and she
26 would be required to move. Ms. Suranofsky sought the assistance of Project Sentinel, who contacted
27 Chase in early January, 2010. A Chase representative informed her that Ms. Suranofsky had been
28 denied a modification in November, 2009 because her income was insufficient, but invited her to

1 reapply. No foreclosure sale had actually occurred.

2 87. Chase informed Ms. Suranofsky's representative that she was being denied a
3 permanent modification. Despite her compliance in all respects with the terms of the TPP Contract,
4 Ms. Suranofsky was not offered a HAMP final modification at the end of the trial period, nor did
5 Chase send her a written denial.

6 88. On January 21, 2010, Ms. Suranofsky resubmitted her loan modification application,
7 complete with her financial information, hardship letter, hardship affidavit, pay stubs and summary of
8 tips, recent checking account transaction history, IRS Form 4506-T, 2008 tax return, and a recent
9 utility bill. This submission showed an average gross income of \$3,022 per month.

10 89. During this time, Chase instructed Ms. Suranofsky to continue making TPP
11 payments. She timely made November 2009, December, 2009, January, 2010, February, and March,
12 2010. Chase accepted each of these payments.

13 90. On March 13, 2010, Chase informed Ms. Suranofsky's representative that she was
14 being denied a permanent modification because of insufficient income. To date, Ms. Suranofsky has
15 not received a written denial from Chase that would give her the opportunity to review and, if
16 necessary, correct any errors in the income figures Chase used to evaluate her for a modification.

17 91. Chase representatives later stated that Ms. Suranofsky had been denied both because
18 her income was insufficient and because she had "too much equity" – her loan amount was only
19 31.49% of the market value of the home.

20 92. Ms. Suranofsky complied in all respects with the terms of the TPP Contract. She
21 made timely trial period payments not only for the three month trial period set out in the contract, but
22 for an additional five months. She invested her limited resources in TPP payments for eight months,
23 based on the promise that doing so would result in a permanent loan modification. Instead, she has
24 purportedly been denied a permanent modification.

25 93. Chase has reported to credit reporting agencies that Ms. Suranofsky is making her
26 mortgage payments under a partial or modified payment contract, but also that her payments are 180
27 days past due for November, 2009 through (at least) February, 2010.

28

CLASS ACTION ALLEGATIONS

1
2 94. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs Morales and
3 Suranofsky bring this action as a class action on behalf of themselves and all others similarly situated
4 as members of a proposed California class. This putative class (hereinafter the "Plaintiff Class") is
5 defined as follows:

6 All California homeowners whose loans have been serviced by Defendants and who
7 have complied with their obligations under a written Home Affordable Modification
8 Program ("HAMP") Trial Period Plan Contract, but who have not received a
9 permanent HAMP modification.

10 95. This action may properly be maintained as a class action pursuant to California Civil
11 Code section 1781 and Fed. R. Civ. P. 23.

12 96. All members of the class have been subject to and affected by the same conduct. The
13 Trial Period Plan contracts (the "TPP Contract") entered into by Plaintiffs and the members of the
14 Plaintiff Class were standard form contracts which contained the same terms and representations,
15 differing only as to the amounts of the trial period payments and the dates those payments were due.

16 97. All members of the class have been subject to and affected by Chase's uniform failure
17 to implement the SPA contracts. The claims are based on the terms of a contract between Fannie
18 Mae, acting as agent for the United States Treasury, and Chase, acting for the benefit of the Plaintiff
19 Class. The contract between Fannie Mae and Chase set out standardized steps and processes for
20 temporary and permanent loan modifications.

21 98. Plaintiffs are informed and believe and on that basis allege that the Plaintiff Class is
22 so numerous that joinder of the individual claims is impracticable. The precise number of the Plaintiff
23 Class and the identities of the members are ascertainable from the business records of Defendants.

24 99. Questions of law and fact common to the Plaintiff Class exist and predominate over
25 questions affecting only individual class members. These common legal and factual questions
26 include, but are not limited to:

27 a. Whether Chase breached the TPP Contract with Plaintiffs and members of the
28 Plaintiff Class by failing to offer Plaintiffs and members of the Plaintiff Class permanent HAMP
modifications at the close of their trial periods.

1 b. Whether Chase has violated the duty of good faith and fair dealing, inherent in
2 all contracts, including whether the failure to provide permanent HAMP modifications constitutes a
3 breach of the covenant of good faith and fair dealing;

4 c. Whether Chase breached its duties under the HAMP SPA that were intended
5 for the benefit of class members;

6 d. Whether Chase made representations that Plaintiffs and members of the
7 Plaintiff Class would receive a permanent HAMP modification, upon which Plaintiffs and members of
8 the Plaintiff Class reasonably relied to their detriment;

9 e. Whether Chase violated the Rosenthal Fair Debt Collection Practices Act, Cal.
10 Civ. Code § 1788 *et seq.* (Rosenthal Act”) by, without limitation, making false, deceptive or
11 misleading representation or means in connection with the collection of any debt, making false
12 representation or deceptive means to collect or attempt to collect on any debt, and making unfair or
13 unconscionable means to collect or attempt to collect any debt;

14 f. Whether Chase’s acts described above are unlawful, unfair, and fraudulent
15 business practices in violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*
16 (“UCL”); and

17 g. The nature and extent of relief to Plaintiffs and the Plaintiff Class, including
18 declaratory judgment, accounting, injunctive relief, restitution, and other remedies to which Plaintiffs
19 and the other members of the Plaintiff Class are entitled.

20 100. Plaintiffs’ claims are typical of the claims of the Plaintiff Class as the claims arise
21 from the same course of conduct by Chase, and the relief sought is common. Each of the members of
22 the Plaintiff Class entered into the same TPP Contract and met with the same failure to provide a
23 permanent modification. Each of the members of the Plaintiff Class has the same or substantially
24 similar claims to Plaintiffs for relief against these practices. As described above and below, the claims
25 arise from the same course of conduct by Chase, and the relief sought is common.

26 101. Plaintiffs are adequate representatives of the Plaintiff Class because: (a) their
27 interests do not conflict with the interests of the individual members of the Plaintiff Class they seek to
28 represent; (b) they have retained counsel who are competent and experienced in complex class action

1 litigation; and (c) they intend to prosecute this action vigorously. The interests of the members of the
2 Plaintiff Class will be fairly and adequately protected by Plaintiffs and their counsel.

3 102. The class action device is superior to other available means for the fair and efficient
4 adjudication of the claims of Plaintiffs and the Plaintiff Class. Furthermore, because the economic
5 damages suffered by the individual class members may be relatively modest, albeit significant,
6 compared to the expense and burden of individual litigation, it would be impracticable for members of
7 the Plaintiff Class to seek redress individually for the wrongful conduct alleged herein. There will be
8 no undue difficulty in the management of this litigation as a class action. Plaintiffs' and the Plaintiff
9 Class members' common claims can be economically adjudicated only in a class action proceeding,
10 thus promoting judicial efficiency and avoiding multiple trials and inconsistent judgments.

11 **FIRST CLAIM**
12 **BREACH OF CONTRACT**
13 **(Breach of TPP Contract by Plaintiffs Individually and on**
14 **Behalf of the Plaintiff Class Against All Defendants)**

15 103. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
16 allegation above as if fully set forth in this Claim.

17 104. The TPP Contracts are contracts accepted by Plaintiffs and the Plaintiff Class when
18 they executed the TPP Contracts, and/or when they made payments under the Trial Period Plan.
19 Payments in accordance with the TPP Contracts constitute consideration. In the alternative, the TPP
20 Contracts, coupled with Plaintiffs' payments under the TPP Contracts, constitute implied contracts.

21 105. Chase failed to perform under the TPP Contract with Plaintiffs and members of the
22 Plaintiff Class. Chase's refusal to perform its duties under the TPP Contract was unlawful, without
23 justification and/or excuse, and constituted a total and material breach of the TPP Contract between
24 the parties.

25 106. Chase breached the TPP Contract with Plaintiffs and members of the Plaintiff Class
26 by failing to offer Plaintiffs and members of the Plaintiff Class permanent HAMP modifications at the
27 close of their Trial Periods.

28 107. Plaintiffs and all members of the Plaintiff Class gave consideration that was fair and
reasonable, and have performed all conditions, covenants, and promises required to be performed

1 under their contracts with Chase.

2 108. As a result of Chase's breach of the TPP Contract, Plaintiffs and members of the
3 Plaintiff Class suffered and will continue to suffer reasonable and foreseeable consequential damages
4 resulting from such breaches, including payment of increased interest, longer loan payoff times,
5 higher principle balances, deterrence from seeking other remedies to address their default and/or
6 unaffordable mortgage payments, damage to their credit, additional income tax liability, costs and
7 expenses incurred to prevent or fight foreclosure, and other damages for breach of contract.

8 109. Plaintiffs and the Plaintiff Class have been damaged by Chase's breach of the TPP
9 Contracts in an amount to be proven at trial.

10 110. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs are entitled to
11 recover their reasonable attorney's fees, costs, and expenses incurred in bringing this action.

12 **SECOND CLAIM**
13 **BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**
14 **(Breach of Covenant of Good Faith and Fair Dealing by Plaintiffs Individually and on**
15 **Behalf of the Plaintiff Class Against All Defendants)**

16 111. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
17 allegation above as if fully set forth in this Claim.

18 112. Under common law, a covenant of good faith and fair dealing is implied in every
19 contract, including the TPP Contracts, which prevents one contracting party from unfairly frustrating
20 the other party's right to receive the benefits of the contract. Chase is obligated to act in good faith
21 and deal fairly with each borrower who entered into a TPP Contract.

22 113. Chase has violated and continues to violate this covenant of good faith and fair
23 dealing in its TPP Contracts with Plaintiffs and members of the Plaintiff Class by doing, inter alia, the
24 following:

25 a. Failing to perform loan servicing functions consistent with its responsibilities
26 to Plaintiffs;

27 b. Failing to properly supervise its agents and employees, including without
28 limitation, its loss mitigation and collection personnel, foreclosure personnel, and personnel
implementing its modification programs;

1 c. Failing to permanently modify loans and/or provide alternatives to foreclosure
2 and using unfair means to keep Plaintiffs and the Plaintiff Class in temporary modification contracts,
3 including, without limitations, routinely demanding information it already has and failing to
4 communicate accurately or consistently with borrowers about the status of their loan modification
5 applications; and

6 d. Making inaccurate calculations and determinations of Plaintiffs' eligibility for
7 permanent modifications.

8 114. Plaintiffs remain ready, willing, and able to enter into permanent HAMP
9 modifications.

10 115. As a result of Chase's breach of this implied covenant, Plaintiffs and members of the
11 Plaintiff Class suffered and will continue to suffer reasonable and foreseeable consequential damages
12 resulting from such breaches, including payment of increased interest, longer loan payoff times,
13 higher principle balances, and other damages for breach of contract.

14 116. Plaintiffs and the Plaintiff Class have been damaged by Chase's breach of the implied
15 covenant of good faith and fair dealing in an amount to be proven at trial.

16 117. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs are entitled to
17 recover their reasonable attorney's fees, costs, and expenses incurred in bringing this action.

18 **THIRD CLAIM**
19 **BREACH OF CONTRACT**
20 **(Breach of SPA Contract by Plaintiffs Individually and on**
21 **Behalf of the Plaintiff Class Against All Defendants)**

22 118. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
23 allegation above as if fully set forth in this Claim.

24 119. On July 31, 2009, Chase and the United States (through Fannie Mae acting as
25 Financial Agent of the United States) entered into the Servicer Participation Agreement ("SPA")
26 which is a valid and enforceable contract.

27 120. Plaintiffs and members of the Plaintiff Class are intended third-party beneficiaries
28 under the SPA and the SPA states the express intention that "homeowners who are in default and . . .
who are at imminent risk of default" be granted modification to reduce "monthly payments to

1 sustainable levels.” (SD 09-01 at 1.) Plaintiffs and members of the Plaintiff Class were intended
2 beneficiaries of the contract.

3 121. By entering into the SPA, Chase agreed to comply with the requirements set forth in
4 the SPA and the Program Documentation incorporated by reference into the SPA. In exchange,
5 Treasury agreed to pay certain amounts set forth in the SPA and the Program Documentation to Chase
6 in consideration of its compliance with the SPA.

7 122. The central purpose of the SPA is to ensure that borrowers whose loans are serviced
8 by Chase and who are eligible for loan modifications under HAMP are properly considered for
9 modification in compliance with the Program Documentation requirements incorporated in the SPA.

10 123. Chase failed to perform under its SPA contracts in a manner that directly impacts
11 Plaintiffs and members of the Plaintiff Class. Chase’s refusal to perform the SPA contracts was
12 unlawful, without justification and/or excuse, and constituted a total and material breach.

13 124. Chase breached the SPA by doing, *inter alia*, the following:

14 a. Failing to properly determine whether Plaintiffs and members of the Plaintiff
15 Class qualify for HAMP modifications by checking investor restrictions and/or performing an NPV
16 test before placing them into TPP Contracts;

17 b. Imposing requirements on Plaintiffs and the Plaintiff Class not permitted
18 under the SPA and Program Documentation;

19 c. Failing to follow the process required to determine eligibility for
20 modifications, including, without limitations, failing to consider documentation properly submitted in
21 support of their HAMP applications, and demanding documentation that is not required;

22 d. Failing to obtain waivers or approvals from the investor, if necessary, to carry
23 out modifications under HAMP; and

24 e. Failing to timely convert temporary modifications into permanent
25 modifications in the manner required by the SPA.

26 125. As a result of Chase’s breach of the SPAs, Plaintiffs and members of the Plaintiff
27 Class suffered and will continue to suffer reasonable and foreseeable consequential damages resulting
28 from such breaches, including payment of increased interest, longer loan payoff times, higher

1 principle balances, deterrence from seeking other remedies to address their default and/or
2 unaffordable mortgage payments, damage to their credit, additional income tax liability, costs and
3 expenses incurred to prevent or fight foreclosure, and other damages for breach of contract.

4 126. Plaintiffs and the Plaintiff Class have been damaged by Chase's breach of the SPA
5 contract in an amount to be proven at trial.

6 127. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs are entitled to
7 recover their reasonable attorney's fees, costs, and expenses incurred in bringing this action.

8 **FOURTH CLAIM**
9 **PROMISSORY ESTOPPEL, IN THE ALTERNATIVE**
10 **(By Plaintiffs Individually and on Behalf of the Plaintiff Class Against All Defendants)**

11 128. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
12 allegation above as if fully set forth in this Claim.

13 129. Chase, by way of its TPP Contracts, made a representation to Plaintiffs that if they
14 returned the TPP Contract executed and with supporting documentation, and made their TPP
15 payments, they would receive a permanent HAMP modification.

16 130. Chase's TPP Contract was intended to induce Plaintiffs to rely on it and make
17 monthly TPP payments and Plaintiffs did, indeed, rely on Chase's representation, by submitting TPP
18 payments. Plaintiffs' reliance was reasonable.

19 131. Plaintiffs' reliance was to their detriment. For example, those who complied with the
20 TPP Contract but were denied a permanent modification lost the opportunity to pursue other strategies
21 and those plaintiffs who have yet to receive permanent HAMP modifications and are still making TPP
22 payments have lost the opportunity to fund other strategies to deal with their default and avoid
23 foreclosure.

24 132. Plaintiffs and the Plaintiff class have been damaged by Chase's actions and
25 representations in an amount to be proven at trial.

26 133. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs are entitled to
27 recover their reasonable attorney's fees, costs, and expenses incurred in bringing this action.

28 //

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FIFTH CLAIM
VIOLATION OF STATE FAIR DEBT COLLECTION ACT
(Violation of the Rosenthal Fair Debt Collection Practices Act,
Cal. Civ. Code § 1788 et seq. by Plaintiffs Individually
and on Behalf of the Plaintiff Class Against All Defendants)

1
2
3
4 134. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
5 allegation above as if fully set forth in this Claim.

6 135. Chase is a "debt collector" within the meaning of Cal. Civil Code §1788.2(c). The
7 monies allegedly owed by the members of the proposed classes are "debts" within the meaning of Cal.
8 Civil Code §1788.2(d).

9 136. California's Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 et
10 seq. ("Rosenthal Act"), incorporates by reference, and requires compliance with, the provisions of the
11 federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et. seq. Cal. Civ. Code § 1788.17.

12 137. By the acts and practices described herein Chase has violated these laws, as follows,
13 without limitations:

- 14
- 15 • Making false, deceptive, or misleading representation or means in connection
16 with the collection of any debt, 15 U.S.C. § 1692e;
 - 17 • Making false representation or deceptive means to collect or attempt to collect
18 on any debt, 15 U.S.C. § 1692e(10); and
 - 19 • Making unfair or unconscionable means to collect or attempt to collect any
20 debt, 15 U.S.C. § 1692f.

21 138. Pursuant to California Civil Code §§ 1788.30 and 1788.17, Plaintiffs and the Plaintiff
22 Class are entitled to recover actual damages sustained as a result of Chase's violations of the
23 Rosenthal Act. Such damages include, without limitation, monetary losses and damages, and
24 emotional distress suffered, which damages are in an amount to be proven at trial. In addition,
25 pursuant to California Civil Code §§ 1788.30 and 1788.17, because Chase's violations of the
26 Rosenthal Act were committed willingly and knowingly, Plaintiffs and the Plaintiff Class are entitled
27 to recover penalties of at least \$1,000 per violation as provided for in the Act.

28 139. Pursuant to California Civil Code §§ 1788.30 and 1788.17, Plaintiffs and the Plaintiff
Class are entitled to recover all attorney's fees, costs, and expenses incurred in the bringing of this

1 action pursuant to Civil Code § 1788.30(c).

2 **SIXTH CLAIM**
3 **VIOLATION OF THE UNFAIR COMPETITION LAW**
4 **(For Unfair Competition in Violation of Cal. Bus. & Prof. Code § 17200 et seq.**
5 **by Plaintiffs Individually and on Behalf of the Plaintiff Class Against All Defendants)**

6 140. Plaintiffs individually, and on behalf of the Plaintiff Class, reallege each and every
7 allegation above as if fully set forth in this Claim.

8 141. The California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*
9 (“UCL”), defines unfair competition to include any “unlawful,” “unfair,” or “deceptive” business act
10 or practice. Cal. Bus. & Prof. Code § 17200. The UCL authorizes this Court to issue whatever orders
11 or judgments may be necessary to prevent unfair or unlawful practices, or to “restore to any person in
12 interest any money or property, real or personal, which may have been acquired by means of such
13 unfair competition.” *Id.* § 17203.

14 142. Chase’s acts and practices alleged herein are unlawful business practices in that they
15 violate state law prohibiting breach of contract, breach of the covenant of good faith and fair dealing,
16 and violations of the Rosenthal Act, as alleged in this Complaint.

17 143. Chase’s acts and practices alleged herein constitute unfair business practices,
18 including, without limitation, the following practices:

19 a. Failing to perform loan servicing functions consistent with its responsibilities
20 to Plaintiffs and the Plaintiff Class and its responsibilities under HAMP;

21 b. Failing to properly supervise its agents and employees, including without
22 limitation, its loss mitigation and collection personnel, foreclosure personnel, and personnel
23 implementing its modification programs;

24 c. Failing to permanently modify loans and/or provide alternative to foreclosure
25 and using unfair means to keep Plaintiffs and the Plaintiff Class in temporary modification contracts,
26 including, without limitations, routinely demanding information it already has and failing to
27 communicate accurately or consistently with borrowers about the status of their loan modification
28 applications;

d. Making inaccurate calculations and determinations of Plaintiffs’ eligibility for

1 permanent modifications; and

2 e. Engaging in acts and practices that prolong of the HAMP trial period.

3 144. Chase's acts and practices alleged herein constitute fraudulent business practices,
4 including, without limitation, the following practices:

5 a. Chase has made and continues to make misrepresentations and omissions of
6 material fact that induce Plaintiffs and members of the Plaintiff Class to enter TPP Contracts in order
7 to obtain a permanent modification;

8 b. Chase has made and continues to make misrepresentations and omissions of
9 material fact regarding the status of Plaintiffs and members of the Plaintiff Class's loan modifications
10 and loan payments;

11 c. Chase's misrepresentations and omissions are likely to deceive the reasonable
12 consumer;

13 d. Chase's misrepresentations are objectively material to the reasonable
14 consumer, and therefore reliance upon such representations may be presumed as a matter of law; and

15 e. Plaintiffs and members of the Plaintiff Class reasonably and justifiably relied
16 on such misrepresentations.

17 145. As a result of these violations and unlawful, unfair, and fraudulent business practices,
18 Plaintiffs suffered injury in fact and lost money and property, including but not limited to, payment of
19 increased interest, longer loan payoff times, higher principle balances, and payment of other charges
20 collected by Chase.

21 146. Pursuant to California Business and Professions Code section 17200 *et seq.*, Plaintiffs
22 the Plaintiff Class are entitled to enjoin the practice of unfairly denying and failing to enter into
23 permanent loan modifications for homeowners who have complied with the contractual obligations in
24 Paragraph 1 of the TPP Contract, and grant such other and further relief as the Court may deem proper
25 and just.

26 147. Pursuant to Code of Civil Procedure § 1021.5, Plaintiffs are entitled to recover their
27 reasonable attorney's fees, costs, and expenses incurred in bringing this action.

28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. The Court find and issue an order certifying the Plaintiff Class under Federal Rules of Civil Procedure, rule 23 and appointing the named Plaintiffs to be class representatives and their counsel to be class counsel;

2. The Court grant a temporary restraining order preventing foreclosure of Plaintiffs' property;

3. The Court enter a judgment declaring Chase's acts and practices complained of herein to constitute a breach of contract and a breach of the covenant of good faith and fair dealing and to be unlawful, unfair, and fraudulent, as well as a declaration that Chase is required by the doctrine of promissory estoppel to offer permanent modifications to class members;

4. That this Court award Plaintiffs and Plaintiff Class actual and statutory damages in an amount according to proof for Chase's violations of the Rosenthal Act, breach of contract, breach of covenant of good faith and fair dealing, and promissory estoppel or, in the alternative, that Chase be ordered to make restitution to Plaintiffs and members of the Plaintiff Class pursuant to California Business and Professions Code § 17203;

5. The Court grant a permanent order enjoining Chase's agents and employees, affiliates and subsidiaries, from continuing to harm Plaintiffs and the members of the Class from engaging in the unlawful, unfair and fraudulent practices alleged herein and order specific performance of Defendants' contractual obligations, under the TPP Contract and SPA, together with other relief required by contract and law;

6. The Court award Plaintiffs the costs of this action, including the fees and costs of experts, together with reasonable attorney's fees, cost and expenses under Cal. Civ. Proc. Code § 1021.5, Cal. Civ. Code §§ 1788.17 and 1788.30(c);

7. The Court grant Plaintiffs and members of the Plaintiff Class pre-judgment interest on all sums collected;

8. The Court grant Plaintiffs and the Plaintiff Class such other and further relief as this Court finds necessary and proper.

DEMAND FOR JURY TRIAL

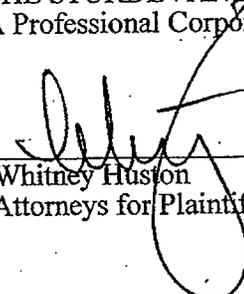
Plaintiffs hereby demand a trial by jury of each and every claim so triable.

Dated: May 14, 2010

HOUSING AND ECONOMIC RIGHTS ADVOCATES

THE STURDEVANT LAW FIRM
A Professional Corporation

By:

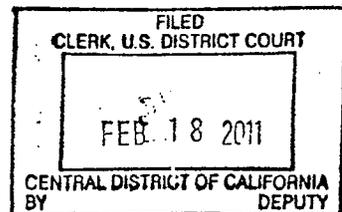

Whitney Huston

Attorneys for Plaintiffs and the Putative Plaintiff Class

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*Shareholder Proposal of the Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT C



1 BOHM, MATSEN, KEGEL & AGUILERA, LLP
2 A. Eric Aguilera, Esq. (Bar No. 192390)
3 695 Town Center Drive, Suite 700
4 Costa Mesa, CA 92626
5 (714) 384-6500 (tel)
6 (714) 384-6501 (fax)

7 Attorneys for Plaintiff VERONICA SALINAS, individually and on behalf
8 of all other similarly situated.

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 VERONICA SALINAS, individually,) Case No. 10-CV-09602-CAS(VBKx)
12 and on Behalf of All Others Similarly) Assigned for all Purposes To:
13 Situated,) Hon. Christina A. Snyder
14)
15 Plaintiff,) PLAINTIFF'S FIRST AMENDED
16) CLASS ACTION COMPLAINT FOR:
17 v.)
18) 1. FRAUD AND DECEIT (CIVIL
19 CHASE HOME FINANCE, LLC , a) CODE SECTIONS 1572, 1710);
20 Delaware corporation, and DOES 1) 2. NEGLIGENT
21 through 50, inclusive,) MISREPRESENTATION; AND
22 Defendants.) 3. VIOLATION OF BUS. & PROF.
23) CODE SECTION 17200 ET SEQ.;

24 Plaintiff, VERONICA SALINAS, individually, and on Behalf of All Others
25 Similarly Situated (hereinafter collectively referred to as "Plaintiff"), demands a trial
26 by jury and pleads as follows:

27
28 ///

1 **JURISDICTION**

2 1. The Court has jurisdiction pursuant to California Code of Civil Procedure
3 section 410.10 because the acts complained of were performed within the county of
4 Los Angeles in the State of California.

5 **VENUE**

6 2. Venue as to each Defendant is proper in this judicial district pursuant to
7 California Code of Civil Procedure sections 395(a) and 395.5, because some of the acts
8 complained of occurred in Los Angeles County, California, the damages occurred in
9 Los Angeles County, California and Defendants and each of them do business within
10 the county of Los Angeles.

11 **PARTIES**

12 3. Plaintiff VERONICA SALINAS and on behalf of all others similarly
13 situated (“Plaintiff California Class”), is a resident of Los Angeles County.

14 4. Defendant CHASE HOME FINANCE, LLC (“Chase” or “Defendant”)
15 is a Delaware corporation, with its principle place of business in the state of Ohio, in
16 the city of Columbus. Chase is a banking corporation that engages in extensive
17 home loan services across the United States, including the State of California.

18 5. The true names and capacities, whether individual, corporate, associate,
19 or otherwise, of the Defendants named herein as DOES 1 through 50 inclusive, are
20 unknown to Plaintiff who therefore sues said Defendants by such fictitious names
21 pursuant to the Code of Civil Procedure § 474. Plaintiff will amend this Complaint
22 to show their true names and capacities when the same have been ascertained.

23 6. Plaintiff is informed and believes, and upon such information and belief
24 alleges, that at only some of the times alleged herein, Defendants, and each of them,
25 including DOES 1 through 50 inclusive, are and were at all relevant times the
26 agents, servants, employees, partners, joint venturers, subsidiaries, parent
27 corporations, sureties and successors-in-interest of each of the remaining
28 Defendants, and were acting within the course, scope, and purpose of such agency,

1 employment, partnership, joint venture, subsidiary-parent relationship, sureties, and
2 succession with the knowledge, consent, approval and ratification of the remaining
3 Defendants and each of them.

4 **GENERAL ALLEGATIONS**

5 **A. Chase's Fraudulent "Robo-Signing" Scheme And Unlawful**
6 **Conduct.**

7 7. The recession has made it tougher for people to pay their mortgages, and
8 crashing home prices have left many borrowers underwater, unable to sell or
9 refinance their way out of trouble. In fact, according to a First American CoreLogic
10 report, one of every five mortgage holders now has a home worth less than the
11 mortgage on it. Of the twenty Zip codes with the highest share of underwater loans,
12 seven are in California.

13 8. American banks have also felt the brunt of the foreclosure burden with
14 some of its largest losses resulting from the foreclosure crisis. Due to the immense
15 losses being taken by the American banking system, a number of banks have
16 instituted a practice known as "robo-signing."

17 9. "Robo-signing" is the practice wherein banks and loan servicers use false
18 documents and signatures to justify hundreds of thousands of foreclosures. Recently,
19 attorneys general from all 50 states said they've banded together to open an
20 investigation into whether banks and loan servicers used "robo-signing" to justify
21 their foreclosures. In response to this inquiry, lenders including Ally Financial Inc.,
22 Bank of America Corp. and JPMorgan Chase & Co. have suspended some
23 foreclosures while they review their paperwork.

24 10. Chase advertises itself as one of the world's largest providers of
25 mortgages and home equity loans and part of the JPMorgan Chase global investment
26 and commercial bank with a history that can be traced back to 1799. This perceived
27 credibility facilitates its ability to utilize "robo-signing", which it has perpetrated over
28 its California foreclosure victims over the last four years.

1 11. Specifically, in California, Chase has a standard practice of utilizing
2 false documents in order to expedite the foreclosure process thereby sacrificing the
3 consumer protections afforded to its customers by the State of California. Moreover,
4 thousands of citizens of California have been wrongfully evicted from their
5 residences.

6 **B. Plaintiff Was A Victim Of Defendant's Fraudulent Scheme**

7 12. On or about May 25, 2006, Plaintiff borrowed five hundred twenty-
8 eight thousand and 00/100 (\$528,000.00) from WMC Mortgage Corp. to purchase
9 her property. As evidence of the loan transaction, Plaintiff signed and delivered to
10 WMC Mortgage Corp. a written promissory note.

11 13. To secure payment of the promissory note, Plaintiff signed and
12 delivered to WMC Mortgage Corp. a deed of trust dated May 25, 2006, in which
13 Plaintiff (as trustor) conveyed to Westwood Associates (as trustee) an interest in the
14 Property as security for payment of the promissory note to WMC Mortgage Corp (as
15 beneficiary).

16 14. On or about June 02, 2006, the deed of trust was recorded in the
17 Official Records of Los Angeles County, California.

18 15. Plaintiff is informed and believes and based thereon alleges that
19 Defendant Chase began to service Plaintiff's loan shortly after the deed of trust was
20 recorded.

21 16. After approximately two years of payment, the Plaintiff experienced
22 trouble paying the loan. Fearing foreclosure, Plaintiff hired an attorney to avoid
23 foreclosure. On or about September 05, 2008, Plaintiff's legal counsel spoke with
24 Chase employee Mark Washington ("Mr. Washington") by telephone to request a
25 Civil Code 2923.5 good faith discussion of options so that Plaintiff could avoid
26 foreclosure.

27 17. At that time, Plaintiff's counsel was informed that a Notice of Default
28

1 had been filed against Plaintiff's Property on or about June 02, 2008, and that Mr.
2 Washington was unaware of any law requiring a good faith discussion.

3 18. With the Notice of Default, Chase represented that it had acquired the
4 deed of trust and was now the legal owner of Plaintiff's trust deed. This
5 representation was not true as Chase had not yet acquired the trust deed to Plaintiff's
6 property.

7 19. Foreclosure is currently pending on Plaintiff's property.

8 **CALIFORNIA CLASS ALLEGATIONS**

9 20. This action may be maintained as a class action pursuant to Code of
10 Civil Procedure section 382.

11 21. **Class Definition.** All individuals who received a Notice of Default
12 from Defendant Chase for any real property located in California from October 15,
13 2006 to the date of trial in this action. Such persons shall hereinafter be referred to as
14 the "Plaintiff California Class."

15 22. **Ascertainable Class:** The proposed Plaintiff California Class is
16 ascertainable in that its members can be identified using information contained in
17 Defendant's business records.

18 23. **Common Questions of Law or Fact:** There are common questions of
19 law and fact that are common to all of the Plaintiff National Class members,
20 including:

21 a. Whether Defendant's practice of misrepresenting to borrowers
22 that it had acquired title to a property and could commence foreclosure proceedings
23 even though they had yet to receive an assignment of the title constituted fraud;

24 b. Whether Defendant's practice of negligently misrepresenting to
25 borrowers that it had acquired title to a property and could commence foreclosure
26 proceedings even though they had yet to receive an assignment of the title was
27 negligent;

28 c. Whether Defendant's practice of misrepresenting to borrowers

1 that it had acquired title to a property and could commence foreclosure proceedings
2 even though they had yet to receive an assignment of the title is an unfair business
3 practice under California Business & Professions Code § 17200 et seq.

4 d. Whether each member of the Plaintiff California Class was
5 harmed by Defendant's uniform practice of practice of misrepresenting to borrowers
6 that it had acquired title to a property and could commence foreclosure proceedings
7 even though they had yet to receive an assignment of the title .

8 24. **Predomination:** Common questions of law and fact predominate in
9 this case, and a class action is the only appropriate method for the complete
10 adjudication of this controversy for the following reasons, among others:

11 a. The costs of individual suits would unreasonably consume the
12 amounts that would be recovered; and

13 b. Individual actions would create a risk of inconsistent results and
14 would be unnecessary and duplicative of this litigation.

15 25. **Numerosity:** The Plaintiff California Class is so numerous that the
16 individual joinder of all members is impractical under the circumstances of this case.
17 While the exact number of Class members is unknown to Plaintiff at this time,
18 Plaintiff is informed and believes and thereon alleges that the Plaintiff California
19 Class consists of well over 10,000 persons.

20 26. **Typicality:** Plaintiff's claims against Defendants are typical of the
21 claims of the Plaintiff California Class members. Plaintiff is like other Plaintiff
22 California Class members because Plaintiff has suffered the same injuries as those
23 suffered by the Plaintiff California Class.

24 27. **Adequacy:** Plaintiff seeks no relief that is antagonistic or adverse to
25 the members of the Plaintiff California Class and the infringement of her rights and
26 the harms she has suffered are typical of all other members of the Plaintiff California
27 Class. Plaintiff has retained counsel who are able and experienced in class action
28 litigation.

1 28. **Superiority:** The nature of this action and the nature of laws available
2 to Plaintiff and the Plaintiff California Class make use of the class action format a
3 particularly efficient and appropriate procedure to afford relief to Plaintiff and the
4 Plaintiff California Class for the wrongs alleged. Further, this claim involves one
5 large corporate Defendant (Chase Home Finance, LLC) and a large number of
6 individual persons (Plaintiff and the Plaintiff California Class) with many relatively
7 small claims with common issues of law and fact. If each person were required to
8 file an individual lawsuit, the corporate Defendant would necessarily gain an
9 unconscionable advantage since it would be able to exploit and overwhelm the
10 limited resources of each individual Plaintiff with its vastly superior financial and
11 legal resources. Proof of a common business practice or factual pattern, which the
12 named Plaintiff experienced, is representative of that experienced by the Plaintiff
13 California Class and will establish the right of each of the Plaintiff California Class
14 members to recover on the causes of action alleged.

15 29. The prosecution of separate actions by the individual Plaintiff Class
16 members, even if possible, would create a substantial risk of inconsistent or varying
17 verdicts or adjudications against Defendants. The individual prosecutions could
18 establish potentially incompatible standards of conduct for Defendants, and/or legal
19 determinations with respect to individual Plaintiff California Class members which
20 would, as a practical matter, be dispositive of the interests of the other Plaintiff
21 California Class members not parties to the adjudications. These individual actions
22 would substantially impair or impede the ability of the Plaintiff California Class
23 members to protect their interests. Further, the claims of the individual members of
24 the Plaintiff California Class are not sufficiently large to warrant the expense of
25 vigorous individual prosecution.

26 30. Notice to the members of the Plaintiff California Class may be made by
27 first-class mail addressed to all persons who have been individually identified by
28 Defendants, through access to Defendant's corporate books and records.

1 Alternatively, if Defendants cannot produce a list of Plaintiff California Class
2 members' names and addresses, the members of the Plaintiff California Class may
3 be notified by publication in the appropriate newspapers, and by posting notices in
4 Defendant's service bills.

5 **CLASS CLAIMS FOR RELIEF**

6 **FIRST CLASS CAUSE OF ACTION FOR FRAUD AND DECEIT**

7 **PURSUANT TO CIVIL CODE SECTIONS 1572 AND 1710**

8 **(By Plaintiff Class Representative Salinas Against All Defendants and Does 1 -**
9 **50)**

10 31. Plaintiff, individually and on behalf of the Plaintiff California Class,
11 realleges and incorporates by reference Paragraphs 1 through 30 of this Complaint as
12 though fully set forth herein.

13 32. Plaintiff and the Plaintiff California Class allege that Defendant Chase,
14 acting individually and through its officers, partners, agents and/or employees, and
15 at times acting within the scope of their employment, falsely and fraudulently, and
16 with the intent to deceive and defraud Plaintiff and the Plaintiff California Class,
17 uniformly and unvaryingly affirmatively and identically misrepresented to its
18 customers that it had acquired title to a property and could commence foreclosure
19 proceedings even though they had yet to receive an assignment of the title..

20 33. These same material misrepresentations were communicated to Plaintiff
21 herein and each and every class member of the Plaintiff California Class.

22 34. Defendant's representations were false and misleading, and it knew
23 them to be false and misleading and in violation of Business and Professions Code
24 sections 17200, 17500 & 17530 since Defendant Chase utilized "robo-signing" and
25 had not actually satisfied California's requirements prior to commencing a
26 foreclosure action.

27 35. Each false and misleading representation was material to each Plaintiff
28 and to the Plaintiff California Class and accordingly, Plaintiff herein and each and

1 every class member of the Plaintiff California Class relied on said representations.

2 36. Such false and misleading misrepresentations and omissions were made
3 by Defendant for the sole purpose of inducing Plaintiff and the Plaintiff California
4 Class to allow Defendant Chase to short-cut the foreclosure process in violation of
5 its customers' consumer protections.

6 37. Plaintiff and the Plaintiff California Class were unaware that
7 Defendant's representations were false and misleading representations, and they
8 justifiably believed and relied on them.

9 38. Only within the last few months, have Plaintiff and the Plaintiff
10 California Class discovered the intentional fraud and deceit practiced upon them by
11 Defendant. Plaintiff and the Plaintiff California Class believe many of Defendant's
12 current customers are still ignorant of Defendant's misrepresentations and omissions
13 contained herein.

14 39. Defendant committed the wrongful acts alleged in this Complaint
15 maliciously, fraudulently and oppressively with the intent of injuring Plaintiff and
16 the Plaintiff California Class members. Defendant's actions arose from an improper
17 and evil motive amounting to malice and were undertaken in conscious disregard of
18 Plaintiff's and the Plaintiff California Class members' rights. Plaintiff and the
19 Plaintiff California Class are entitled to punitive damages from Defendant.

20 **SECOND CLASS CAUSE OF ACTION FOR**
21 **NEGLIGENT MISREPRESENTATION**

22 **(By Plaintiff Class Representative Salinas Against All Defendants Including**
23 **Does 1 - 50)**

24 40. Plaintiff, individually and on behalf of the Plaintiff California Class,
25 realleges and incorporates by reference Paragraphs 1 through 39 of this Complaint as
26 though fully set forth herein.

27 41. As a consequence of its service relationship with Plaintiff and the
28 Plaintiff California Class members, Defendant assumed an obligation of due care

1 with respect to each of them.

2 42. Defendant knew or should have known that its failure to exercise due
3 care in its relationship with Plaintiff and the Plaintiff California Class would cause
4 the latter to suffer damages.

5 43. By the wrongful acts and omissions alleged herein, Defendant, acting
6 individually and through its officers, partners, agents and/or employees, and acting
7 within the scope of its employment, breached its duty of due care toward Plaintiff
8 and the Plaintiff California Class. Specifically, Defendant breached its duty of care
9 toward Plaintiff and the Plaintiff California Class by, including but not limited to,
10 the following: making the uniform misrepresentation to its customers that it had
11 acquired title to a property and could commence foreclosure proceedings even
12 thought they had yet to receive an assignment of the title.

13 44. Defendant's representations to Plaintiff and the Plaintiff California
14 Class members were untrue and misleading and Defendant knew or should have
15 known them to be untrue and misleading. Defendant's misrepresentations were
16 made to allow Defendant Chase to short-cut the foreclosure process in violation of
17 its customers' consumer protections.

18 45. Plaintiff and the Plaintiff California Class members were unaware of
19 Defendant's negligent misrepresentations, and they justifiably believed and relied
20 upon them.

21 46. Plaintiff and the Plaintiff California Class discovered Defendant's
22 misrepresentations within the last few months.

23 47. As a direct and proximate result of Defendant's negligent
24 misrepresentations, the Plaintiff and each Plaintiff California Class member have
25 suffered losses, thereby entitling each to recover compensatory damages.

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**THIRD CLASS CAUSE OF ACTION FOR VIOLATIONS OF
BUSINESS AND PROFESSIONS CODE § 17200 ET SEQ.**

**(By Plaintiff Class Representative Salinas Against All Defendants Including
Does 1 - 50)**

48. Plaintiff, individually and on behalf of the Plaintiff California Class, realleges and incorporates by reference Paragraphs 1 through 48 of this Complaint as though fully set forth herein.

49. Beginning at an exact date unknown to Plaintiff and the Plaintiff California Class but at least since 2006, Defendant has committed acts of unfair competition as defined by Business & Professions Code sections 17200, *et seq.* In particular, Defendant's actions violate section 17200 regarding fraudulent acts as defined by Business & Professions Code sections 17200, *et seq.*

50. Plaintiff and each Plaintiff California Class member allege that Defendant has engaged in unfair business practices in California by fraudulently misrepresenting, among other things, to its customers that it had acquired title to a property and could commence foreclosure proceedings even though they had yet to receive an assignment of the title

51. Overall, and when compared, the utility of this conduct is outweighed by the harm caused thereby to both the Plaintiff and Plaintiff California Class.

52. Defendant's misrepresentations, misstatements, omissions and statutory violations constitute an unfair and deceptive business practice, unfair competition, and provide an unfair advantage over their competitors. Plaintiff and the Plaintiff California Class Members seek full restitution of said monies from Defendant, as necessary and according to proof, to restore any and all monies withheld, acquired, and/or converted by Defendant by means of the unfair business practices alleged. In addition, Plaintiff and the Plaintiff California Class Members seek restitution and seek the appointment of a receiver, as necessary, to establish the total monetary relief sought from Defendant. The restitution includes all monies paid as a result of

1 the unfair business practices plus interest. These illegal acts have been ongoing
2 since at least 2006.

3 53. Plaintiff and the Plaintiff California Class further seek an order
4 requiring Defendant to identify by full name, and tax identification number and last
5 known address, all individuals who it started foreclosure proceedings against from
6 October 15, 2006 to the present. Plaintiff and the Plaintiff California Class seek an
7 order requiring Defendant to timely pay restitution to current and former customers,
8 including interest, attorneys' fees according to law and costs.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, for all of the above and foregoing reasons, Plaintiff and the
11 Plaintiff Classes, pray for judgment against Defendant as follows:

12 **FOR THE CLASS ACTION**

- 13 1. For an Order requiring and certifying this case to be a class action;
14 2. For an Order requiring Defendant to identify by name, address,
15 telephone number and social security number, each person who is a member of the
16 certified classes; and
17 3. For all appropriate declaratory and equitable relief.

18 **FOR THE FIRST CLASS CAUSE OF ACTION**

- 19 1. For general damages according to proof;
20 2. For Plaintiff and the Plaintiff Class's costs herein incurred;
21 3. For all special damages according to proof;
22 4. For pre-judgment interest
23 5. For punitive damages according to proof; and
24 6. For all appropriate declaratory and equitable relief.

25 **FOR THE SECOND CLASS CAUSE OF ACTION**

- 26 1. For general damages according to proof;
27 2. For Plaintiff and the Plaintiff Class's costs herein incurred;
28 3. For all special damages according to proof;

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- 4. For pre-judgment interest; and
- 5. For all appropriate declaratory and equitable relief.

FOR THE THIRD CLASS CAUSE OF ACTION

- 1. For Defendant to show why it should not be preliminarily and permanently enjoined as hereinafter set forth;
- 2. For a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction, enjoining Defendant, its agents, servants, employees and all persons acting under, in concert with, or for it, from acts or unfair competition;
- 3. For restitution;
- 4. For costs of suit incurred herein;
- 5. For pre-judgment interest;
- 6. For attorneys' fees; and
- 7. For such other and further relief as the Court deems just and proper.

ON ALL CAUSES OF ACTION

- 1. Such further and other relief as the Court may deem just and proper.

Dated: February 11, 2011 **BOHM, MATSEN, KEGEL & AGUILERA, LLP**

By:



A. Eric Aguilera, attorneys for
Plaintiff, VERONICA SALINAS,
individually, and on Behalf of All
Others Similarly Situated

First Amended Complaint-This One Kym.docx

PROOF OF SERVICE

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STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the City of Costa Mesa, County of Orange in the State of California. I am over the age of 18 and am not a party to the within action. My business address is 695 Town Center Drive, Suite 700, Costa Mesa, California 92626. On **February 18, 2011**, I served the documents named below on the parties in this action as follows:

DOCUMENT(S) SERVED: PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT FOR: (1) FRAUD AND DECEIT (CIVIL CODE SECTIONS 1572, 1710); (2) NEGLIGENT MISREPRESENTATION; AND (3) VIOLATION OF BUS. & PROF. CODE SECTION 17200 ET SEQ.;

SERVED UPON: **SEE ATTACHED SERVICE LIST**



(BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Costa Mesa, California. I am readily familiar with the practice of the Law Offices of Bohm, Matsen, Kegel, & Aguilera LLP. for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.



(BY ELECTRONIC FILING WITH THE U.S. DISTRICT COURT) By submitting said documents for Electronic Case Filing on said date pursuant to Local Rule 5-4 and General Order 45, at Bohm, Matsen, Kegel & Aguilera, LLP at 695 Town Center Drive, Suite 700, Costa Mesa, 92626.



(BY PERSONAL SERVICE) I caused the above-referenced documents to be personally delivered on the date listed below.



(BY FEDERAL EXPRESS) I am readily familiar with the practice of the Law Offices of Bohm Matsen, Kegel & Aguilera, LLP. for the collection and processing of correspondence for overnight delivery and known that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.



(BY FACSIMILE WHERE INDICATED) The above-referenced document was transmitted by facsimile transmission and the transmission was reported as complete and without error. Pursuant to C.R.C. 2009(I), I caused the transmitting facsimile machine to issue properly a transmission report, a copy of which is attached to this Declaration.



(FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction this service was made.

Executed on **February 18, 2011**, at Costa Mesa, California.

Kym Smith

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SERVICE LIST
Veronica Salinas v.
Chase Home Finance, LLC et al.
United States District Court – Central District of California
Case No. 2:10-CV-09602-CAS-VBK

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March 3, 2011

BY EMAIL AND EXPRESS MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *JPMorgan Chase & Co. – Shareholder Proposal Submitted by the Comptroller of the City of New York on Behalf of the New York City Pension Funds*

Dear Ladies and Gentlemen:

This letter is a reply on behalf of the New York City Pension Funds (the “Funds”) to the February 25, 2011 letter submitted to the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission by Martin Dunn of O’Melveny & Meyers LLP, on behalf of JPMorgan Chase & Co. (“JPMC” or the “Company”), in further support of its no-action request regarding the Fund’s shareholder proposal requesting that the Company’s Audit Committee conduct an independent review of the Company’s internal controls related to loan modifications, foreclosures and securitizations (the “Proposal”).

The Company’s February 25th response essentially re-hashes the arguments the Company made in its January 11, 2011 initial no-action request, with the bottom line being the Company’s position that the Proposal does not focus on a “significant social policy issue.” The Funds adamantly disagree with this position and respectfully refer the Staff to its March 2, 2011 decision in the Citigroup, Inc. matter, involving an identical shareholder proposal, in which the Staff determined that “[i]n view of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7).” (March 2, 2011 Staff letter attached as Exhibit A). As the Staff has concluded that an identical proposal focuses sufficiently on significant policy issues, the Company’s arguments that the Proposal does not are clearly without merit.

The Company provides no additional precedent to support its incorrect view that the Proposal is duplicative of the Presbyterian Church (USA) (“PCUSA”) proposal. The Company

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simply repeats its mischaracterization of the Proposal's principal thrust and focus in an attempt to make it appear substantially duplicative of the PCUSA proposal. Accordingly, the Funds reiterate the arguments detailed in their February 11, 2011 letter. The principal thrust and focus of the PCUSA proposal is the equal treatment of low income and minority borrowers in loan modifications; the principal thrust and focus of the Proposal is ensuring the adequacy of the Company's internal controls through an independent review. It is clear that the principal thrust and focus of the proposals differ fundamentally and the mere fact that both proposals refer to loan modifications does not render them substantially duplicative. The Funds once again respectfully draw the Staff's attention to *Pulte Homes, Inc.* (February 27, 2008) and the other no-action letters cited in the Funds' February 11th letter, where the Staff found that proposals concerning the same broad subject matter were not substantially duplicative because they did not have the same principal thrust or focus.

CONCLUSION

The Staff has concluded that the focus of the Proposal is a significant social policy issue. Accordingly, the Company's arguments for excluding the Proposal under 14a-8(i)(7) are without merit. In addition, because the Proposal's principal thrust and focus differs fundamentally from the PCUSA proposal, the Company has failed to meet its burden of establishing that the Proposal is excludable under 14a-8(i)(11). Therefore, the Funds respectfully renew their request that the Company's request for no-action relief be denied.

Sincerely,



Valerie Budzik
1st Deputy General Counsel

c: Martin P. Dunn, Esq.
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001

March 2, 2011

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: Citigroup Inc.
Incoming letter dated December 17, 2010

The proposal requests that the board have its audit committee conduct an independent review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and to report to shareholders its findings and recommendations.

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(3). We are unable to conclude that the proposal is so inherently vague or indefinite that neither the shareholders voting on the proposal, nor the company in implementing the proposal, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. Accordingly, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(3).

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(7). That provision allows the omission of a proposal that "deals with a matter relating to the company's ordinary business operations." In view of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7).

We are unable to concur in your view that Citigroup may exclude the proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that Citigroup's practices and policies do not compare favorably with the guidelines of the proposal and that Citigroup has not, therefore, substantially implemented the proposal. Accordingly, we do not believe that Citigroup may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Hagen Ganem
Attorney-Adviser



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1934 Act/Rule 14a-8

February 25, 2011

VIA ELECTRONIC MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: JPMorgan Chase & Co.
Shareholder Proposal of the Comptroller of the City of New York
Securities Exchange Act of 1934 Rule 14a-8

Dear Ladies and Gentlemen:

This letter concerns the request dated January 11, 2011 (the "**Initial Request Letter**") that we submitted on behalf of JPMorgan Chase & Co., a Delaware corporation (the "**Company**"), seeking confirmation that the staff (the "**Staff**") of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "**Commission**") will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934 (the "**Exchange Act**"), the Company omits the shareholder proposal (the "**Proposal**") and supporting statement (the "**Supporting Statement**") submitted by the Comptroller of the City of New York on behalf of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Police Pension Fund, the New York City Fire Department Pension Fund and the New York City Board of Education Retirement System (collectively, the "**Proponent**") from the Company's proxy materials for its 2011 Annual Meeting of Shareholders (the "**2011 Proxy Materials**"). On February 11, 2011, the Proponent submitted a letter to the Staff (the "**Proponent Letter**"), asserting its view that the Proposal and Supporting Statement are required to be included in the 2011 Proxy Materials. The Proponent Letter is attached hereto as Exhibit A.

I. BACKGROUND

The Proposal requests that the Company's Audit Committee "conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and

securitizations,” including a discussion of specific issues described in the Proposal, and report to the shareholders by September 30, 2011. In the Initial Request Letter, the Company requested no-action relief from the Staff to omit the Proposal in reliance on Rule 14a-8(i)(7), as the Proposal deals with matters relating to the Company’s ordinary business operations, and Rule 14a-8(i)(11), as substantially duplicative of a proposal previously submitted to the Company by another shareholder that will be included in the 2011 Proxy Materials.

The Proponent Letter contends that the Company has not met the burden of showing that the Proposal may be excluded from the 2011 Proxy Materials and expresses the view that the Proposal and Supporting Statement should not be subject to exclusion because (1) the subject matter of the Proposal relates to a significant policy issue that transcends ordinary business matters and (2) the Proposal is not substantially duplicative of another proposal.

We submit this letter on behalf of the Company to supplement the Initial Request Letter and respond to some of the claims made in the Proponent Letter with regard to the application of Rule 14a-8 to the Proposal.

II. EXCLUSION OF THE PROPOSAL

The Company continues to be of the view that it may omit the Proposal in reliance on Rule 14a-8(i)(7). In this regard, we note the following:

- First, the issue of whether a proposal “touches upon” a significant policy issue is irrelevant for an analysis under Rule 14a-8(i)(7) where, as here, the Proposal does not focus sufficiently upon a significant policy issue but instead relates to matters regarding internal controls -- matters that are highly important to the Company and the quality of service to its customers but that are still ordinary business matters that are unrelated to a significant policy issue.
- Second, a determination regarding whether two proposals are substantially duplicative for purposes of Rule 14a-8(i)(11) is based upon an examination of the similarity of the core issue and principal focus of the two proposals, not on their specific manner of implementation or breadth.

A. The Proposal May Be Omitted Pursuant to Rule 14a-8(i)(7) as it Relates to Matters Regarding the Company’s Ordinary Business Operations

1. The Proposal does not focus on a sufficiently significant policy issue

a. The Proponent Letter incorrectly describes the Staff’s analysis under Rule 14a-8(i)(7)

As discussed in the Initial Request Letter, the Staff has consistently expressed the view that proposals that relate to ordinary business matters, and are not sufficiently focused on a significant policy issue, may be excluded in reliance on Rule 14a-8(i)(7). *See* Initial Request Letter at page 10. The rationale for this position is that only proposals *with sufficient focus on a*

significant policy issue “would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” See *Exchange Act Release No. 34-40018* (May 21, 1998) (the “1998 Release”). The Proponent Letter mischaracterizes this standard, stating that “the Commission will reach [the conclusion that a proposal relating to both ordinary business matters and significant policy issues may be excluded in its entirety] only where it determines that the proposal attempts to micro-manage or delve too deeply in ordinary business matters.” *Proponent Letter at page 3*. This does not describe the standard described by the Commission and implemented by the Staff. Instead, as clearly stated in the 1998 Release, the Staff has consistently looked to whether the focus of the Proposal was focused solely on a significant policy issue as to transcend ordinary business matters. See, e.g., *Wal-Mart Stores, Inc.* (March 15, 1999) (concurring in the exclusion of a proposal requesting a report on Wal-Mart’s actions to ensure it does not purchase from suppliers who manufacture items using forced labor, convict labor, child labor or who fail to comply with laws protecting employees’ rights in reliance on Rule 14a-8(i)(7) because “paragraph 3 of the description of matters to be included in the report relates to ordinary business operations”).

A proposal relating to a company’s extraordinary business matters may not be omitted in reliance on Rule 14a-8(i)(7). However, a proposal relating to a company’s ordinary business matters may be omitted in reliance on such rule, unless the proposal is sufficiently focused on a significant policy issue. A proposal that is sufficiently focused on a significant policy issue then may not be omitted in reliance on the rule, unless the proposal seeks to “micro-manage” the company in its actions to implement the proposal. In the instance case, however, the Proponent Letter’s repeated assertions that the Proposal does not “micro-manage” the specific business practices or decisions of the Company are irrelevant to an analysis of the Proposal under Rule 14a-8(i)(7), as the Proposal is not sufficiently focused on a significant policy issue. Moreover, Staff Legal Bulletin No. 14 (July 13, 2001) indicates that the Staff will consider only the arguments presented in a company’s no-action request in determining the application of Rule 14a-8 to a proposal. The Company did not present “micro-management” as a basis for properly omitting the Proposal in reliance on Rule 14a-8(i)(7) in the Initial Request Letter and does not do so here.

b. Precedent cited in the Proponent Letter supports, rather than rebuts the Company’s view that the Proposal does not sufficiently focus on a significant policy issue

The Company maintained in the Initial Request Letter and continues to believe that the Proposal does not sufficiently focus on a significant policy issue to preclude exclusion pursuant to Rule 14a-8(i)(7). The Proponent Letter expresses the view that the “mortgage and foreclosure crisis” is a significant policy issue.¹ In support of its view, the Proponent Letter points to the Staff’s precedent regarding proposals addressing predatory lending practices. *Proponent Letter at page 4*. However, the Staff letters cited relate to proposals focused solely on a significant

¹ The company agrees that the “mortgage and foreclosure crisis” is highly important, but, for reasons set forth in Section III.B.5 of the Initial Request Letter, the Company respectfully disagrees that the concept as described in the Proponent Letter meets the Commission’s definition of a “significant policy issue” for the purposes of Rule 14a-8(i)(7).

policy issue recognized by the Commission and the Staff. For example, in *Conseco, Inc.* (April 5, 2001), the proposal requested formation of an independent committee of outside directors to develop and enforce policies to ensure that Conseco did not engage in predatory lending practices.

The primary concern of the Proposal and the Proponent Letter is explicitly directed towards the Company's internal controls, specifically those related to compliance with applicable laws and regulations and the Company's own policies and procedures -- matters the Staff has consistently agreed relate to ordinary business. See *Monsanto Company* (November 3, 2005) (concurring with the exclusion of a proposal requesting the creation of an ethics oversight committee to monitor compliance with the company's internal policies and applicable law under Rule 14a-8(i)(7) as relating to legal compliance). In fact, the Proponent Letter states specifically that "the Proposal properly requests the Audit Committee to conduct an independent review of the adequacy of compliance controls" and cites reports of "faulty documentation, outdated computer systems, [and] lack of [employee] training" -- all ordinary business matters -- as issues that provide the rationale for requesting such review. *Proponent Letter at page 8*. Even if the Staff were to recognize that certain loan servicing, mortgage modification or foreclosure practices have risen to the level of a significant policy concern -- similar to the manner in which the Staff views predatory lending as a unique subset of the otherwise ordinary business matters relating to credit policies, loan underwriting and customer relations -- the Proposal simply has not met the Staff's consistent standard of requiring proposals to be sufficiently focused on a significant policy issue in order to be included in a company's proxy materials.

2. *The Proponent Letter concedes that the Proposal relates to the Company's ordinary business operations*

As discussed above, the Proponent Letter focuses on whether the Proposal "micro-manages" various aspects of the Company's ordinary business operations, conceding through such discussions that the Proposal does, in fact, relate to such ordinary business operations. For example, the Proponent Letter appears to express the view that a "request for an independent review of internal controls" does not relate to ordinary business operations because such request does not "mandate" a change to such policies. This view is unsupported by Staff precedent. See *Monsanto Company* (discussed above).

The Proponent Letter also expresses the view that the Proposal's request of an independent review of the training of employees, "which can sometimes implicate ordinary business," does not do so in this instance because this specific request "transcends ordinary business" due to "substantial evidence that insufficient training is a significant factor in the foreclosure crisis." *Proponent Letter at page 5*. Again, this view is unsupported by Staff precedent. In fact, the Proponent Letter fails to cite to a single Staff letter in which the Staff has expressed the view that a specific aspect of employee training "transcends ordinary business." In contrast, the Commission identified "management of the workforce, such as the hiring, promotion and termination of employees" as its first example of an ordinary business problem that should be confined to management and the board of directors. See Release No. 34-40018 (May 21, 1998).

The Proponent Letter further asserts that the Proposal should not be omitted in reliance on Rule 14a-8(i)(7) as relating to ongoing litigation because the mere existence of litigation does not render a proposal excludable on this basis. *Proponent Letter at page 6.* In support of this view, the Proponent Letter cites to *Cabot Oil & Gas Corporation* (January 28, 2010). In that no-action request, the company expressed the view that a proposal requesting a report summarizing, among other things, the environmental impact of fracturing operations of the company could be omitted in reliance on Rule 14a-8(i)(7) because the company was “a party to litigation relating to its activities in areas where fracturing has been used” and that “while certain information requested to be included in the report might not necessarily reveal the [c]ompany’s litigation strategy, the provision of such information nevertheless sidesteps and interferes with the discovery process in such litigation.” The Staff, however, was unable to concur with the company’s view that the proposal could be omitted in reliance on Rule 14a-8(i)(7) because it was unable to conclude that Cabot had met its burden of demonstrating that implementation of the proposal would affect the conduct of ongoing litigation to which the company is a party. In other words, the Staff expressed the view that Cabot did not demonstrate a sufficient nexus between the implementation of the proposal and its litigation strategy² -- the Staff did not overturn its long line of precedent regarding letters in which they have concurred with the view that a proposal that would impact specific pending litigation could be omitted in reliance on Rule 14a-8(i)(7).

In contrast to the information provide by Cabot in its letter, the Initial Request Letter included the complaints of representative actions of the types of litigation currently faced by the Company regarding its practices, compliance or performance under certain loan modification programs, as well as its practices, procedures and compliance with law in executing documents in connection with foreclosure actions (*see* Exhibit B to the Initial Request Letter) and would require the Company to disclose the same information that the Company expects plaintiffs to seek in the discovery process of such proceedings. For these reasons, the Company believes that the Proposal relates to the same subject matter at issue in ongoing litigation matters and, as such, may be omitted in reliance on Rule 14a-8(i)(7).

Finally, the Proponent Letter admits that the Proposal relates to the Company’s legal compliance program, but expresses the view that the Proposal may not be excluded on this basis because the Proposal “involves a significant social policy issue.” Simply claiming that the Proposal may “involve” a significant policy issue does not conclusively preclude exclusion pursuant to Rule 14a-8(i)(7) -- if the Proposal is not sufficiently focused on a significant policy issue, exclusion is proper. As discussed above, the Proposal relates to a number of matters that are unrelated to the broad policy issue that the Proponent Letter indicates is a significant policy issue, including the products and services offered by the Company, the management of the Company’s workforce, ongoing litigation involving the Company and the Company’s legal compliance program.

² Cabot’s letter did not provide a citation to the subject litigation, a summary of the claims alleged in such litigation, or an analysis of the how the proposal, if implemented, might impact such litigation.

3. Conclusion

Based upon the analysis above and that set forth in the Initial Request Letter, the Company maintained and continues to believe that the Proposal and Supporting Statement may be omitted from the Company's 2010 Proxy Materials in reliance on Rule 14a-8(i)(7), as relating to the Company's ordinary business matters.

B. The Proposal May Be Excluded in Reliance on Rule 14a-8(i)(11), as it Substantially Duplicates Proposals Previously Submitted to the Company That Will Be Included in the 2011 Proxy Materials

The Proponent Letter sets forth the view that, because the specific implementation requested by the Proposal and the breadth of the Supporting Statement differ from those of the proposal and supporting statement that the Company received from the Board of Pensions of the Presbyterian Church (USA) (the "**PCUSA Proposal**"),³ the Proposal may not be excluded in reliance on Rule 14a-8(i)(11). Specifically, the Proponent Letter expresses the view that the principle focus of the Proposal is an independent review of the Company's internal review process and asserts that a report on loan modifications under the PCUSA Proposal would not address the additional concerns of the Proposal regarding securitizations or foreclosures. *Proponent Letter at page 9.* However, as stated in the Initial Request Letter, in determining whether two proposals are substantially duplicative under Rule 14a-8(i)(11), the Staff examines the similarity of the core issue and principal focus of the two proposals rather than their specific manner of implementation or breadth. *See, e.g., Exxon Mobil Corporation* (March 19, 2010); *JPMorgan Chase & Co.* (March 5, 2010); *General Motors Corporation* (April 5, 2007); *Time Warner, Inc.* (February 11, 2004).

The Proponent Letter focuses on the implementation method of the proposals -- an "independent review" versus the "development of policies" -- rather than on the subject matter of the proposals. The Company maintained and continues to believe that the Proposal and the PCUSA Proposal share a singular core issue and principal focus -- the Company's loan modification practices. The similar actions requested of the Company's board of directors by both proposals further illustrates this shared core issue and principal focus: the PCUSA Proposal requires development of policies regarding the Company's loan modification methods while the Proposal requires a report on the Company's internal controls related to loan modification methods, as well as securitization and foreclosure methods. This similar core issue and principal focus of the Proposal and the PCUSA Proposal means that they are substantially duplicative for purposes of Rule 14a-8(i)(11).

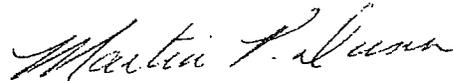
Based upon the analysis above and that set forth in the Initial Request Letter, the Company maintained and continues to believe that the Proposal and Supporting Statement may be omitted from the Company's 2010 Proxy Materials in reliance on Rule 14a-8(i)(11).

³ See Section III.C.1 of the Initial Request Letter for background on the PCUSA Proposal.

III. CONCLUSION

For the reasons set forth above and in the Initial Request Letter, the Company previously maintained and continues to believe that the Proposal may be omitted in reliance on Rule 14a-8. The Company therefore renews its request that the Staff concur with the Company's view that the Proposal and Supporting Statement may be omitted from the 2011 Proxy Materials. If we can be of further assistance in this matter, please do not hesitate to contact me at (202) 383-5418.

Sincerely,



Martin P. Dunn
of O'Melveny & Myers LLP

cc: Michael Garland
Executive Director of Corporate Governance
The City of New York Office of the Comptroller

Anthony Horan, Esq.
Corporate Secretary
JPMorgan Chase & Co.

*Shareholder Proposal of the Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT A



THE CITY OF NEW YORK
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February 11, 2011

BY EMAIL AND EXPRESS MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *JPMorgan Chase & Co. – Shareholder Proposal Submitted by the Comptroller of the City of New York on Behalf of the New York City Pension Funds*

To Whom It May Concern:

I write on behalf of the New York City Pension Funds (the “Funds”) in response to the January 11, 2011 letter submitted to the Securities and Exchange Commission (the “Commission”) by Martin Dunn of O’Melveny & Meyers LLP, on behalf of JPMorgan Chase & Co. (“JPMC” or the “Company”), seeking assurance that the Staff of the Commission’s Division of Corporation Finance (the “Staff”) will not recommend enforcement action if the Company omits from its 2011 proxy statement the Funds’ shareholder proposal (the “Proposal”).

I have reviewed the Proposal as well as the Company’s January 11, 2010 letter and Rule14a-8. Based upon that review, it is my opinion that the Proposal must be included in the Company’s 2011 proxy materials. The Company has the burden of establishing that the Proposal may be excluded from its 2011 proxy materials and the Company has not met that burden. Accordingly, the Funds respectfully request that the Staff deny the relief that the Company requests.

I. BACKGROUND

The genesis of the Funds’ Proposal is painfully obvious: widespread and repeated instances of significant failures by banks in their handling of mortgages and foreclosures. Documented abuses and mistakes run the gamut -- from loan origination to servicing and securitization -- and include allegations of loan origination and underwriting fraud, shoddy servicing that has resulted in improper fees and misapplied payments, ignoring requirements to evaluate homeowners for non-foreclosure options, lost and forged documents, “robo-signing” of foreclosure affidavits, and foreclosing without the right to do so. The mortgage and foreclosure

crisis has appropriately garnered the attention of federal and state regulators and oversight bodies. Virtually every agency with jurisdiction over banks or mortgages has launched inquiries into mortgage and foreclosure documentation problems and there have been numerous Congressional hearings and reports on the subject, and there are more to come. The mortgage and foreclosure crisis has garnered significant media attention, including numerous editorials in major newspapers. Finally, the human and economic toll of the foreclosure crisis on our communities is unmistakable and, unfortunately, likely to grow. Attachment A to this letter provides additional information and statistics in all of these areas.

The mortgage and foreclosure crisis also pose significant risk to our banking system and overall economy. Homeowner and mortgage bond investor litigation has exposed banks to staggering potential liabilities, with estimates ranging from \$26 billion to a worst-case estimate of \$179 billion if banks are forced to re-purchase loans. In its November 2010 Oversight Report, the Congressional Oversight Panel ("COP") determined "Banks could, in the worst case scenario, suffer severe direct capital losses due to put-backs....If documented irregularities prove to be pervasive and, more importantly, throw into question ownership of not only foreclosed properties but also pooled mortgages, the result could be significant harm to financial stability." (Congressional Oversight Panel, *November Oversight Report*, November 16, 2010, p. 83, p7). The COP Report continues that "[e]ven the prospect of such losses could damage a bank's stock price or its ability to raise capital. *Id.* at 83.

Against this distressing backdrop, it is not surprising that shareholders are requesting that the boards of directors at the largest banks proactively and independently review their mortgage and foreclosure practices. In fact, a coalition of public pension funds representing \$432 billion in assets sent a letter to the four largest banks demanding that bank directors immediately commence this review. A copy of the letter to JPMorgan Chase & Co. is attached.

The Proposal

The Funds' Proposal recites the issues and concerns noted above, and concludes with the following whereas clause: "The Audit Committee of the Board of Directors is responsible for ensuring the Company has adequate internal controls governing legal and regulatory compliance. With the Company's mortgage-related practices under intensive legal and regulatory scrutiny, we believe the Audit Committee should act proactively and independently to reassure shareholders that the Company's compliance controls are robust."

The Proposal then requests that the Audit Committee of the Company's Board of Directors conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and securitizations, and then report to shareholders on the findings of the independent review, which review should include "(a) the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests."

II. THE COMPANY HAS NOT DEMONSTRATED THAT IT MAY OMIT THE PROPOSAL UNDER RULE 14a-8(i)(7)

As Staff is well aware, in order for a shareholder proposal to be omitted under Rule 14a-8(i)(7), the proposal must not only impact a matter of ordinary business (which this Proposal does not) but must also fail to raise a significant social policy issue. (Exchange Act Release No. 34-40018, May 21, 1998 (the "1998 Release")). The 1998 Release summarized the two principal considerations that the Commission will apply when determining whether a proposal falls within the "ordinary business" exclusion:

"The first relates to the subject matter of the proposal. Certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight However proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.... The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

The Company's arguments to exclude the Proposal fail on both of these points.

A. The Proposal Raises a Significant Social Policy Issue That Clearly Transcends Ordinary Business.

For the reasons discussed above and highlighted in Attachment A, the fact that the Proposal addresses a significant policy issue is simply unassailable. The Company's statement that "the Staff has expressed the view that proposals relating to both ordinary business matters and significant policy issues may be excluded in their entirety" is misleading because it ignores a critical part of the analysis: specifically, the Commission will reach this conclusion only where it determines that the proposal attempts to micro-manage or delve too deeply in ordinary business matters, which the Proposal does not do. Accordingly, the Funds' Proposal is distinguishable from the no-action cases cited by the Company because it (i) raises a significant social policy issue, and (ii) as discussed in more detail below, does not seek to micro-manage ordinary business matters and, therefore, any incidental impact on ordinary business (if any) is transcended by the significant policy concerns.

The cases cited by the Company to support its no-action request were decided on ordinary business concerns that do not apply here. For example, in *JPMorgan Chase & Co* (February 25, 2010), the Commission determined that the subject proposal was excludable because "the proposal relates to compensation that may be paid to employees generally" (versus compensation to senior management) coupled with concerns that the proposal did "not focus on the relationship

between the company's compensation practices and excessive risk taking." (See also, *Wal-Mart Stores, Inc.* (March 15, 1999), in which the Staff specifically raised ordinary business concerns based on a provision of the proposal that requested a report on "[p]olicies to implement wage adjustments to ensure adequate purchasing power and a sustainable living wage.") Here, the Proposal directly addresses the significant policy issue (the mortgage and foreclosure crisis) and does not micro-manage day-to-day business functions.

One needs to look no further than the Commission's well-considered line of predatory lending cases, where the Commission consistently denied no-action relief, for compelling precedent that the Proposal must be included in the Company's 2011 proxy materials, and that the Company's arguments for excluding the Proposal fall well-short of meeting the Company's burden of establishing excludability. See, e.g., *Conseco, Inc.* (April 5, 2001) (proposal calling for independent committee of outside directors to develop and enforce policies to ensure that Conseco does not engage in predatory lending). See also, *Associates First Capital Corporation* (March 13, 2000) (establishment of committee of outside directors to develop and enforce policies to ensure that risks of subprime lending are adequately reflected and that employees do not engage in predatory lending), *Cash America International, Inc.* (February 13, 2008) (establishment of independent committee of outside directors to oversee amendment of current policies and development of enforcement mechanisms to prevent employees from engaging in predatory lending); *Bank of America Corporation* (February 23, 2006) (development of higher standards to preclude securitization of loans involving predatory practices), *JP Morgan Chase & Co.* (March 2, 2009) (evaluating companies credit card marketing, lending and collections practices relative to practices commonly deemed to be predatory). The companies involved in these no-actions requests made the same arguments that the Company makes here. We urge the Staff to reach the same conclusion and similarly deny the Company's request for no-action relief.

B. The Proposal Does Not Micro-Manage Day-to-Day Business Operations And Instead Requests the Board's Audit Committee to Exercise Appropriate Oversight of the Company's Internal Controls and Risk Management Practices on a Matter that Raises a Significant Social Policy Issue.

The Proposal does not micro-manage decisions regarding the products and services offered by the Company The Company attempts to obfuscate the Proposal's focus on an undeniably significant policy issue by arguing that because the Proposal relates to an important business line, it is essentially de facto excludable on ordinary business grounds. The Company also attempts to mischaracterize the Proposal as an effort to inject shareholders into day-to-day business decisions, or to restrict products or services offered by the Company. None of these propositions is correct. The Proposal does not seek to dictate specific business practices or impose business decisions on the Company. Instead, the Proposal properly requests the Audit Committee to conduct an independent review on the adequacy of compliance controls – "[w]ith the Company's mortgage-related practices under intensive legal and regulatory scrutiny, we believe the Audit Committee should act proactively and independently reassure shareholders that the Company's compliance controls are robust." Regarding policies and procedures to address potential financial incentives to foreclose, the Proposal merely asks for an independent review to assess that those decisions are made in the best long-term interests of the Company.

Although the Company makes unsupported statements that the Proposal micro-manages decisions regarding the product and services it offers, the Company is unable to point to a specific provision of the Proposal that dictates a particular ordinary business decision or forces the Company to stop offering a product or service. The Companies recitation of statistics on the number of mortgages it services and the number of modifications it has offered to struggling homeowners, etc., are interesting but they are not particularly relevant to the issue at hand. Again, the Commission's predatory lending cases dispel any argument that the mere fact that a proposal relates to a company's business operations renders the proposal excludable. (*Conseco, Inc.* (April 5, 2001); *Associates First Capital Corporation* (March 13, 2000); *Cash America International, Inc.* (February 13, 2008); *Bank of America Corporation* (February 23, 2006); *JP Morgan Chase & Co.* (March 2, 2009).

The Proposal's request for an independent review of internal controls stands in stark contrast to the cases cited by the Company to support its no-action request. For example, in *H&R Block* (August 1, 2006), in which no-action relief was granted, the shareholder proposal requested the board of directors implement a policy mandating that H&R Block cease the issuance of high-interest refund anticipation loans. (Emphasis added.) In *Wells Fargo* (February 16, 2006), the proposal requested implementation of a policy mandating that Wells Fargo not provide credit or other services to lenders that are engaged in payday lending. (Emphasis added.) (See also, *JP Morgan Chase & Co* (March 16, 2010) (concurring in omission of a proposal requesting cessation of the issuance of refund anticipation loans). The Proposal is also easily distinguishable from *JP Morgan Chase & Co.* (February 26, 2007), *Bank of America Corp.* (February 21, 2007) and *Citigroup, Inc.* (February 21, 2007) (proposals to report on policies to prevent provision of services to corporations or individuals that would enable capital flight or tax avoidance, excludable on ordinary business grounds (i.e., sale of particular service)).

The Proposal does not micro-manage decisions regarding management of the workforce Although the Proposal requests that the independent review encompass training, which can sometimes implicate ordinary business concerns, the Proposal is distinguishable from the no-action letters cited in the Company's letter in light of the "robo-signing" scandal and substantial evidence that insufficient training is a significant factor in the foreclosure crisis, as well as widespread public acknowledgement of this factor.¹ For example:

At JPMorgan Chase & Company, they were derided as Burger King kids" -- walk-in hires who were so inexperienced they barely knew what a mortgagee was.

At Citigroup and GMAC, dotting the i's and crossing the t's on home foreclosures was outsourced to frazzled workers who sometimes tossed the paperwork into the garbage.

And at Litton Loan Servicing, an arm of Goldman Sachs, employees processed

¹ In another example, JPMC recently admitted that it had overcharged on more than 4,000 mortgages held by military personnel in active service, and improperly took the homes of 14. "I was left alone to deal with Chase and their problems ...", one of the victims of the overcharging testified before a Congressional panel. "This constant harassment and constant ignorance of SCRA [Servicemembers Civil Relief Act] benefits to servicemen is ridiculous." (Maya Jackson Randall, Dow Jones Newswires, February 9, 2011.)

foreclosure documents so quickly that they barely had time to see what they were signing.

New York Times (October 13, 2010).

Without a doubt, the request that training be reviewed clearly transcends "ordinary business." Moreover, a review of the no-action matters cited by the Company on page 6 of its letter reveals that they are inapposite, as they all relate to the termination, hiring or promotion of employees, and not to employee training.

Ongoing Litigation The existence of litigation relevant to the Proposal does not render the Proposal excludable as ordinary business. Numerous Staff rulings demonstrate that the mere existence of litigation relevant to a proposal does not render the proposal excludable under Rule 14a-8(i)(7). In *Cabot Oil & Gas Corporation* (January 28, 2010) ("*Cabot*"), the Staff denied no-action relief in a case presenting very similar issues to the Proposal. The *Cabot* proposal requested a report on the environmental impact of the company's fracturing operations, potential policies for reducing environmental damage from fracturing, and material risks to the company due to environmental concerns regarding fracturing. The proposal requested such a report in part because of government enforcement actions against the company regarding its fracturing operations. *Cabot Oil & Gas Corporation* ("CO&G") argued that it was currently a party to litigation relating to its activities in areas where fracturing had been used and that the report requested could "improperly interfere with the [c]ompany's legal strategy" and "be used against the company in pending litigation." The company also argued that while the information requested in the report might not necessarily reveal its litigation strategy, providing such information "sidesteps and interferes with the discovery process in such litigation." In support of the ongoing litigation argument, CO&G cited many of the very same rulings cited by the Company in the instant case. The proponent in *Cabot* distinguished the cited rulings and argued that the limitations on proprietary information, unreasonable expenses, and the fact that the report would not require discussion of the particular environmental impacts or risks associated with specific sites gave the company sufficient latitude to issue the requested report while maintaining an effective defense in litigation. The Staff did not allow CO&G to exclude the proposal under 14a-8(i)(7), finding that there was a substantial social policy issue involved, the proposal did not seek to micro-manage, and the company did not meet its burden of demonstrating that implementation of the proposal would affect the conduct of ongoing litigation. See, also *Chevron Corp.* (February 28, 2006); *The Dow Chemical Company* (February 11, 2004); *RJ Reynolds* (March 7, 2000); *Philip Morris* (Feb. 14, 2000); *General Electric* (Feb. 2, 2004); *Bristol-Meyers* (Feb. 21, 2000).

Similarly, the Proposal provides that the independent review and report omit proprietary information, be performed at reasonable expense, and does not require discussion of specific instances of improper mortgage or foreclosure actions. As such, the Proposal would not interfere with the discovery process or the Company's litigation strategy.

The cases cited by the Company in support of its litigation strategy argument are inapposite and can be distinguished. Unlike the Proposal, which is not attempting to directly drive the management of litigation, the proposals in *Merck & Co., Inc.* (February 3, 2009); *CMS Energy Corporation* (February 23, 2004); *NetCurrents, Inc.* (May 8, 2001) explicitly requested that specific actions be taken in an ongoing case or that certain legal action be initiated.

Legal Compliance The Company argues that the Proposal is excludable under Rule 14a-8(i)(7) because it relates to the ordinary business of the Company's legal compliance program. Where a shareholder proposal involves a significant social policy issue, the Staff has denied no-action relief even where legal compliance issues were implicated. In *Conseco, Inc.* (April 5, 2001), no-action relief was denied where the proposal on predatory lending practices related to the company's compliance with federal and state regulatory frameworks similar to the ones at issue in the instant case. *See also, Bank of America Corporation* (February, 29, 2008) (no-action relief denied where proposal calling for board committee to review company policies for human rights related to company's legal compliance with U.S. federal laws, and statutes of other nation states); *Chesapeake Energy Corporation* (April 13, 2010) (no-action relief denied where proposal requesting a report and policies on environmental impact of the company's fracturing operations related to company's legal compliance with federal, state and local environmental laws).

The cases cited by the Company in support of its legal compliance argument are inapposite and can be distinguished. While the proposal in *H.R. Block, Inc.* (June 26, 2006) ("H.R. Block") requested a comprehensive review of the company's sales practices, it also specified a review into the allegations of New York Attorney General Elliot Spitzer. The proposal also had no protections on confidentiality or proprietary information, simply requesting a "comprehensive, company-wide report." In contrast, the Proposal asks for an independent review and report on the Company's internal controls generally, and does not require that the Company investigate or discuss specific instances of illegal or improper conduct. The Proposal also requests that the report omit proprietary information, avoiding any attorney-client privilege issues. The Proposal is, therefore, analogous to the issues presented in *Cabot Oil & Gas Corporation* (January 28, 2010), discussed above, where the Staff found no interference with the Company's ability to respond to litigation related to the subject matter of the proposal. Unlike the Proposal, the cases cited by the Company either did not involve significant social policy issues at all or the Staff apparently found that the proposals did not focus on sufficiently significant social policy issues that might otherwise have caused the proposals to transcend ordinary business. (*See, e.g., Yum! Brands* (March 5, 2010) (verification of employment legitimacy); *Fedex Corporation* (July 14, 2009) (proper classification of employees and independent contractors); *The AES Corporation* (March 13, 2008) (investigation of specific instances of falsification of environment reports); *The AES Corporation* (January 9, 2007) (creation of ethics oversight committee); and *ConocoPhillips* (February 23, 2006) (report on information omitted from merger prospectus)

III. THE COMPANY HAS NOT DEMONSTRATED THAT IT MAY OMIT THE PROPOSAL UNDER RULE 14a-8(i)(11) AS SUBSTANTIALLY DUPLICATIVE OF ANOTHER PROPOSAL

The Company claims, erroneously, that the Proposal may be excluded from its 2011 proxy materials as substantially duplicative of the proposal from the Board of Pensions of the Presbyterian Church (USA) ("PCUSA Proposal"). In doing so, the Company mischaracterizes the principal focus of the Proposal as an effort to increase disclosure of the Company's loan modification policies, which in the Company's view would render it substantially duplicative of the PCUSA Proposal. Though the Proposal and the PCUSA Proposal both refer to loan modification policies, they call for fundamentally different action on the part of the Company

and therefore are not substantially duplicative.

A simple reading of each proposal reveals that they differ fundamentally. The PCUSA Proposal seeks the development of and a report on uniform application of loan modification policies. The PCUSA Proposal's "Whereas clauses" emphasize the outside impact of the economic downturn on low income and minority borrowers, concerns regarding modifications of subprime loans made to low income and minority borrowers, and the large amount of delinquencies facing low income and minority borrowers. It is clear that the principal thrust and focus of the PCUSA Proposal is the equal treatment of low income and minority borrowers in loan modifications. In marked contrast, the Proposal seeks an independent review and report on the Company's internal controls related to loan modifications as well as foreclosures and securitizations. The Proposal stresses the inadequacies of current controls, citing faulty documentation, outdated computer systems, lack of training, possible fraud and irregularities in all aspects of mortgage lending and requests an independent review to ensure the Company's compliance controls are robust. Clearly, the Proposal's principal thrust and focus is ensuring the adequacy of the Company's internal controls through an independent review of the Company.

The Staff has denied no-action relief under Rule 14a-8(i)(11) where proposals concern the same broad subject matter but request different action, as such proposals do not have the same principal thrust and focus. In *Pulte Homes, Inc.* (February 27, 2008) ("*Pulte*"), the Staff was unable to concur that a subsequent proposal could be excluded under Rule 14a-8(i)(11) in a case presenting very similar issues. The two proposals at issue in *Pulte* both sought the formation of a committee of independent directors and a report to shareholders relating to evaluation and mitigation of risks associated with the company's mortgage lending operations. While the proposal that was filed first focused on a "thorough review of the [c]ompany's regulatory, litigation and compliance risks with respect to its mortgage lending operations," the subsequent proposal focused on development and enforcement of policies and procedures to ensure loan terms and underwritings standards of nontraditional mortgages were consistent with prudent lending practices. *See also, OGE Energy Corp.* (February 27, 2008) (proposal not duplicative where two proposals concerned greenhouse gases and climate change but proposal requested a report on adopting quantitative goals for reducing greenhouse gases while prior proposal requested a report on how the company was assessing the impact of climate change); *Chevron Corporation* (March 24, 2009) (proposal requesting a report on Chevron's assessment of host country laws and regulations with respect to their adequacy to protect human health, the environment and the company's reputation was not duplicative of a prior proposal that requested a report on the criteria for investment in, continued operations in and withdrawal from specific countries, where the principal focus of the prior proposal was on human rights); *Exxon Mobil Corporation* (March 23, 2009) (proposal not duplicative where both proposals concerned renewable or sustainable energy technologies but second proposal requested a report on impact of climate change and sustainable energy technologies on the poor while first proposal requested a policy for renewable energy research, development and sourcing).

The Company cites several cases addressing proposals that were excluded as substantially duplicative even where such proposals differed as to terms and scope. Those cases, *Lehman Brothers Holdings Inc.* (January 12, 2007); *Bank of America* (February 14, 2006); *American Power Conversion Corporation* (March 29, 2002), all involved proposals with the same principle thrust and focus. As the Proposal and the PCUSA Proposal do not have the same principal thrust

February 11, 2011

Page 9

and focus, those cases are inapposite.

Finally the Company argues that the Proposal should be excluded since the actions required by the Proposal would be subsumed by the actions required by the PCUSA Proposal. A report on loan modifications under the PCUSA Proposal would not be the product of an independent review, the principal focus of the Proposal, and such report would have little value given the Proposal's concerns about the adequacy and robustness of the Company's internal review process. Nor would such a report mention the adequacy of the Company's internal controls, compliance with laws, policies and procedures, or sufficiency of trained staff related to securitization or foreclosures. That the comprehensive, independent review of the Company's mortgage-related practices required by the Proposal would in no way be subsumed by the actions required under the PCUSA Proposal further indicates the fundamental differences in the principal thrust and focus of the two proposals.

For the foregoing reasons, the Company has failed to carry its burden under Rule 14a-8(i)(11) of showing that the Proposal is substantially duplicative of the PCUSA Proposal.

IV. CONCLUSION

For the reasons set forth above, the Funds respectfully request that the Company's request for no-action relief be denied.

Sincerely,



Valerie Budzik
1st Deputy General Counsel

c: Martin P. Dunn, Esq.
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001

Attachment A
Foreclosure and Mortgage Crisis as Significant Social Policy
Key Facts

I. State and Federal Investigations and Reviews

Virtually every state and federal agency with jurisdiction over banks or mortgages launched inquiries into mortgage and foreclosure documentation problems in 2010.

- The **Mortgage Foreclosure Multistate Group**, comprised of state attorneys general in all 50 states and state banking and mortgage regulators in 30 states, is investigating whether individual mortgage servicers have improperly submitted documents in support of foreclosures.
- **DOJ, HUD & Treasury** have launched a comprehensive review of bank foreclosure practices.
- The **Federal Reserve & OCC** are examining largest banks' policies, procedures, and internal controls related to modifications, foreclosures and securitizations to determine whether systematic weaknesses led to improper foreclosures.
- The **FBI** is reportedly in initial stages of a criminal investigation into whether banks misled federal housing and whether banks committed fraud in filing false paperwork.
- The **SEC** sent letters reminding companies of their "disclosure obligations" with respect to "potential risks and costs associated with mortgage and foreclosure-related activities or exposures."

II. Congressional Hearings and Reports

There have been 26 Congressional hearings relating to mortgage modifications and foreclosures over the past two years, including 11 in 2010. In addition the Congressional Oversight Panel dedicated three of its 12 monthly reports in 2010, including for both November and December, to mortgage irregularities and foreclosure prevention and mitigation; it also dedicated two of its 12 reports in 2009 to foreclosures.

- The **Senate Banking Committee** held two hearings on mortgage modifications and foreclosures in November and December 2010, and three hearings in 2009 on the mortgages, foreclosures and the housing market.
- The **Senate Judiciary Committee** held one hearing in 2009 on mortgage fraud and its Subcommittee on Administrative Oversight and the Courts held two additional hearings in 2009 on mortgage modifications and the foreclosure crisis.

- The **House Financial Services Committee** held three hearings in 2010, including a November hearing on robo-signing and other mortgage servicing issues, and two hearings in 2009 on mortgage modifications and foreclosures.
- The **House Judiciary Committee** held two hearings on the foreclosure crisis in December 2010, and its Commercial and Administrative Law Subcommittee held a third hearing on foreclosures in July 2010. The same Subcommittee also held three foreclosure hearings in 2009.
- The **House Oversight and Government Reform Committee** held two hearings on foreclosure prevention in March and June 2010, and its Domestic Policy Subcommittee held three hearings on foreclosures in 2009.
- The **Congressional Oversight Panel (COP)** held a hearing on TARP Foreclosure Mitigation Programs in October 2010.
- The **U.S. Congress Joint Economic Committee** held a hearing in July 2009 on foreclosures and foreclosure prevention.
- In addition to above hearings, the **COP** dedicated three of its 12 monthly reports in 2010, including for both November and December, to mortgage irregularities and foreclosure prevention and mitigation. It also dedicated two of its 12 reports in 2009 to foreclosures.
- In its November 2010 report, the **COP** said "Allegations of "robo-signing" are deeply disturbing and have given rise to ongoing federal and state investigations. At this point the ultimate implications remain unclear. It is possible, however, that "robo-signing" may have concealed much deeper problems in the mortgage market that could potentially threaten financial stability and undermine the government's efforts to mitigate the foreclosure crisis."

III. President Obama's Recent Remarks on the Foreclosure Documentation Crisis

"We're also seeing the reverberations of this [financial] crisis with the rise in foreclosures. And recently, we've seen problems in foreclosure proceedings – mistakes that have led to disruptions in the housing markets. This is only one more piece of evidence as to why Wall Street Reform is so necessary. In fact, as part of reform, a new consumer watchdog is now standing up. It will have just one job: looking out for ordinary consumers in the financial system. And this watchdog will have the authority to guard against unfair practices in mortgage transactions and foreclosures." (Remarks of President Barack Obama, Saturday, October 23, 2010, Weekly Address)

IV. Web And News "Keyword" Searches on "Foreclosure Crisis" and Related

There has been extensive web and news coverage of the foreclosure crisis, as evidenced by the extraordinary number of "hits" for key words on google web and nexis news.

Keyterm Search Results: Web and News Hits

	Google Web	*Nexis News (past year)
"Mortgage Crisis"	826,000	>3000
"Foreclosure Crisis"	3,200,000	>3000
"Robo-signing" or "Robo-Sign" (since 6/2010)	600,000	2833
"Loan modification" or Mortgage modification"	1,740,000	>3000

*3000 is Nexis maximum.

In a related indication of the social significance of the foreclosure crisis, it has been the subject of editorial in numerous major and smaller newspapers. The *New York Times* editorial board, for example, published nine editorials in which "mortgage" or "foreclosure" appeared in the title during 2010, including six in October and November alone. Additional NYT editorials touched on these issues.

V. Data Point to Record Foreclosures and National Crisis

U.S. homeowners and their communities suffered record foreclosures in 2010. Data on home foreclosure trends underscore the fact that the U.S. faces a "foreclosure crisis."

- According to RealtyTrac, 2.23% of all U.S. housing units received at least one foreclosure filing during the year, up from 0.58% in 2006. The rate has increased each from 2006 to 2010.
- According to RealtyTrac 1/13/2011 press release: "Total properties receiving foreclosure filings would have easily exceeded 3 million in 2010 had it not been for the fourth quarter drop in foreclosure activity — triggered primarily by the continuing controversy surrounding foreclosure documentation and procedures that prompted many major lenders to temporarily halt some foreclosure proceedings," said James J. Saccacio, chief executive officer of RealtyTrac. **"Even so, 2010 foreclosure activity still hit a record high for our report, and many of the foreclosure proceedings that were stopped in late 2010 — which we estimate may be as high as a quarter million — will likely be re-started and add to the numbers in early 2011."**
- According to the U.S. Census Bureau, based on data from the Mortgage Bankers' Association, 4.6% of mortgage loans were in foreclosure in 2009 (most recent data available), more than four times the 1.0% of homes in foreclosure in 2005. The data suggest that between 1980 and 2006 inclusive, this rate never exceeded 1.3% of mortgage loans (the data set does not list all intervening years).

VI. Foreclosure Crisis – Impact on Communities

The economic and social impacts of the foreclosure crisis are far reaching. Families are forced to leave homes, communities and schools. Children and family experience increased stress. Neighborhoods are also faced with deterioration, boarded up homes and theft. Here are some recent findings on the impacts.

1) According to the Urban Institute Washington DC Report on “The Impacts of Foreclosures on families and Communities” (May 2009):

- Families are facing displacement and housing instability, financial insecurity and economic hardship, personal and family stress, disrupted relationships, and stress.
- Communities are dealing with declining property values and physical deterioration, crime, social disorder and population turnover, local government fiscal stress and deterioration.

2) Center for Responsible Lending research on the impacts and characteristics of the California Foreclosure crisis found that minorities are hit harder by foreclosure. Latino and African – American homeowners in California have experienced foreclosure rates 2.3 and 1.9 times that of non-Hispanic white borrowers. Latino borrowers alone make up 48 percent of all foreclosures.

3) A study by National Council of La Raza estimated that 1.3 million Latino families will lose their homes to foreclosure between 2009 and 2012. The findings on the impact of home foreclosure on families are disturbing. Children in particular experience problems in school and are deeply affected by instability in the home.

4) According to the US conference of Mayors website, www.usmayors.org

The most recent survey of mayors was conducted by The U.S. Conference of Mayors on “Impact of the Mortgage Foreclosure Crisis on Vacant and Abandoned Properties in Cities” (June 2010). The survey found that this year, more than three in four of the survey cities have seen an increase in the number of vacant and abandoned residential properties as a result of mortgage foreclosure crisis. Across these cities, the increase averaged 33 percent, with two of the cities reporting 200 percent increases and two other reporting increases over 100 percent.

5) In response to the devastating social consequences of the foreclosure crisis, the Federal Reserve System has initiated a wide range of program responses as part of its Mortgage Outreach and Research Efforts (MORE). These include sponsoring projects designed to communicate best practices and information about programs to improve conditions in neighborhoods affected by foreclosure. It also reviews initiatives under taken by the various Reserve Banks and the Board of Governors to respond to the foreclosure crisis. They are as follows

- Working with federal agencies to assist unemployed homeowners
- Partnering with NeighborWorks to support neighborhood stabilization

- Issuing bank examiner procedures for tenant protection
- Updating the foreclosure resource Centers and revising the Foreclosure Mitigation Toolkit
- Training attorneys in the foreclosure Prevention and mitigation

In addition, they also host community events. Community Affairs departments at each of the Federal Reserve Banks help local communities in their efforts to prevent foreclosures. Community Affairs sponsored or co-sponsored 287 separate foreclosure related events in 111 cities across the country.

CONNECTICUT RETIREMENT PLANS AND TRUST FUNDS • ILLINOIS STATE BOARD OF INVESTMENT •
ILLINOIS STATE UNIVERSITIES RETIREMENT SYSTEMS • NEW YORK CITY BOARD OF EDUCATION
RETIREMENTS SYSTEM • NEW YORK CITY EMPLOYEES RETIREMENT SYSTEM • NEW YORK CITY FIRE
DEPARTMENT PENSION FUND • NEW YORK CITY POLICE PENSION FUND • NEW YORK CITY
TEACHERS' RETIREMENT SYSTEM • NEW YORK STATE COMMON RETIREMENT FUND • NORTH
CAROLINA RETIREMENT SYSTEMS • OREGON STATE TREASURY

January 6, 2011

Laban P. Jackson, Jr.
Chair, Audit Committee of the Board of Directors
c/o Anthony J. Horan, Secretary
JP Morgan Chase & Co.
270 Park Avenue
New York, NY 10017

Dear Mr. Jackson:

Reports in fall 2010 of widespread irregularities in the mortgage and foreclosure processes at the nation's largest banks have exposed JP Morgan Chase & Company ("the Company") to intensive legal and regulatory scrutiny. Despite management's assurance that the concerns are overblown and will be resolved quickly, preliminary findings by top federal regulators suggest that internal control failures at the banks are in fact widespread. Moreover, according to the November report of the Congressional Oversight Panel (COP), exposed banks could suffer severe capital losses.

As major institutional investors collectively holding 40.7 million JP Morgan Chase shares, with a December 31 market value of \$1.7 billion, we believe it is incumbent upon the Board of Directors to take immediate, independent action to restore confidence in the Company's internal controls and compliance. Specifically, we call on the Audit Committee you chair to conduct an independent review of Company's internal controls related to loan modifications, foreclosures and securitizations and to include a report to shareholders with findings and recommendations in the Company's 2011 proxy statement.

The requested review, the scope of which we further detail below, is already the subject of a shareholder resolution submitted by New York City Pension Funds for the Company's spring 2011 annual meeting. However, we believe the urgency and seriousness of our concerns require more immediate Board action.

The Congressional Oversight Panel's November 2010 Report

In its November 2010 oversight report, the COP characterized the view expressed by management at the large banks that "current concerns over foreclosure irregularities are overblown, reflecting mere clerical errors that can and will be resolved quickly" as the best case scenario. In its worst case scenario, the COP said severe capital losses could destabilize exposed banks and potentially threaten overall financial stability.

The largest source of potential instability is the risk of widespread mortgage put-backs due to breaches of representations and warranties to mortgage investors, as well as concerns regarding the proper legal documentation for securitized loans. Using current estimates from investment analysts, the COP calculates industry exposure from mortgage put-backs at \$52 billion, which it said would be borne predominantly by Bank of America, JPMorgan Chase, Wells Fargo, and Citigroup.

In addition, banks could be vulnerable to litigation from homeowners who claim to have suffered improper foreclosures. "Even the prospect of such losses," states the COP report, "could damage a bank's stock price or its ability to raise capital." The report also states that, as a result of flawed documentation, borrowers may have been denied modifications.

The Federal Foreclosure Task Force's Preliminary Findings

On November 23rd, a week after the COP released its report, Assistant Treasury Secretary Michael Barr informed members of the Financial Stability Oversight Council that a federal foreclosure task force investigating some of the nation's largest mortgage servicers had found "widespread" and "inexcusable breakdowns in basic controls in the foreclosure process." The task force, which is composed of 11 federal agencies, is expected to report its findings in January to the Council, which will then determine what regulatory actions would rectify the problems.

Federal Reserve Governor Daniel K. Tarullo's December 1st Congressional Testimony

Most recently, Federal Reserve Governor Daniel K. Tarullo updated the Senate Banking Committee on a related interagency examination by the four federal banking regulators. In his December 1st testimony, Mr. Tarullo said preliminary findings "suggest significant weaknesses in risk-management, quality control, audit, and compliance practices as underlying factors contributing to the problems associated with mortgage servicing and foreclosure documentation." The agencies have also found "shortcomings in staff training."

Mr. Tarullo testified that "foreclosures are costly to all parties," noting their harmful impacts on homeowners, lenders, mortgage investors and local governments, as well as the broader economy. "It just cannot be the case," he said, "that foreclosure is preferable to modification for a significant proportion of mortgages where the deadweight costs of foreclosure, including a distressed sale discount, are so high."

Among the possible explanations for the prominence of foreclosures, he cited "lack of servicer capacity to execute modifications, purported financial incentives for servicers to foreclose rather than modify; ...and conflicts between primary and secondary lien holders." Although servicers are required to act in the best interests of the investors who own the mortgages, an October 2010 study provides compelling empirical support for the view that perverse incentives and conflicts of interest lead banks to foreclose upon or deny loan modifications to homeowners improperly.¹

¹ Agarwal, Sumit et al, "Market-Based Loss Mitigation Practices for Troubled Mortgages Following the Financial Crisis," Fisher College of Business, Ohio State University, October 2010. According to the study by researchers from the

Federal Regulators and Congress May Impose Structural Reforms

Given the range of problems associated with mortgage servicing, including the degree to which foreclosure has been preferred to mortgage modification, Mr. Tarullo testified that "structural solutions may be needed." In addition to possible regulatory actions, recent House and Senate Hearings on the foreclosure crisis raise the prospect of additional legislative remedies.

For example, a bill introduced by Reps. Brad Miller (D-NC) and Keith Ellison (D-MN) in April 2010, before the recent round of hearings, would address one of the conflicts cited by Mr. Tarullo. The Mortgage Servicing Conflict of Interest Elimination Act would bar servicers of first loans they do not own from holding any other mortgages on the same property. Enactment of the legislation would presumably force the Company, which is one of four banks that control more than half the mortgage servicing market and more than half the home equity loan market, to divest its servicing businesses or its interests in home mortgages.

Scope and Timeline for Independent Review

In light of the above, we urge the Audit Committee to immediately retain independent advisors to review the Company's internal controls related to loan modifications, foreclosures and securitizations. The review should evaluate (a) the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests. For the purposes of this review, we do not consider your existing audit firm to be independent since the firm previously signed off on the Company's internal controls.

The Audit Committee should disclose its findings and recommendations in the Company's 2011 proxy statement. In the event that the Committee is unable to complete its review prior to the filing of the Company's 2011 proxy statement, we request that the Committee provide a preliminary report in the proxy statement detailing the scope of the review, the firm(s) retained to perform it, any preliminary findings and remedial steps taken to date, and the expected completion date.

Conclusion

As you know, the Audit Committee is ultimately responsible for the Company's compliance with legal and regulatory requirements as well as its internal controls over financial reporting. The Committee, however, appears to be relying on management's internal review and assurance that any foreclosure irregularities are mere clerical errors that will be resolved quickly, while awaiting the outcome of various investigations by federal and state authorities.

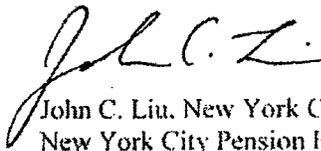
Federal Reserve Bank of Chicago, Office of the Comptroller of the Currency and Ohio State University, "loans owned by private investors are indeed less likely to become modified than portfolio loans with identical characteristics. ...In a similar flavor to this result, we find that loans which are second lien (piggybacks) are less likely to become modified. ...We attribute this result to the conflict of interest between lenders."

Laban P. Jackson, Jr
January 6, 2011
Page 4

It may be too late to protect the Company from the worst consequences of any past compliance failures. It is nonetheless critical that the Audit Committee take immediate, independent action to assess the Company's mortgage-related internal controls and address any underlying weaknesses. This will help to prevent future compliance failures and restore the confidence of shareholders, regulators, legislators and mortgage market participants.

Thank you for your prompt consideration. We look forward to your response by January 21, 2011 which you should address to New York City Comptroller John Liu at 1 Centre Street, New York, NY 10007.

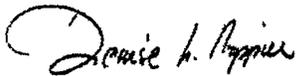
Sincerely,



John C. Liu, New York City Comptroller
New York City Pension Funds



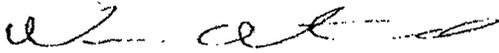
Thomas D. DiNapoli, New York State Comptroller
New York State Common Retirement Fund



Denise Nappier, Connecticut State Treasurer
Connecticut Retirement Plans and Trust Funds



Janet Cowell, North Carolina State Treasurer
North Carolina Retirement Systems



William R. Atwood, Executive Director
Illinois State Board of Investment

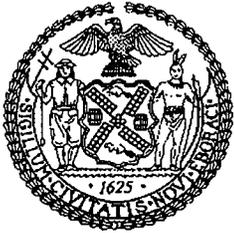


Ted Wheeler, Oregon State Treasurer
Oregon State Treasury



William E. Mabe, Executive Director
Illinois State Universities Retirement System

cc: Board of Directors



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February 11, 2011

BY EMAIL AND EXPRESS MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *JPMorgan Chase & Co. – Shareholder Proposal Submitted by the Comptroller of the City of New York on Behalf of the New York City Pension Funds*

To Whom It May Concern:

I write on behalf of the New York City Pension Funds (the “Funds”) in response to the January 11, 2011 letter submitted to the Securities and Exchange Commission (the “Commission”) by Martin Dunn of O’Melveny & Meyers LLP, on behalf of JPMorgan Chase & Co. (“JPMC” or the “Company”), seeking assurance that the Staff of the Commission’s Division of Corporation Finance (the “Staff”) will not recommend enforcement action if the Company omits from its 2011 proxy statement the Funds’ shareholder proposal (the “Proposal”).

I have reviewed the Proposal as well as the Company’s January 11, 2010 letter and Rule14a-8. Based upon that review, it is my opinion that the Proposal must be included in the Company’s 2011 proxy materials. The Company has the burden of establishing that the Proposal may be excluded from its 2011 proxy materials and the Company has not met that burden. Accordingly, the Funds respectfully request that the Staff deny the relief that the Company requests.

I. BACKGROUND

The genesis of the Funds’ Proposal is painfully obvious: widespread and repeated instances of significant failures by banks in their handling of mortgages and foreclosures. Documented abuses and mistakes run the gamut -- from loan origination to servicing and securitization -- and include allegations of loan origination and underwriting fraud, shoddy servicing that has resulted in improper fees and misapplied payments, ignoring requirements to evaluate homeowners for non-foreclosure options, lost and forged documents, “robo-signing” of foreclosure affidavits, and foreclosing without the right to do so. The mortgage and foreclosure

crisis has appropriately garnered the attention of federal and state regulators and oversight bodies. Virtually every agency with jurisdiction over banks or mortgages has launched inquiries into mortgage and foreclosure documentation problems and there have been numerous Congressional hearings and reports on the subject, and there are more to come. The mortgage and foreclosure crisis has garnered significant media attention, including numerous editorials in major newspapers. Finally, the human and economic toll of the foreclosure crisis on our communities is unmistakable and, unfortunately, likely to grow. Attachment A to this letter provides additional information and statistics in all of these areas.

The mortgage and foreclosure crisis also pose significant risk to our banking system and overall economy. Homeowner and mortgage bond investor litigation has exposed banks to staggering potential liabilities, with estimates ranging from \$26 billion to a worst-case estimate of \$179 billion if banks are forced to re-purchase loans. In its November 2010 Oversight Report, the Congressional Oversight Panel ("COP") determined "Banks could, in the worst case scenario, suffer severe direct capital losses due to put-backs....If documented irregularities prove to be pervasive and, more importantly, throw into question ownership of not only foreclosed properties but also pooled mortgages, the result could be significant harm to financial stability." (Congressional Oversight Panel, *November Oversight Report*, November 16, 2010, p. 83, p7). The COP Report continues that "[e]ven the prospect of such losses could damage a bank's stock price or its ability to raise capital. *Id.* at 83.

Against this distressing backdrop, it is not surprising that shareholders are requesting that the boards of directors at the largest banks proactively and independently review their mortgage and foreclosure practices. In fact, a coalition of public pension funds representing \$432 billion in assets sent a letter to the four largest banks demanding that bank directors immediately commence this review. A copy of the letter to JPMorgan Chase & Co. is attached.

The Proposal

The Funds' Proposal recites the issues and concerns noted above, and concludes with the following whereas clause: "The Audit Committee of the Board of Directors is responsible for ensuring the Company has adequate internal controls governing legal and regulatory compliance. With the Company's mortgage-related practices under intensive legal and regulatory scrutiny, we believe the Audit Committee should act proactively and independently to reassure shareholders that the Company's compliance controls are robust."

The Proposal then requests that the Audit Committee of the Company's Board of Directors conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and securitizations, and then report to shareholders on the findings of the independent review, which review should include "(a) the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests."

II. THE COMPANY HAS NOT DEMONSTRATED THAT IT MAY OMIT THE PROPOSAL UNDER RULE 14a-8(i)(7)

As Staff is well aware, in order for a shareholder proposal to be omitted under Rule 14a-8(i)(7), the proposal must not only impact a matter of ordinary business (which this Proposal does not) but must also fail to raise a significant social policy issue. (Exchange Act Release No. 34-40018, May 21, 1998 (the “1998 Release”). The 1998 Release summarized the two principal considerations that the Commission will apply when determining whether a proposal falls within the “ordinary business” exclusion:

“The first relates to the subject matter of the proposal. Certain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight However proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.... The second consideration relates to the degree to which the proposal seeks to “micro-manage” the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.”

The Company’s arguments to exclude the Proposal fail on both of these points.

A. The Proposal Raises a Significant Social Policy Issue That Clearly Transcends Ordinary Business.

For the reasons discussed above and highlighted in Attachment A, the fact that the Proposal addresses a significant policy issue is simply unassailable. The Company’s statement that “the Staff has expressed the view that proposals relating to both ordinary business matters and significant policy issues may be excluded in their entirety” is misleading because it ignores a critical part of the analysis: specifically, the Commission will reach this conclusion only where it determines that the proposal attempts to micro-manage or delve too deeply in ordinary business matters, which the Proposal does not do. Accordingly, the Funds’ Proposal is distinguishable from the no-action cases cited by the Company because it (i) raises a significant social policy issue, and (ii) as discussed in more detail below, does not seek to micro-manage ordinary business matters and, therefore, any incidental impact on ordinary business (if any) is transcended by the significant policy concerns.

The cases cited by the Company to support its no-action request were decided on ordinary business concerns that do not apply here. For example, in *JPMorgan Chase & Co* (February 25, 2010), the Commission determined that the subject proposal was excludable because “the proposal relates to compensation that may be paid to employees generally” (versus compensation to senior management) coupled with concerns that the proposal did “not focus on the relationship

between the company's compensation practices and excessive risk taking." (See also, *Wal-Mart Stores, Inc.* (March 15, 1999), in which the Staff specifically raised ordinary business concerns based on a provision of the proposal that requested a report on "[p]olicies to implement wage adjustments to ensure adequate purchasing power and a sustainable living wage.") Here, the Proposal directly addresses the significant policy issue (the mortgage and foreclosure crisis) and does not micro-manage day-to-day business functions.

One needs to look no further than the Commission's well-considered line of predatory lending cases, where the Commission consistently denied no-action relief, for compelling precedent that the Proposal must be included in the Company's 2011 proxy materials, and that the Company's arguments for excluding the Proposal fall well-short of meeting the Company's burden of establishing excludability. See, e.g., *Conseco, Inc.* (April 5, 2001) (proposal calling for independent committee of outside directors to develop and enforce policies to ensure that Conseco does not engage in predatory lending). See also, *Associates First Capital Corporation* (March 13, 2000) (establishment of committee of outside directors to develop and enforce policies to ensure that risks of subprime lending are adequately reflected and that employees do not engage in predatory lending), *Cash America International, Inc.* (February 13, 2008) (establishment of independent committee of outside directors to oversee amendment of current policies and development of enforcement mechanisms to prevent employees from engaging in predatory lending); *Bank of America Corporation* (February 23, 2006) (development of higher standards to preclude securitization of loans involving predatory practices), *JP Morgan Chase & Co.* (March 2, 2009) (evaluating companies credit card marketing, lending and collections practices relative to practices commonly deemed to be predatory). The companies involved in these no-actions requests made the same arguments that the Company makes here. We urge the Staff to reach the same conclusion and similarly deny the Company's request for no-action relief.

B. The Proposal Does Not Micro-Manage Day-to-Day Business Operations And Instead Requests the Board's Audit Committee to Exercise Appropriate Oversight of the Company's Internal Controls and Risk Management Practices on a Matter that Raises a Significant Social Policy Issue.

The Proposal does not micro-manage decisions regarding the products and services offered by the Company The Company attempts to obfuscate the Proposal's focus on an undeniably significant policy issue by arguing that because the Proposal relates to an important business line, it is essentially de facto excludable on ordinary business grounds. The Company also attempts to mischaracterize the Proposal as an effort to inject shareholders into day-to-day business decisions, or to restrict products or services offered by the Company. None of these propositions is correct. The Proposal does not seek to dictate specific business practices or impose business decisions on the Company. Instead, the Proposal properly requests the Audit Committee to conduct an independent review on the adequacy of compliance controls – "[w]ith the Company's mortgage-related practices under intensive legal and regulatory scrutiny, we believe the Audit Committee should act proactively and independently reassure shareholders that the Company's compliance controls are robust." Regarding policies and procedures to address potential financial incentives to foreclose, the Proposal merely asks for an independent review to assess that those decisions are made in the best long-term interests of the Company.

Although the Company makes unsupported statements that the Proposal micro-manages decisions regarding the product and services it offers, the Company is unable to point to a specific provision of the Proposal that dictates a particular ordinary business decision or forces the Company to stop offering a product or service. The Companies recitation of statistics on the number of mortgages it services and the number of modifications it has offered to struggling homeowners, etc., are interesting but they are not particularly relevant to the issue at hand. Again, the Commission's predatory lending cases dispel any argument that the mere fact that a proposal relates to a company's business operations renders the proposal excludable. (*Conseco, Inc.* (April 5, 2001); *Associates First Capital Corporation* (March 13, 2000); *Cash America International, Inc.* (February 13, 2008); *Bank of America Corporation* (February 23, 2006); *JP Morgan Chase & Co.* (March 2, 2009).

The Proposal's request for an independent review of internal controls stands in stark contrast to the cases cited by the Company to support its no-action request. For example, in *H&R Block* (August 1, 2006), in which no-action relief was granted, the shareholder proposal requested the board of directors implement a policy mandating that H&R Block cease the issuance of high-interest refund anticipation loans. (Emphasis added.) In *Wells Fargo* (February 16, 2006), the proposal requested implementation of a policy mandating that Wells Fargo not provide credit or other services to lenders that are engaged in payday lending. (Emphasis added.) (See also, *JP Morgan Chase & Co* (March 16, 2010) (concurring in omission of a proposal requesting cessation of the issuance of refund anticipation loans). The Proposal is also easily distinguishable from *JP Morgan Chase & Co.* (February 26, 2007), *Bank of America Corp.* (February 21, 2007) and *Citigroup, Inc.* (February 21, 2007) (proposals to report on policies to prevent provision of services to corporations or individuals that would enable capital flight or tax avoidance, excludable on ordinary business grounds (i.e., sale of particular service)).

The Proposal does not micro-manage decisions regarding management of the workforce Although the Proposal requests that the independent review encompass training, which can sometimes implicate ordinary business concerns, the Proposal is distinguishable from the no-action letters cited in the Company's letter in light of the "robo-signing" scandal and substantial evidence that insufficient training is a significant factor in the foreclosure crisis, as well as widespread public acknowledgement of this factor.¹ For example:

At JPMorgan Chase & Company, they were derided as Burger King kids" -- walk-in hires who were so inexperienced they barely knew what a mortgagee was.

At Citigroup and GMAC, dotting the i's and crossing the t's on home foreclosures was outsourced to frazzled workers who sometimes tossed the paperwork into the garbage.

And at Litton Loan Servicing, an arm of Goldman Sachs, employees processed

¹ In another example, JPMC recently admitted that it had overcharged on more than 4,000 mortgages held by military personnel in active service, and improperly took the homes of 14. "I was left alone to deal with Chase and their problems ...", one of the victims of the overcharging testified before a Congressional panel. "This constant harassment and constant ignorance of SCRA [Servicemembers Civil Relief Act] benefits to servicemen is ridiculous." (Maya Jackson Randall, Dow Jones Newswires, February 9, 2011.)

foreclosure documents so quickly that they barely had time to see what they were signing.

New York Times (October 13, 2010).

Without a doubt, the request that training be reviewed clearly transcends “ordinary business.” Moreover, a review of the no-action matters cited by the Company on page 6 of its letter reveals that they are inapposite, as they all relate to the termination, hiring or promotion of employees, and not to employee training.

Ongoing Litigation The existence of litigation relevant to the Proposal does not render the Proposal excludable as ordinary business. Numerous Staff rulings demonstrate that the mere existence of litigation relevant to a proposal does not render the proposal excludable under Rule 14a-8(i)(7). In *Cabot Oil & Gas Corporation* (January 28, 2010) (“*Cabot*”), the Staff denied no-action relief in a case presenting very similar issues to the Proposal. The *Cabot* proposal requested a report on the environmental impact of the company’s fracturing operations, potential policies for reducing environmental damage from fracturing, and material risks to the company due to environmental concerns regarding fracturing. The proposal requested such a report in part because of government enforcement actions against the company regarding its fracturing operations. *Cabot Oil & Gas Corporation* (“CO&G”) argued that it was currently a party to litigation relating to its activities in areas where fracturing had been used and that the report requested could “improperly interfere with the [c]ompany’s legal strategy” and “be used against the company in pending litigation.” The company also argued that while the information requested in the report might not necessarily reveal its litigation strategy, providing such information “sidesteps and interferes with the discovery process in such litigation.” In support of the ongoing litigation argument, CO&G cited many of the very same rulings cited by the Company in the instant case. The proponent in *Cabot* distinguished the cited rulings and argued that the limitations on proprietary information, unreasonable expenses, and the fact that the report would not require discussion of the particular environmental impacts or risks associated with specific sites gave the company sufficient latitude to issue the requested report while maintaining an effective defense in litigation. The Staff did not allow CO&G to exclude the proposal under 14a-8(i)(7), finding that there was a substantial social policy issue involved, the proposal did not seek to micro-manage, and the company did not meet its burden of demonstrating that implementation of the proposal would affect the conduct of ongoing litigation. See, also *Chevron Corp.* (February 28, 2006); *The Dow Chemical Company* (February 11, 2004); *RJ Reynolds* (March 7, 2000); *Philip Morris* (Feb. 14, 2000); *General Electric* (Feb. 2, 2004); *Bristol-Meyers* (Feb. 21, 2000).

Similarly, the Proposal provides that the independent review and report omit proprietary information, be performed at reasonable expense, and does not require discussion of specific instances of improper mortgage or foreclosure actions. As such, the Proposal would not interfere with the discovery process or the Company’s litigation strategy.

The cases cited by the Company in support of its litigation strategy argument are inapposite and can be distinguished. Unlike the Proposal, which is not attempting to directly drive the management of litigation, the proposals in *Merck & Co., Inc.* (February 3, 2009); *CMS Energy Corporation* (February 23, 2004); *NetCurrents, Inc.* (May 8, 2001) explicitly requested that specific actions be taken in an ongoing case or that certain legal action be initiated.

Legal Compliance The Company argues that the Proposal is excludable under Rule 14a-8(i)(7) because it relates to the ordinary business of the Company's legal compliance program. Where a shareholder proposal involves a significant social policy issue, the Staff has denied no-action relief even where legal compliance issues were implicated. In *Conseco, Inc.* (April 5, 2001), no-action relief was denied where the proposal on predatory lending practices related to the company's compliance with federal and state regulatory frameworks similar to the ones at issue in the instant case. See also, *Bank of America Corporation* (February, 29, 2008) (no-action relief denied where proposal calling for board committee to review company policies for human rights related to company's legal compliance with U.S. federal laws, and statutes of other nation states); *Chesapeake Energy Corporation* (April 13, 2010) (no-action relief denied where proposal requesting a report and policies on environmental impact of the company's fracturing operations related to company's legal compliance with federal, state and local environmental laws).

The cases cited by the Company in support of its legal compliance argument are inapposite and can be distinguished. While the proposal in *H.R. Block, Inc.* (June 26, 2006) ("H.R. Block") requested a comprehensive review of the company's sales practices, it also specified a review into the allegations of New York Attorney General Elliot Spitzer. The proposal also had no protections on confidentiality or proprietary information, simply requesting a "comprehensive, company-wide report." In contrast, the Proposal asks for an independent review and report on the Company's internal controls generally, and does not require that the Company investigate or discuss specific instances of illegal or improper conduct. The Proposal also requests that the report omit proprietary information, avoiding any attorney-client privilege issues. The Proposal is, therefore, analogous to the issues presented in *Cabot Oil & Gas Corporation* (January 28, 2010), discussed above, where the Staff found no interference with the Company's ability to respond to litigation related to the subject matter of the proposal. Unlike the Proposal, the cases cited by the Company either did not involve significant social policy issues at all or the Staff apparently found that the proposals did not focus on sufficiently significant social policy issues that might otherwise have caused the proposals to transcend ordinary business. (See, e.g., *Yum! Brands* (March 5, 2010) (verification of employment legitimacy); *Fedex Corporation* (July 14, 2009) (proper classification of employees and independent contractors); *The AES Corporation* (March 13, 2008) (investigation of specific instances of falsification of environment reports); *The AES Corporation* (January 9, 2007) (creation of ethics oversight committee); and *ConocoPhillips* (February 23, 2006) (report on information omitted from merger prospectus)

III. THE COMPANY HAS NOT DEMONSTRATED THAT IT MAY OMIT THE PROPOSAL UNDER RULE 14a-8(i)(11) AS SUBSTANTIALLY DUPLICATIVE OF ANOTHER PROPOSAL

The Company claims, erroneously, that the Proposal may be excluded from its 2011 proxy materials as substantially duplicative of the proposal from the Board of Pensions of the Presbyterian Church (USA) ("PCUSA Proposal"). In doing so, the Company mischaracterizes the principal focus of the Proposal as an effort to increase disclosure of the Company's loan modification policies, which in the Company's view would render it substantially duplicative of the PCUSA Proposal. Though the Proposal and the PCUSA Proposal both refer to loan modification policies, they call for fundamentally different action on the part of the Company

and therefore are not substantially duplicative.

A simple reading of each proposal reveals that they differ fundamentally. The PCUSA Proposal seeks the development of and a report on uniform application of loan modification policies. The PCUSA Proposal's "Whereas clauses" emphasize the outsize impact of the economic downturn on low income and minority borrowers, concerns regarding modifications of subprime loans made to low income and minority borrowers, and the large amount of delinquencies facing low income and minority borrowers. It is clear that the principal thrust and focus of the PCUSA Proposal is the equal treatment of low income and minority borrowers in loan modifications. In marked contrast, the Proposal seeks an independent review and report on the Company's internal controls related to loan modifications as well as foreclosures and securitizations. The Proposal stresses the inadequacies of current controls, citing faulty documentation, outdated computer systems, lack of training, possible fraud and irregularities in all aspects of mortgage lending and requests an independent review to ensure the Company's compliance controls are robust. Clearly, the Proposal's principal thrust and focus is ensuring the adequacy of the Company's internal controls through an independent review of the Company.

The Staff has denied no-action relief under Rule 14a-8(i)(11) where proposals concern the same broad subject matter but request different action, as such proposals do not have the same principal thrust and focus. In *Pulte Homes, Inc.* (February 27, 2008) ("*Pulte*"), the Staff was unable to concur that a subsequent proposal could be excluded under Rule 14a-8(i)(11) in a case presenting very similar issues. The two proposals at issue in *Pulte* both sought the formation of a committee of independent directors and a report to shareholders relating to evaluation and mitigation of risks associated with the company's mortgage lending operations. While the proposal that was filed first focused on a "thorough review of the [c]ompany's regulatory, litigation and compliance risks with respect to its mortgage lending operations," the subsequent proposal focused on development and enforcement of policies and procedures to ensure loan terms and underwritings standards of nontraditional mortgages were consistent with prudent lending practices. See also, *OGE Energy Corp.* (February 27, 2008) (proposal not duplicative where two proposals concerned greenhouse gases and climate change but proposal requested a report on adopting quantitative goals for reducing greenhouse gases while prior proposal requested a report on how the company was assessing the impact of climate change); *Chevron Corporation* (March 24, 2009) (proposal requesting a report on Chevron's assessment of host country laws and regulations with respect to their adequacy to protect human health, the environment and the company's reputation was not duplicative of a prior proposal that requested a report on the criteria for investment in, continued operations in and withdrawal from specific countries, where the principal focus of the prior proposal was on human rights); *Exxon Mobil Corporation* (March 23, 2009) (proposal not duplicative where both proposals concerned renewable or sustainable energy technologies but second proposal requested a report on impact of climate change and sustainable energy technologies on the poor while first proposal requested a policy for renewable energy research, development and sourcing).

The Company cites several cases addressing proposals that were excluded as substantially duplicative even where such proposals differed as to terms and scope. Those cases, *Lehman Brothers Holdings Inc.* (January 12, 2007); *Bank of America* (February 14, 2006); *American Power Conversion Corporation* (March 29, 2002), all involved proposals with the same principle thrust and focus. As the Proposal and the PCUSA Proposal do not have the same principal thrust

and focus, those cases are inapposite.

Finally the Company argues that the Proposal should be excluded since the actions required by the Proposal would be subsumed by the actions required by the PCUSA Proposal. A report on loan modifications under the PCUSA Proposal would not be the product of an independent review, the principal focus of the Proposal, and such report would have little value given the Proposal's concerns about the adequacy and robustness of the Company's internal review process. Nor would such a report mention the adequacy of the Company's internal controls, compliance with laws, policies and procedures, or sufficiency of trained staff related to securitization or foreclosures. That the comprehensive, independent review of the Company's mortgage-related practices required by the Proposal would in no way be subsumed by the actions required under the PCUSA Proposal further indicates the fundamental differences in the principal thrust and focus of the two proposals.

For the foregoing reasons, the Company has failed to carry its burden under Rule 14a-8(i)(11) of showing that the Proposal is substantially duplicative of the PCUSA Proposal.

IV. CONCLUSION

For the reasons set forth above, the Funds respectfully request that the Company's request for no-action relief be denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Valerie Budzik', with a long, sweeping horizontal line extending to the right.

Valerie Budzik
1st Deputy General Counsel

c: Martin P. Dunn, Esq.
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, D.C. 20006-4001

Attachment A
Foreclosure and Mortgage Crisis as Significant Social Policy
Key Facts

I. State and Federal Investigations and Reviews

Virtually every state and federal agency with jurisdiction over banks or mortgages launched inquiries into mortgage and foreclosure documentation problems in 2010.

- The **Mortgage Foreclosure Multistate Group**, comprised of state attorneys general in all 50 states and state banking and mortgage regulators in 30 states, is investigating whether individual mortgage servicers have improperly submitted documents in support of foreclosures.
- **DOJ, HUD & Treasury** have launched a comprehensive review of bank foreclosure practices.
- The **Federal Reserve & OCC** are examining largest banks' policies, procedures, and internal controls related to modifications, foreclosures and securitizations to determine whether systematic weaknesses led to improper foreclosures.
- **The FBI** is reportedly in initial stages of a criminal investigation into whether banks misled federal housing and whether banks committed fraud in filing false paperwork.
- The **SEC** sent letters reminding companies of their "disclosure obligations" with respect to "potential risks and costs associated with mortgage and foreclosure-related activities or exposures."

II. Congressional Hearings and Reports

There have been 26 Congressional hearings relating to mortgage modifications and foreclosures over the past two years, including 11 in 2010. In addition the Congressional Oversight Panel dedicated three of its 12 monthly reports in 2010, including for both November and December, to mortgage irregularities and foreclosure prevention and mitigation; it also dedicated two of its 12 reports in 2009 to foreclosures.

- The **Senate Banking Committee** held two hearings on mortgage modifications and foreclosures in November and December 2010, and three hearings in 2009 on the mortgages, foreclosures and the housing market.
- The **Senate Judiciary Committee** held one hearing in 2009 on mortgage fraud and its Subcommittee on Administrative Oversight and the Courts held two additional hearings in 2009 on mortgage modifications and the foreclosure crisis.

- The **House Financial Services Committee** held three hearings in 2010, including a November hearing on robo-signing and other mortgage servicing issues, and two hearings in 2009 on mortgage modifications and foreclosures.
- The **House Judiciary Committee** held two hearings on the foreclosure crisis in December 2010, and its Commercial and Administrative Law Subcommittee held a third hearing on foreclosures in July 2010. The same Subcommittee also held three foreclosure hearings in 2009.
- The **House Oversight and Government Reform Committee** held two hearings on foreclosure prevention in March and June 2010, and its Domestic Policy Subcommittee held three hearings on foreclosures in 2009.
- The **Congressional Oversight Panel (COP)** held a hearing on TARP Foreclosure Mitigation Programs in October 2010.
- The **U.S. Congress Joint Economic Committee** held a hearing in July 2009 on foreclosures and foreclosure prevention.
- In addition to above hearings, the **COP** dedicated three of its 12 monthly reports in 2010, including for both November and December, to mortgage irregularities and foreclosure prevention and mitigation. It also dedicated two of its 12 reports in 2009 to foreclosures.
- In its November 2010 report, the **COP** said “Allegations of “robo-signing” are deeply disturbing and have given rise to ongoing federal and state investigations. At this point the ultimate implications remain unclear. It is possible, however, that “robo-signing” may have concealed much deeper problems in the mortgage market that could potentially threaten financial stability and undermine the government’s efforts to mitigate the foreclosure crisis.”

III. President Obama’s Recent Remarks on the Foreclosure Documentation Crisis

“We’re also seeing the reverberations of this [financial] crisis with the rise in foreclosures. And recently, we’ve seen problems in foreclosure proceedings – mistakes that have led to disruptions in the housing markets. This is only one more piece of evidence as to why Wall Street Reform is so necessary. In fact, as part of reform, a new consumer watchdog is now standing up. It will have just one job: looking out for ordinary consumers in the financial system. And this watchdog will have the authority to guard against unfair practices in mortgage transactions and foreclosures.” (Remarks of President Barack Obama, Saturday, October 23, 2010, Weekly Address)

IV. Web And News “Keyword” Searches on “Foreclosure Crisis” and Related

There has been extensive web and news coverage of the foreclosure crisis, as evidenced by the extraordinary number of “hits” for key words on google web and nexis news.

Keyword Search Results: Web and News Hits

	Google Web	*Nexis News (past year)
“Mortgage Crisis”	826,000	>3000
“Foreclosure Crisis”	3,200,000	>3000
“Robo-signing” or “Robo-Sign” (since 6/2010)	600,000	2833
“Loan modification” or Mortgage modification”	1,740,000	>3000

*3000 is Nexis maximum.

In a related indication of the social significance of the foreclosure crisis, it has been the subject of editorial in numerous major and smaller newspapers. The *New York Times* editorial board, for example, published nine editorials in which “mortgage” or “foreclosure” appeared in the title during 2010, including six in October and November alone. Additional NYT editorials touched on these issues.

V. Data Point to Record Foreclosures and National Crisis

U.S. homeowners and their communities suffered record foreclosures in 2010. Data on home foreclosure trends underscore the fact that the U.S. faces a “foreclosure crisis.”

- According to RealtyTrac, 2.23% of all U.S. housing units received at least one foreclosure filing during the year, up from 0.58% in 2006. The rate has increased each from 2006 to 2010.
- According to RealtyTrac 1/13/2011 press release: “Total properties receiving foreclosure filings would have easily exceeded 3 million in 2010 had it not been for the fourth quarter drop in foreclosure activity — triggered primarily by the continuing controversy surrounding foreclosure documentation and procedures that prompted many major lenders to temporarily halt some foreclosure proceedings,” said James J. Saccacio, chief executive officer of RealtyTrac. **“Even so, 2010 foreclosure activity still hit a record high for our report,** and many of the foreclosure proceedings that were stopped in late 2010 — which we estimate may be as high as a quarter million — will likely be re-started and add to the numbers in early 2011.”
- According to the U.S. Census Bureau, based on data from the Mortgage Bankers’ Association, 4.6% of mortgage loans were in foreclosure in 2009 (most recent data available), more than four times the 1.0% of homes in foreclosure in 2005. The data suggest that between 1980 and 2006 inclusive, this rate never exceeded 1.3% of mortgage loans (the data set does not list all intervening years).

VI. Foreclosure Crisis – Impact on Communities

The economic and social impacts of the foreclosure crisis are far reaching. Families are forced to leave homes, communities and schools. Children and family experience increased stress. Neighborhoods are also faced with deterioration, boarded up homes and theft. Here are some recent findings on the impacts.

1) According to the Urban Institute Washington DC Report on “The Impacts of Foreclosures on families and Communities” (May 2009):

- Families are facing displacement and housing instability, financial insecurity and economic hardship, personal and family stress, disrupted relationships, and stress.
- Communities are dealing with declining property values and physical deterioration, crime, social disorder and population turnover, local government fiscal stress and deterioration.

2) Center for Responsible Lending research on the impacts and characteristics of the California Foreclosure crisis found that minorities are hit harder by foreclosure. Latino and African – American homeowners in California have experienced foreclosure rates 2.3 and 1.9 times that of non-Hispanic white borrowers. Latino borrowers alone make up 48 percent of all foreclosures.

3) A study by National Council of La Raza estimated that 1.3 million Latino families will lose their homes to foreclosure between 2009 and 2012. The findings on the impact of home foreclosure on families are disturbing. Children in particular experience problems in school and are deeply affected by instability in the home.

4) According to the US conference of Mayors website, www.usmayors.org

The most recent survey of mayors was conducted by The U.S. Conference of Mayors on “Impact of the Mortgage Foreclosure Crisis on Vacant and Abandoned Properties in Cities” (June 2010). The survey found that this year, more than three in four of the survey cities have seen an increase in the number of vacant and abandoned residential properties as a result of mortgage foreclosure crisis. Across these cities, the increase averaged 33 percent, with two of the cities reporting 200 percent increases and two other reporting increases over 100 percent.

5) In response to the devastating social consequences of the foreclosure crisis, the Federal Reserve System has initiated a wide range of program responses as part of its Mortgage Outreach and Research Efforts (MORE). These include sponsoring projects designed to communicate best practices and information about programs to improve conditions in neighborhoods affected by foreclosure. It also reviews initiatives under taken by the various Reserve Banks and the Board of Governors to respond to the foreclosure crisis. They are as follows

- Working with federal agencies to assist unemployed homeowners
- Partnering with NeighborWorks to support neighborhood stabilization

- Issuing bank examiner procedures for tenant protection
- Updating the foreclosure resource Centers and revising the Foreclosure Mitigation Toolkit
- Training attorneys in the foreclosure Prevention and mitigation

In addition, they also host community events. Community Affairs departments at each of the Federal Reserve Banks help local communities in their efforts to prevent foreclosures. Community Affairs sponsored or co-sponsored 287 separate foreclosure related events in 111 cities across the country.

CONNECTICUT RETIREMENT PLANS AND TRUST FUNDS • ILLINOIS STATE BOARD OF INVESTMENT •
ILLINOIS STATE UNIVERSITIES RETIREMENT SYSTEMS • NEW YORK CITY BOARD OF EDUCATION
RETIREMENTS SYSTEM • NEW YORK CITY EMPLOYEES RETIREMENT SYSTEM • NEW YORK CITY FIRE
DEPARTMENT PENSION FUND • NEW YORK CITY POLICE PENSION FUND • NEW YORK CITY
TEACHERS' RETIREMENT SYSTEM • NEW YORK STATE COMMON RETIREMENT FUND • NORTH
CAROLINA RETIREMENT SYSTEMS • OREGON STATE TREASURY

January 6, 2011

Laban P. Jackson, Jr.
Chair, Audit Committee of the Board of Directors
c/o Anthony J. Horan, Secretary
JP Morgan Chase & Co.
270 Park Avenue
New York, NY 10017

Dear Mr. Jackson:

Reports in fall 2010 of widespread irregularities in the mortgage and foreclosure processes at the nation's largest banks have exposed JP Morgan Chase & Company ("the Company") to intensive legal and regulatory scrutiny. Despite management's assurance that the concerns are overblown and will be resolved quickly, preliminary findings by top federal regulators suggest that internal control failures at the banks are in fact widespread. Moreover, according to the November report of the Congressional Oversight Panel (COP), exposed banks could suffer severe capital losses.

As major institutional investors collectively holding 40.7 million JP Morgan Chase shares, with a December 31 market value of \$1.7 billion, we believe it is incumbent upon the Board of Directors to take immediate, independent action to restore confidence in the Company's internal controls and compliance. Specifically, we call on the Audit Committee you chair to conduct an independent review of Company's internal controls related to loan modifications, foreclosures and securitizations and to include a report to shareholders with findings and recommendations in the Company's 2011 proxy statement.

The requested review, the scope of which we further detail below, is already the subject of a shareholder resolution submitted by New York City Pension Funds for the Company's spring 2011 annual meeting. However, we believe the urgency and seriousness of our concerns require more immediate Board action.

The Congressional Oversight Panel's November 2010 Report

In its November 2010 oversight report, the COP characterized the view expressed by management at the large banks that "current concerns over foreclosure irregularities are overblown, reflecting mere clerical errors that can and will be resolved quickly" as the best case scenario. In its worst case scenario, the COP said severe capital losses could destabilize exposed banks and potentially threaten overall financial stability.

The largest source of potential instability is the risk of widespread mortgage put-backs due to breaches of representations and warranties to mortgage investors, as well as concerns regarding the proper legal documentation for securitized loans. Using current estimates from investment analysts, the COP calculates industry exposure from mortgage put-backs at \$52 billion, which it said would be borne predominantly by Bank of America, JPMorgan Chase, Wells Fargo, and Citigroup.

In addition, banks could be vulnerable to litigation from homeowners who claim to have suffered improper foreclosures. "Even the prospect of such losses," states the COP report, "could damage a bank's stock price or its ability to raise capital." The report also states that, as a result of flawed documentation, borrowers may have been denied modifications.

The Federal Foreclosure Task Force's Preliminary Findings

On November 23rd, a week after the COP released its report, Assistant Treasury Secretary Michael Barr informed members of the Financial Stability Oversight Council that a federal foreclosure task force investigating some of the nation's largest mortgage servicers had found "widespread" and "inexcusable breakdowns in basic controls in the foreclosure process." The task force, which is composed of 11 federal agencies, is expected to report its findings in January to the Council, which will then determine what regulatory actions would rectify the problems.

Federal Reserve Governor Daniel K. Tarullo's December 1st Congressional Testimony

Most recently, Federal Reserve Governor Daniel K. Tarullo updated the Senate Banking Committee on a related interagency examination by the four federal banking regulators. In his December 1st testimony, Mr. Tarullo said preliminary findings "suggest significant weaknesses in risk-management, quality control, audit, and compliance practices as underlying factors contributing to the problems associated with mortgage servicing and foreclosure documentation." The agencies have also found "shortcomings in staff training."

Mr. Tarullo testified that "foreclosures are costly to all parties," noting their harmful impacts on homeowners, lenders, mortgage investors and local governments, as well as the broader economy. "It just cannot be the case," he said, "that foreclosure is preferable to modification for a significant proportion of mortgages where the deadweight costs of foreclosure, including a distressed sale discount, are so high."

Among the possible explanations for the prominence of foreclosures, he cited "lack of servicer capacity to execute modifications, purported financial incentives for servicers to foreclose rather than modify; ...and conflicts between primary and secondary lien holders." Although servicers are required to act in the best interests of the investors who own the mortgages, an October 2010 study provides compelling empirical support for the view that perverse incentives and conflicts of interest lead banks to foreclose upon or deny loan modifications to homeowners improperly.¹

¹ Agarwal, Sumit et al, "Market-Based Loss Mitigation Practices for Troubled Mortgages Following the Financial Crisis," Fisher College of Business, Ohio State University, October 2010. According to the study by researchers from the

Federal Regulators and Congress May Impose Structural Reforms

Given the range of problems associated with mortgage servicing, including the degree to which foreclosure has been preferred to mortgage modification, Mr. Tarullo testified that "structural solutions may be needed." In addition to possible regulatory actions, recent House and Senate Hearings on the foreclosure crisis raise the prospect of additional legislative remedies.

For example, a bill introduced by Reps. Brad Miller (D-NC) and Keith Ellison (D-MN) in April 2010, before the recent round of hearings, would address one of the conflicts cited by Mr. Tarullo. The Mortgage Servicing Conflict of Interest Elimination Act would bar servicers of first loans they do not own from holding any other mortgages on the same property. Enactment of the legislation would presumably force the Company, which is one of four banks that control more than half the mortgage servicing market and more than half the home equity loan market, to divest its servicing businesses or its interests in home mortgages.

Scope and Timeline for Independent Review

In light of the above, we urge the Audit Committee to immediately retain independent advisors to review the Company's internal controls related to loan modifications, foreclosures and securitizations. The review should evaluate (a) the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests. For the purposes of this review, we do not consider your existing audit firm to be independent since the firm previously signed off on the Company's internal controls.

The Audit Committee should disclose its findings and recommendations in the Company's 2011 proxy statement. In the event that the Committee is unable to complete its review prior to the filing of the Company's 2011 proxy statement, we request that the Committee provide a preliminary report in the proxy statement detailing the scope of the review, the firm(s) retained to perform it, any preliminary findings and remedial steps taken to date, and the expected completion date.

Conclusion

As you know, the Audit Committee is ultimately responsible for the Company's compliance with legal and regulatory requirements as well as its internal controls over financial reporting. The Committee, however, appears to be relying on management's internal review and assurance that any foreclosure irregularities are mere clerical errors that will be resolved quickly, while awaiting the outcome of various investigations by federal and state authorities.

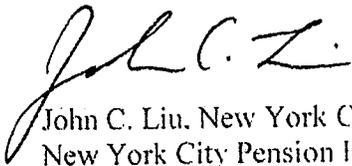
Federal Reserve Bank of Chicago, Office of the Comptroller of the Currency and Ohio State University, "loans owned by private investors are indeed less likely to become modified than portfolio loans with identical characteristics. ...In a similar flavor to this result, we find that loans which are second lien (piggybacks) are less likely to become modified. ...We attribute this result to the conflict of interest between lenders."

Laban P. Jackson, Jr
January 6, 2011
Page 4

It may be too late to protect the Company from the worst consequences of any past compliance failures. It is nonetheless critical that the Audit Committee take immediate, independent action to assess the Company's mortgage-related internal controls and address any underlying weaknesses. This will help to prevent future compliance failures and restore the confidence of shareholders, regulators, legislators and mortgage market participants.

Thank you for your prompt consideration. We look forward to your response by January 21, 2011 which you should address to New York City Comptroller John Liu at 1 Centre Street, New York, NY 10007.

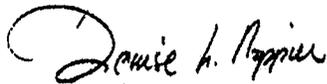
Sincerely,



John C. Liu, New York City Comptroller
New York City Pension Funds



Thomas D. DiNapoli, New York State Comptroller
New York State Common Retirement Fund



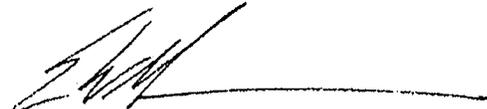
Denise Nappier, Connecticut State Treasurer
Connecticut Retirement Plans and Trust Funds



Janet Cowell, North Carolina State Treasurer
North Carolina Retirement Systems



William R. Atwood, Executive Director
Illinois State Board of Investment



Ted Wheeler, Oregon State Treasurer
Oregon State Treasury



William E. Mabe, Executive Director
Illinois State Universities Retirement System

cc: Board of Directors



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1934 Act/Rule 14a-8

January 24, 2011

VIA E-MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: JPMorgan Chase & Co.
Shareholder Proposal of the Comptroller of the City of New York
Securities Exchange Act of 1934 Rule 14a-8

Dear Ladies and Gentlemen:

We submit this letter on behalf of our client JPMorgan Chase & Co. (the "**Company**"), as a supplement to our letter dated January 11, 2011 (the "**Original No-Action Letter**"), pursuant to which the Company requested that the Staff of the Division of Corporation Finance (the "**Staff**") of the Securities and Exchange Commission concur with the Company's view that the shareholder proposal and supporting statement (together, the "**Comptroller Proposal**"), submitted by the Comptroller of the City of New York¹ may be excluded from the Company's proxy materials for its 2011 Annual Meeting of Shareholders (the "**2011 Proxy Materials**"). The Original No-Action Letter made a request for no action relief pursuant to Rule 14a-8(i)(11), among other bases, as a result of the Comptroller Proposal being substantially duplicative of the proposals and supporting statements previously submitted by each of (i) the AFL-CIO Reserve Fund (the "**AFL-CIO**"), and (ii) the Board of Pensions of the Presbyterian Church (USA)² (with co-filers, collectively "**PCUSA**").

¹ In submitting its proposal, the Comptroller of the City of New York was acting in his role as custodian and trustee of the New York City Employees' Retirement System, the New York City Fire Department Pension Fund, the New York City Teachers' Retirement System, and the New York City Police Pension Fund, and in his role as custodian of the new York City Board of Education Retirement System.

² Walden Asset Management, Catholic Healthcare West, Haymarket People's Fund, Mercy Investment Services, Benedictine Convent of Perpetual Adoration, the Funding Exchange, Calvert Asset Management, and the Board of Pensions of the Evangelical Lutheran Church in America have indicated that they wish to serve as co-filers of the this proposal, with the Board of Pensions of the Presbyterian Church (USA) serving as primary contact.

As indicated in the AFL-CIO's letter dated January 20, 2011, attached hereto as Exhibit A, the AFL-CIO has withdrawn its proposal and supporting statement (together, the "**AFL-CIO Proposal**"). Accordingly, the Company hereby withdraws its request for no-action relief pursuant to Rule 14a-8(i)(11) solely as it relates to the AFL-CIO Proposal.

The Company continues to request that the Staff concur with its view that the Comptroller Proposal may be properly excluded from its 2011 Proxy Materials pursuant to Rule 14a-8(i)(7), as dealing with matters relating to the Company's ordinary business operations, and Rule 14a-8(i)(11), as being substantially duplicative of the proposal and supporting statement submitted by PCUSA.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact me at 202-383-5418.

Sincerely,



Martin P. Dunn
of O'Melveny & Myers LLP

Attachments

cc: Michael Garland
Executive Director of Corporate Governance
The City of New York Office of the Comptroller

Anthony Horan, Esq.
Corporate Secretary
JPMorgan Chase & Co.

*Shareholder Proposal of the Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT A

American Federation of Labor and Congress of Industrial Organizations



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EXECUTIVE COUNCIL

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John Gage
Laura Rico
Capt. John Prater
Fred Redmond
Fredric V. Rosendo
Newton B. Jones
DeMaurice F. Smith
James Boland
Lee A. Saunders

January 20, 2011

Sent by Facsimile and U.S. Mail

Anthony J. Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

Dear Mr. Horan,

On behalf of the AFL-CIO Reserve Fund, I write to withdraw our previously submitted shareholder proposal recommending that JPMorgan Chase prepare a report on its internal controls over its mortgage servicing operations. We look forward to discussing our concerns regarding the foreclosure crisis with JPMorgan Chase.

If you have any questions, please contact Brandon Rees at 202-637-5152.

Sincerely,

Daniel F. Pedrotty
Director
Office of Investment

DFP/sdw
opeiu #2, afl-cio



Facsimile Transmittal

Date: January 20, 2011

To: Anthony J. Horan, JP Morgan Chase

Fax: 212-270-4240

From: Daniel F. Pedrotty, Office of Investment, AFL-CIO

Pages: 2 (including cover page)

AFL-CIO Office of Investment
815 16th Street, NW
Washington, DC 20006
Phone: (202) 637-3900
Fax: (202) 508-6992
invest@aficio.org



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1934 Act/Rule 14a-8

January 11, 2011

VIA E-MAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: JPMorgan Chase & Co.
Shareholder Proposal of the Comptroller of the City of New York
Securities Exchange Act of 1934 Rule 14a-8

Dear Ladies and Gentlemen:

We submit this letter on behalf of our client JPMorgan Chase & Co., a Delaware corporation (the "**Company**"), which requests confirmation that the staff (the "**Staff**") of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "**Commission**") will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934 (the "**Exchange Act**"), the Company omits the enclosed shareholder proposal (the "**Proposal**") and supporting statement (the "**Supporting Statement**") submitted by the Comptroller of the City of New York on behalf of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Police Pension Fund, the New York City Fire Department Pension Fund and the New York City Board of Education Retirement System (collectively, the "**Proponent**") from the Company's proxy materials for its 2011 Annual Meeting of Shareholders (the "**2011 Proxy Materials**").

Pursuant to Rule 14a-8(j) under the Exchange Act, we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2010 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

A copy of the Proposal and Supporting Statement, the Proponent's cover letter submitting the Proposal, and other correspondence relating to the Proposal are attached hereto as Exhibit A.

I. SUMMARY OF THE PROPOSAL

On November 12, 2010, the Company received a letter from the Proponent containing the Proposal for inclusion in the Company's 2011 Proxy Materials. The Proposal requests that the Company's Audit Committee "conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and securitizations," including a discussion of specific issues described in the Proposal, and report to the shareholder by September 30, 2011.

II. BACKGROUND

The Company is a global financial services firm that specializes in investment banking, financial services for consumers, small business and commercial banking, financial transaction processing, asset management, and private equity. In the ordinary course of business, the Company services approximately 8.59 million home loans -- of which 5.84 million home loans are serviced for others (such as government-sponsored enterprises, the Federal Housing Administration, and private investors) and 2.57 million home loans are owned by the Company (of which 2.1 million are Home Equity loans). As a servicer of home loans and, more specifically of home mortgages, the Company is responsible for the day-to-day management of a mortgage loan account and as such:

- collects, allocates (escrow, principal, interest), and credits the borrower's payments;
- maintains the escrow account and makes tax and insurance payments from that account on behalf of the borrower;
- provides statements to the borrower regarding payments and other mortgage-related activity;
- responds to the borrower's inquiries about his/her account;
- may obtain property insurance on behalf of the borrower if the borrower is not already adequately insured;
- may arrange for certain default-related services to protect the value of a property that is in default;
- initiates foreclosure proceedings and manages the foreclosure process to completion; and
- explores loss mitigation options with borrowers, including loan modification, short sales and deeds in lieu of foreclosure.¹

¹ For more information on the responsibilities of a mortgage servicer, see <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea10.shtm>.

As noted above, the responsibilities of a mortgage servicer, such as the Company, include working with borrowers that become delinquent in their payments by exploring loss mitigation options such as loan modification, refinancing, deeds in lieu and short sales. In fact, since 2009, the Company has handled over 32.3 million inbound calls to its call centers from homeowners seeking foreclosure prevention assistance, including 5.3 million calls to the Company's dedicated customer hotline for modification inquiries. The Company has offered over 1 million modifications to struggling homeowners through various modification programs and converted 275,152 of these offers into permanent modifications since the beginning of 2009. Finally, when mortgage modification or other loss mitigation options are determined to be unavailable, a mortgage servicer is also responsible for initiating and managing foreclosure proceedings.

III. EXCLUSION OF THE PROPOSAL

A. Bases for Exclusion of the Proposal

As discussed more fully below, the Company believes that it may properly omit the Proposal from its 2011 Proxy Materials in reliance on the following paragraphs of Rule 14a-8:

- Rule 14a-8(i)(7), as the Proposal deals with matters relating to the Company's ordinary business operations; and
- Rule 14a-8(i)(11), as the Proposal substantially duplicates proposals previously submitted to the Company by other shareholders that will be included in the 2011 Proxy Materials.

B. The Proposal May Be Excluded in Reliance on Rule 14a-8(i)(7), as it Deals With Matters Relating to the Company's Ordinary Business Operations

A company is permitted to omit a shareholder proposal from its proxy materials under Rule 14a-8(i)(7) if the proposal deals with a matter relating to the company's ordinary business operations. In Commission Release No. 34-40018 (May 21, 1998) (the "**1998 Release**"), the Commission stated that the underlying policy of the "ordinary business" exception is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." The Commission further stated in the 1998 Release that this general policy rests on two central considerations. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The fact that a proposal seeks a report from a company's board of directors (instead of a direct action) is immaterial to these determinations -- a shareholder proposal that calls on the board of directors to issue a report to shareholders is excludable under Rule 14a-8(i)(7) as relating to an ordinary business matter if the subject matter of the report relates to the company's ordinary business operations. *See Release No. 34-20091* (August 16, 1983). Importantly, with regard to the first basis for the "ordinary business" matters exception, the

Commission also stated that “proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.”

As described below, the Proposal clearly relates to the Company’s ordinary business operations as it addresses the products and services offered by the Company, the management of the Company’s workforce, ongoing litigation involving the Company, and the Company’s legal compliance program.

1. *The Proposal addresses fundamental management decisions regarding the products and services offered by the Company*

As discussed above, the Company is a global financial services firm that provides a wide range of products and services to its customers in the ordinary course of business. As such, the Proposal relates to the Company’s ordinary business operations because it requests a review of the Company’s internal controls related to loan modifications, foreclosures, and securitizations. In this regard, the Company has offered over 1 million mortgage modifications to struggling homeowners and has converted 275,152 such modifications into permanent modifications since the beginning of 2009 through the U.S. Treasury’s Making Home Affordable programs, including the Home Affordable Modification Program (“*HAMP*”) and the Second Lien Modification Program, and the Company’s other loss-mitigation programs.² The Company’s decisions as to whom and whether to offer a particular loan, a loan modification, or other loan services and the manner in which the Company offers its products and services are precisely the kind of fundamental, day-to-day operational matters meant to be covered by the ordinary business operations exception under Rule 14a-8(i)(7).

The Staff has previously concurred that proposals relating to credit policies, loan underwriting, and customer relations relate to the ordinary business operations of a financial institution and, as such, may be omitted under Rule 14a-8(i)(7). For example, in *BankAmerica Corp.* (February 18, 1977), the Staff noted that “the procedures applicable to the making of particular categories of loans, the factors to be taken into account by lending officers in making such loans, and the terms and conditions to be included in certain loan agreements are matters directly related to the conduct of one of the [c]ompany’s principal businesses and part of its everyday business operations.” *See also, e.g., JPMorgan Chase & Co.* (March 16, 2010) (concurring in the omission of a proposal requesting cessation of the issuance of refund anticipation loans in reliance on Rule 14a-8(i)(7) because “proposals concerning the sale of particular services are generally excludable under [R]ule 14a-8(i)(7)”; *Bank of America Corp.* (February 27, 2008) (concurring in the omission of a proposal requesting a report disclosing the company’s policies and practices regarding the issuance of credit cards in reliance on Rule 14a-

² *See also* the Company’s Quarterly Report on Form 10-Q for the fiscal period ending September 30, 2010, at page 91, for information on mortgage modification activities as of that date, available at: <http://www.sec.gov/Archives/edgar/data/19617/000095012310102689/y86142e10vq.htm>.

8(i)(7) because it related to “credit policies, loan underwriting and customer relations”); *Cash America International, Inc.* (March 5, 2007) (concurring in the omission of a proposal that requested the appointment of a committee to develop a suitability standard for the company’s loan products, to determine whether loans were consistent with the borrowers’ ability to repay, and to assess the reasonableness of collection procedures in reliance on Rule 14a-8(i)(7) because it related to “credit policies, loan underwriting and customer relations”); *H&R Block, Inc.* (August 1, 2006) (concurring in the omission of a proposal requesting cessation of the issuance of refund anticipation loans in reliance on Rule 14a-8(i)(7) because it related to “credit policies, loan underwriting, and customer relations”); *Wells Fargo & Co.* (February 16, 2006) (concurring in the omission of a proposal that requested a policy that the company would not provide credit or banking services to lenders engaged in payday lending in reliance on Rule 14a-8(i)(7) because it related to “credit policies, loan underwriting and customer relations”).

As in those prior situations in which the Staff has expressed the view that a company may omit a proposal in reliance on Rule 14a-8(i)(7), the Proposal’s subject matter is the terms of and procedures regarding the Company’s products and services -- in this case, the Company’s decisions regarding to whom and when to extend credit under modified terms and when to cease extending such credit. The Company’s procedures for making decisions regarding loan modifications, refinancing and the terms and conditions of other financial products offered by the Company, and the manner in which the Company will hold or terminate its outstanding loans, all represent the fundamental day-to-day business decisions of a financial institution regarding what products and services to make available to its customers. Moreover, the Company’s foreclosure policies and procedures have been established in the ordinary course of the Company’s operations as part of its responsibilities as a mortgage servicer, as described above. Given the Proposal’s focus on the Company’s products and services, the Proposal may properly be omitted under Rule 14a-8(i)(7) as relating to the Company’s ordinary business operations.

Just as the Proposal seeks information regarding the Company’s basic business decisions, three nearly-identical proposals were received by the companies in *JPMorgan Chase & Co.* (February 26, 2007), *Bank of America Corp.* (February 21, 2007), and *Citigroup Inc.* (February 21, 2007) requesting a report on policies against the provision of services that enabled capital flight and resulted in tax avoidance. In its no-action request regarding the shareholder proposal, Citigroup expressed its view that “policies governing whether Citigroup will engage in any particular financial service for our clients are formulated and implemented in the ordinary course of the Company’s business operations” and requested exclusion of the proposal because it “usurps management’s authority by allowing stockholders to manage the banking and financial relationships that the Company has with its customers.” The Staff concurred with the views of each of these three companies that the proposals could be omitted in reliance on Rule 14a-8(i)(7) as related to ordinary business operations (i.e., the sale of particular services). As in these situations, the Proposal seeks disclosure of the Company’s “internal controls related to loan modifications, foreclosures and securitizations,” each of which is a specific service or product offered by the Company in the ordinary course of business. As such, the Proposal may properly be omitted in reliance on Rule 14a-8(i)(7) as related to the Company’s ordinary business decisions regarding sale of its products and services.

Because the Proposal seeks to influence the Company's lending and servicing practices -- quintessential ordinary business matters for financial institutions -- the Proposal may be properly omitted in reliance on Rule 14a-8(i)(7).

2. *The Proposal addresses fundamental management decisions regarding the management of the Company's workforce*

The Proposal requires that the report evaluate "whether management has allocated a sufficient number of trained staff" and the Supporting Statement devotes a paragraph to discussing a disputed news media report describing understaffing at the "banks." The Proposal appears to seek information on general employment matters to allow shareholders to second guess the Company's ordinary business decisions regarding optimal staffing levels.

Employee staffing matters are an integral part of the day-to-day management of the Company's ordinary business operations, involving a balancing of a variety of complex business issues. In the 1998 Release, the Commission identified "management of the workforce, such as the hiring, promotion and termination of employees" as its first example of an ordinary business problem that should be confined to management and the board of directors. Since that time, the Staff has consistently permitted the omission of proposals relating to the hiring, promotion, and termination of employees in reliance on Rule 14a-8(i)(7). *See, e.g., Northrop Grumman Corporation* (March 18, 2010) (concurring in the omission of a proposal regarding improving the visibility of educational status in a reduction in force in reliance on Rule 14a-8(i)(7) as "concerning a company's management of its workforce"); *Willow Financial Bancorp. Inc.* (August 16, 2007) (concurring in the omission of a proposal recommending the replacement of the CEO and CFO in reliance on Rule 14a-8(i)(7) because it concerned "the termination, hiring or promotion of employees"); *The Boeing Company* (February 10, 2005) (concurring in the omission of a proposal urging that independent directors approve, rather than merely review, the hiring of certain senior executives in reliance on Rule 14a-8(i)(7) because it concerned "the termination, hiring or promotion of employees"); *Lockheed Martin Corporation* (January 29, 1997) (concurring in the omission of a proposal to evaluate existing company hiring policies relating to the hiring of former government officials and employees in reliance on the predecessor rule to Rule 14a-8(i)(7) because it concerned "employment related matters"). The Company's management addresses employment decisions regarding the Company's workforce of more than 21,000 employees on a day-to-day basis, including hiring and retention, resource allocations, and training and supervision. The ability for the Company to successfully manage these issues, the productivity and efficiency of its workforce, the work product delivered by its employees, and ultimately, the success of its business and the value of its brand name and reputation, all necessarily involve making a variety of complex and interrelated decisions, which must be made in "real time" by knowledgeable Company personnel in the ordinary course of business.

Because the Proposal seeks to intrude upon the role of the Company's management and board of directors in dealing with fundamental day-to-day business decision-making regarding

retention and training of its workforce, the Proposal may be properly omitted under Rule 14a-8(i)(7).

3. *The Proposal relates to ongoing litigation involving the Company*

State and federal officials have announced investigations into the procedures followed by mortgage servicing companies and banks, including the Company, relating to residential foreclosures. Additionally, there have been numerous putative class action lawsuits filed against the Company and its mortgage loan subsidiaries asserting claims related to the Company's loan modification and foreclosure practices. Through a variety of theories, these pending actions broadly challenge, among other things, the Company's practices, compliance, or performance under HAMP and other loan modification programs, as well as its practices, procedures and compliance with law in executing documents in connection with foreclosure actions.³

The Staff has consistently agreed that a shareholder proposal may be omitted in reliance on Rule 14a-8(i)(7) when the subject matter of the proposal is the same as or similar to that which is at the heart of litigation in which a registrant is then involved. *See, e.g., AT&T Inc.* (February 9, 2007) (concurring in the omission of a proposal that the company report on disclosure of customer communications to specified government agencies in reliance on Rule 14a-8(i)(7) because it related to ordinary "litigation strategy"); *Reynolds American Inc.* (February 10, 2006) (concurring in the omission of a proposal to notify African Americans of the purported health hazards unique to that community that were associated with smoking menthol cigarettes in reliance on Rule 14a-8(i)(7) because it related to "litigation strategy"); *R. J. Reynolds Tobacco Holdings, Inc.* (February 6, 2004) (concurring in the omission of a proposal requiring company to stop using the terms "light," "ultralight" and "mild" until shareholders can be assured through independent research that such brands reduce the risk of smoking-related diseases in reliance on Rule 14a-8(i)(7) because it related to "litigation strategy"); *R. J. Reynolds Tobacco Holdings, Inc.* (March 6, 2003) (concurring in the omission of a proposal requiring the company to establish a committee of independent directors to determine the company's involvement in cigarette smuggling in reliance on Rule 14a-8(i)(7) because it related to "litigation strategy").

The Proposal focuses directly on the Company's internal controls related to loan modifications and foreclosures -- a central subject of the pending legal proceedings referenced above. Specifically, through a variety of theories, these pending actions broadly challenge, among other things, the Company's practices, compliance, or performance under HAMP and other loan modification programs, as well as its practices, procedures and compliance with law in executing documents in connection with foreclosure actions. As such, the subject matter of the Proposal -- compliance with laws and regulations and internal policies and procedures related to loan modifications and foreclosures -- is the same as that of the Company's pending litigation

³ *See, e.g., Durmic v. J.P. Morgan Chase Bank, NA*, No. 10-cv-10380-RGS (D. Mass.); *Morales v. Chase Home Finance LLC, et al.*, No. 10-cv-02068-JSW (N.D. Cal.); *Salinas v. Chase Home Finance LLC*, No. CV10-09602 (C.D. Cal.); and *Deutsch v. JPMorgan Chase Bank, N.A.*, No. 08CH4035 (Ill. Cir. Ct). Attached as Exhibit B are initial complaints for the *Durmic v. JPMorgan Chase* and *Deutsch v. JPMorgan Chase* matters referenced above.

and inclusion of the Proposal in the 2011 Proxy Materials would interfere with the Company's ability to determine the proper litigation strategy with regard to those pending litigation matters.

The Staff has consistently agreed that proposals related to a company's decision to institute or defend itself against legal actions, and decisions on how it will conduct those legal actions, are matters relating to its ordinary business operations and within the exclusive prerogative of management. *See, e.g., Merck & Co., Inc.* (February 3, 2009) (concurring in the omission of a proposal that the company take certain legal actions in pending litigation in reliance on Rule 14a-8(i)(7) because it related to "litigation strategy"); *CMS Energy Corporation* (February 23, 2004) (concurring in the omission of a proposal requiring the company to initiate legal action to recover compensation paid to former members of management in reliance on Rule 14a-8(i)(7) because it related to "the conduct of litigation"); *NetCurrents, Inc.* (May 8, 2001) (concurring in the omission of a proposal requiring the company to bring an action against certain persons in reliance on Rule 14a-8(i)(7) because it related to "litigation strategy and related decisions"). Similarly, undertaking the review and publishing the report requested by the Proposal on the Company's internal controls related to loan modifications, foreclosures, and securitizations, including compliance with laws and regulations and internal policies and procedures related to loan modifications and foreclosures, would require the Company to disclose the same information that the Company expects plaintiffs to seek in the discovery process of the aforementioned legal proceedings and would interfere with management's ability to determine the best manner in which to approach the ordinary business function of implementing a litigation strategy.

Because the Proposal focuses directly on issues that are the subject matter of multiple lawsuits involving the Company and would improperly interfere with the Company's litigation strategy in those matters, the Proposal may be properly omitted in reliance on Rule 14a-8(i)(7).

4. The Proposal would interfere with the Company's general legal compliance program

The Proposal requests that the Audit Committee review "the Company's internal controls" and report to shareholders on its findings and recommendations including, among other things, an evaluation of "the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures." The Supporting Statement even acknowledges that "[t]he Audit Committee of the Board of Directors is responsible for ensuring the Company has adequate internal controls governing legal and regulatory compliance" but then continues, indicating that the Proposal is intended to prompt the Audit Committee into acting "proactively and independently to reassure shareholders that the Company's compliance controls are robust."

As a global financial services firm, the Company is subject to myriad international, federal, and state laws and regulations. As part of its ordinary day-to-day business, the Company has established mechanisms to monitor its compliance with its legal requirements and to determine whether there is any need for an investigation into a particular matter. In fact, the Company is actively cooperating with investigations instituted by state and federal officials into

the procedures followed by mortgage servicing companies and banks, including the Company and its affiliates, relating to foreclosures.⁴ The Proposal's focus on the Company's internal controls and its legal compliance impermissibly interferes with the discretion of Company's management in this highly complex business area.

The Staff has taken the position that a proposal presenting very similar issues to the Proposal could be omitted in *H.R. Block, Inc.* (June 26, 2006) ("**H.R. Block, Inc.**"). In *H.R. Block, Inc.*, the company expressed its view that a proposal seeking to establish a special committee of independent directors to review the company's sales practices after allegations of fraudulent marketing by New York State Attorney General Elliot Spitzer related to the company's ordinary business operations. In particular, H&R Block argued that "the examination of company practices for compliance with various regulatory requirements should properly be left to the discretion of the company's management and board of directors." Similarly, the Proposal seeks to address the Company's compliance with "applicable laws and regulations" and its "own policies and procedures" as well as the Company's internal controls relating to its legal obligations regarding loan modifications, foreclosures, and securitizations.

Omission of the Proposal is further supported by a long line of precedent recognizing that proposals addressing a company's compliance with state and federal laws and regulations relate to ordinary business matters. *See, e.g., Yum! Brands, Inc.* (March 5, 2010) (concurring in the omission of a proposal seeking management verification of the employment legitimacy of all employees in reliance on Rule 14a-8(i)(7) because it concerned the company's legal compliance program); *Johnson & Johnson* (February 22, 2010) (concurring in the omission of a proposal seeking management verification of the employment legitimacy of all employees in reliance on Rule 14a-8(i)(7) because it concerned the company's legal compliance program); *FedEx Corporation* (July 14, 2009) (concurring in the omission of a proposal seeking establishment of a committee to prepare a report on the company's compliance with state and federal laws governing proper classification of employees and independent contractors in reliance on Rule 14a-8(i)(7) because it concerned the company's general legal compliance program); *The AES Corporation* (March 13, 2008) (concurring in the omission of a proposal seeking an independent investigation of management's involvement in the falsification of environmental reports in reliance on Rule 14a-8(i)(7) because it concerned the company's general conduct of a legal compliance program); *Lowe's Companies, Inc.* (March 12, 2008) (concurring in the omission of a proposal seeking establishment of a committee to prepare a report on the company's compliance with state and federal laws governing proper classification of employees and independent contractors in reliance on Rule 14a-8(i)(7) because it concerned the company's general legal compliance program); *Coca-Cola Company* (January 9, 2008) (concurring in the omission of a proposal seeking adoption of a policy to publish an annual report on the comparison of laboratory tests of the company's product against national laws and the company's global quality standards in reliance on Rule 14a-8(i)(7) because it concerned the company's general conduct of a legal compliance program); *Verizon Communications Inc.*

⁴ See the Company's Quarterly Report on Form 10-Q for the fiscal period ending September 30, 2010, at page 192.

(January 7, 2008) (concurring in the omission of a proposal seeking adoption of policies to ensure that the company did not engage in illegal trespass actions and to prepare a report on the company policies for handling such incidents in reliance on Rule 14a-8(i)(7) because it concerned the company's general legal compliance program); *The AES Corporation* (January 9, 2007) (concurring in the omission of a proposal seeking establishment of a committee to monitor the company's compliance with applicable laws, rules, and regulations of the federal, state, and local governments, and the company's Code of Business Conduct and Ethics in reliance on Rule 14a-8(i)(7) because it concerned the company's general conduct of a legal compliance program); *H.R. Block, Inc.* (discussed above); *ConocoPhillips* (February 23, 2006) (concurring in the omission of a proposal seeking a board report on potential legal liabilities arising from alleged omissions from the company's prospectus in reliance on Rule 14a-8(i)(7) because it concerned the company's general legal compliance program).

Because the Proposal seeks to impact the Company's implementation of its legal compliance program, the Proposal may be properly omitted under Rule 14a-8(i)(7).

5. *The Proposal's focus on ordinary business matters is not overridden by a significant policy concern*

Neither the Proposal nor the Supporting Statement characterizes any of the circumstances discussed therein as a significant policy issue for the purpose of Rule 14a-8. The Supporting Statement references "millions of troubled borrowers" and discusses various media reports on foreclosure practices in the banking industry in an attempt to cast the Proposal as raising a significant policy concern. However, the Staff has not determined that foreclosure practices, loan modification practices, or the recent economic recession are (individually or collectively) a significant policy issue for purposes of Rule 14a-8.

Even if the Staff were to recognize the economic recession, loan servicing or mortgage modification practices as a significant policy concern, the Staff has expressed the view that proposals relating to both ordinary business matters and significant social policy issues may be excluded in their entirety in reliance on Rule 14a-8(i)(7). See *JPMorgan Chase & Co.* (February 25, 2010) (concurring in the exclusion of a proposal relating to compensation that may be paid to employees and senior executive officers and directors in reliance on Rule 14a-8(i)(7) because it concerned general employee compensation matters); *General Electric Company* (February 3, 2005) (concurring in the exclusion of a proposal intended to address "offshoring" and requesting a statement relating to any planned job cuts or offshore relocation activities in reliance on Rule 14a-8(i)(7) because it related to GE's ordinary business operations (*i.e.*, management of the workforce)); *Wal-Mart Stores, Inc.* (March 15, 1999) (concurring in the exclusion of a proposal requesting a report on Wal-Mart's actions to ensure it does not purchase from suppliers who manufacture items using forced labor, convict labor, child labor or who fail to comply with laws protecting employees' rights in reliance on Rule 14a-8(i)(7) because "paragraph 3 of the description of matters to be included in the report relates to ordinary business operations"). See also, *General Electric Company* (Feb. 10, 2000) (concurring in the exclusion of a proposal relating to the discontinuation of an accounting method and use of funds related to an executive

compensation program in reliance on Rule 14a-8(i)(7) as dealing with both the significant policy issue of senior executive compensation and the ordinary business matter of choice of accounting method).

Indeed, the Proposal focuses directly on a number of the Company's ordinary business matters. The Proposal seeks information on "the Company's internal controls related to loan modifications, foreclosures and securitizations," including a discussion of three specific points. As discussed above, the Company's internal controls are part of its legal compliance program -- they do not represent any particular policy but are simply the Company's day-to-day practice of ensuring compliance with its legal and other contractual and regulatory obligations. Moreover, the Company's internal controls over its mortgage servicing operations, foreclosures, and securitizations encompass any number of verification systems, from ensuring responsive customer service to verifying foreclosure affidavits, and these verification systems do not all relate to the recent economic recession or any one particular aspect of mortgage grants, modifications or terminations that have been identified as a significant policy concern. Therefore, even if the Staff were to consider the general theme or parts of the Proposal to touch upon a significant policy matter, the Proposal would still require disclosure of business information related only to the Company's ordinary business matters.

Each of the three specific subjects for evaluation in the report sought by in the Proposal are similarly overbroad and overly focused on the Company's ordinary business matters to be considered to address significant policy concerns. First, the Proposal seeks information regarding "the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures." As discussed above, the manner in which the Company complies with its legal obligations is an ordinary business matter consistently recognized by the Staff as a basis for exclusion of proposals under Rule 14a-8(i)(7). Moreover, as discussed above, this specific aspect of the Proposal is the subject of litigation pending against the Company in federal district court. Compliance with the Company's own policies and procedures and applicable laws and regulations is part of its corporate culture -- the Company has policies of non-discrimination, workplace safety, and internal controls over financial reporting permeating all its operations to ensure compliance on a day-to-day basis with all laws and regulations applicable the Company. The Company's compliance with a particular set of laws or regulations has previously and should continue to be considered an ordinary business matter, to do otherwise would elevate to a significant policy consideration the compliance with one particular law over another.

The Proposal also seeks an evaluation of "whether management has allocated a sufficient number of trained staff." The Proposal fails to specify which area or part of the business should be evaluated for a sufficient number of trained staff -- meaning that the Proposal could require evaluation and disclosure of the staffing levels in any Company department that originates or services loans (including customer relations, payment processing, securitization, underwriting, securitization, etc.). Such an evaluation not only directly relates to the ordinary business matter of the Company's management of its workforce but the requested evaluation is also overly broad and would relate to workforce management in many different divisions of the Company, even

those that deal with matters unrelated to the matters addressed by the Proposal or Supporting Statement.

Finally, the Proposal would require the report to evaluate "policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests." However, as discussed above, the Company's decisions about to whom and whether to offer a loan modification and when to foreclose on an existing mortgage is a complex process often driven by the particular facts and circumstances of each individual borrower and fundamentally involves a business -- and not a policy -- determination. Moreover, compensation matters regarding a company's workforce, outside of senior executive officers, has also been considered a traditional ordinary business matter by both the Commission and the Staff.

The Proposal addresses the Company's day-to-day determinations regarding its particular products and services, management of employees, ongoing litigation and the Company's compliance with its legal obligations. Because the Proposal is focused, at least in part, on these ordinary business matters, it may be properly omitted from the Company's 2011 Proxy Materials in reliance on Rule 14a-8(i)(7).

6. Conclusion

Based on the foregoing analysis, the Company believes that it may properly omit the Proposal and Supporting Statement from its 2011 Proxy Materials in reliance on Rule 14a-8(i)(7).

C. *The Proposal May Be Excluded in Reliance on Rule 14a-8(i)(11), as it Substantially Duplicates Proposals Previously Submitted to the Company That Will Be Included in the 2011 Proxy Materials*

Rule 14a-8(i)(11) allows a company to exclude a shareholder proposal from its proxy materials if "the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting." The Commission has stated that the exclusion provided for by Rule 14a-8(i)(11) (and its predecessor, Rule 14a-8(c)(11)) was intended to "eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." See *Exchange Act Release No. 34-12598* (July 7, 1976). Rule 14a-8(i)(11) also protects a company's board of directors from being placed in a position where it cannot properly implement the shareholders' will because they have approved two proposals with different terms but identical subject matter.

Two proposals need not be identical in order to provide a basis for exclusion under Rule 14a-8(i)(11). Rather, in determining whether two proposals are substantially duplicative, the Staff considers whether the core issue and principal focus of the two proposals are essentially the same, even if the terms and scope are not identical. See, e.g., *Exxon Mobil Corporation* (March 19, 2010) (concurring in the exclusion of a proposal requesting consideration of a decline

in demand for fossil fuels as “substantially duplicative” of a proposal requesting a report on the financial risks of climate change); *JPMorgan Chase & Co.* (March 5, 2010) (concurring in the exclusion of a proposal seeking adoption of a policy for an independent chairman of the board as “substantially duplicative” of a proposal seeking adoption of a bylaw for a differently-defined independent chairman of the board); *General Motors Corporation* (April 5, 2007) (concurring in the exclusion of a proposal requesting semi-annual reports detailing monetary and non-monetary policy contributions and expenditures not deductible under Section 162(e)(1)(B) of the Internal Revenue Code as “substantially duplicative” of a proposal requesting an annual report of each contribution made in respect of a political campaign, political party, etc.); *Time Warner, Inc.* (February 11, 2004) (concurring in the exclusion of a broadly-worded proposal requesting a political contributions report as “substantially duplicative” of a proposal requesting disclosure of specific policies, procedures, and expenditures related to political campaigns).

1. Summary of the Proposal and the Previously Received Proposal

On November 5, 2010, the Company received a letter from the Board of Pensions of the Presbyterian Church (USA)⁵ (with co-filers, collectively “**PCUSA**”) submitting a shareholder proposal and supporting statement (the “**PCUSA Proposal**”) for inclusion in the Company’s 2011 Proxy Materials. A copy of the PCUSA Proposal and its supporting statement, PCUSA’s cover letter submitting the PCUSA Proposal, and other correspondence relating to the PCUSA Proposal are attached hereto as Exhibit C. The resolution of the PCUSA Proposal reads as follows:

“RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.”

On November 10, 2010, the Company received a letter from the AFL-CIO Reserve Fund (“**AFL-CIO**”) submitting a shareholder proposal and supporting statement (the “**AFL-CIO Proposal**”) and, with the PCUSA Proposal, the “**Prior Proposals**”) for inclusion in the Company’s 2011 Proxy Materials. A copy of the AFL-CIO Proposal and its supporting statement, AFL-CIO’s cover letter submitting the AFL-CIO Proposal, and other correspondence relating to the AFL-CIO Proposal are attached hereto as Exhibit D. The resolution of the AFL-CIO Proposal reads as follows:

⁵ Walden Asset Management, Catholic Healthcare West, Haymarket People’s Fund, Mercy Investment Services, Benedictine Convent of Perpetual Adoration, the Funding Exchange, Calvert Asset Management, and the Board of Pensions of the Evangelical Lutheran Church in America subsequently submitted identical proposals to the Proposal and have indicated that they wish to serve as co-filers of the Proposal, with the Board of Pensions of the Presbyterian Church (USA) serving as primary contact.

“RESOLVED: Shareholders recommend that JPMorgan & Chase Co. (the “Company”) prepare a report on the Company’s internal controls over its mortgage servicing operations, including a discussion of:

- the Company’s participation in mortgage modification programs to prevent residential foreclosures,
- the Company’s servicing of securitized mortgages that the Company may be liable to repurchase, and
- the Company’s procedures to prevent legal defects in the processing of affidavits related to foreclosure.

The report shall be compiled at reasonable expense and be made available to shareholders by the end of 2011, and may omit proprietary information as determined by the Company.”

The resolution of the Proposal submitted by the Proponent on November 12, 2010 reads as follows:

“RESOLVED, shareholders request that the Board have its Audit Committee conduct an independent review of the Company’s internal controls related to loan modifications, foreclosures and securitizations, and report to shareholders, at reasonable cost and omitting proprietary information, its findings and recommendations by September 30, 2011.

The report should evaluate (a) the Company’s compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company’s long-term interests.”

As the attached materials show, the Proposal was submitted to the Company seven days after the PCUSA Proposal and two days after the AFL-CIO Proposal and, as addressed below, substantially duplicates the Prior Proposals because the core issue and principal focus of all the proposals are essentially the same. The Company has expressed its view in separate no-action request letters dated of even date herewith that the PCUSA Proposal may be omitted from the 2011 Proxy Materials pursuant to Rules 14a-8(i)(3) and 14a-8(i)(7) and that the AFL-CIO Proposal may be omitted from the 2011 Proxy Materials pursuant to Rules 14a-8(i)(7) and 14a-8(i)(11). If the Staff concurs that both of the Prior Proposals may properly be excluded from the 2011 Proxy Materials, the Company intends to exclude the Prior Proposals from the 2011 Proxy Materials and would withdraw its request to exclude this Proposal in reliance on Rule 14a-8(i)(11), but proceed with its request that the Staff concur that the Proposal may be excluded from the 2011 Proxy Materials pursuant to Rule 14a-8(i)(7).

However, in the event that the Staff is unable to concur that at least one of the Prior Proposals may be omitted from the 2011 Proxy Materials in reliance on Rule 14a-8, the Company would include such Prior Proposal(s) in its 2011 Proxy Materials and, in such a circumstance, respectfully requests the Staff's concurrence that this Proposal may be omitted from its 2011 Proxy Materials in reliance on Rule 14a-8(i)(11) because it substantially duplicates the PCUSA Proposal and/or the AFL-CIO Proposal, each of which was received by the Company earlier in time than the current Proposal.

2. *The Proposal shares the same core issue as the PCUSA Proposal*

The core issue and principal focus of the PCUSA Proposal and the Proposal are the same -- they each seek increased disclosure of the Company's loan modification policies. The PCUSA Proposal seeks development of and a report on uniform application of loan modification policies, while the Proposal would require a review of and report on "the Company's internal controls related to loan modifications, foreclosures and securitizations." Both supporting statements express concern for borrowers who may be having trouble making their mortgage payments and discuss the Company's processing of foreclosures. The differences between the proposals are *de minimis* and related to the scope rather than the core issue of the proposals.

The Staff has consistently concluded that proposals may be excluded because they are substantially duplicative even if such proposals differ as to terms and scope and even if the later proposal is more specific than the prior proposal. For example, in *Lehman Brothers Holdings Inc.* (January 12, 2007), the Staff concurred that a proposal that sought a report on political contributions and certain non-deductible independent expenditures, as well as specified details related to those expenditures, could be omitted in reliance on Rule 14a-8(i)(11) as substantially duplicative of a previously-received proposal that sought disclosure of the contributions made by the company to various politically-aligned organizations. The differences in detail and scope did not negate the fact that the core issue of the two proposals was concerned with political spending by the company. *See also, Bank of America* (February 14, 2006) (same); *American Power Conversion Corporation* (March 29, 2002) (concurring in the exclusion of a proposal requesting that the board of directors set a goal to establish a board of directors with at least two-thirds independent directors as "substantially duplicative" of a proposal that requested a board policy requiring nomination of a substantial majority of independent directors). Similarly, the differences between the PCUSA Proposal and the Proposal are quintessentially ones of term and scope and do not alter the fact that the core issue of all the proposals is the Company's loan modification policies. For example, the Proposal specifies that its report should evaluate the Company's compliance with laws and policies, the sufficiency of staffing, and the Company's incentives to foreclose. However, these specific disclosures requested by the Proposal would necessarily be considered as part of the Company's "loan modification methods" that would have to be overseen and disclosed by the Board of Directors under the PCUSA Proposal if approved by the shareholders. That the actions required by the Proposal would necessarily be subsumed by the actions required by the PCUSA Proposal, further indicating the extent to which the core issue and principal focus of the proposals overlap.

3. The Proposal shares the same core issue as the AFL-CIO Proposal

As demonstrated in the table below, the core issue and principal focus of the AFL-CIO Proposal and the Proposal are substantially the same -- they each seek increased disclosure of the Company's loan modification, and more specifically, foreclosure and securitization practices and policies.

AFL-CIO Proposal	Current Proposal
Shareholders recommend that JPMorgan & Chase Co. (the "Company") prepare a report to be made available to shareholders by the end of 2011.	Shareholders request that the Board have its Audit Committee conduct an independent review and report to shareholders its findings and recommendations by September 30, 2011.
The report should relate to "the Company's internal controls over its mortgage servicing operations."	The review and report should relate to "the Company's internal controls related to loan modifications, foreclosures and securitizations."
The report should discuss:	The report should evaluate :
The Company's participation in mortgage modification programs to prevent residential foreclosures	[Supporting Statement references reports of widespread irregularities in the mortgage securitization, servicing and foreclosure practices exposing the Company to risk]
	Policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests
The Company's procedures to prevent legal defects in the processing of affidavits related to foreclosure	Whether management has allocated a sufficient number of trained staff and complied with (i) applicable laws and regulations and (ii) its own policies and procedures [presumably relating to mortgage modification and foreclosure practices]
The Company's servicing of securitized mortgages that the Company may be liable to repurchase	[Supporting Statement references estimates of total potential mortgage buy-back costs faced by the Company, Citigroup, Bank of American and Wells Fargo]

In short, the AFL-CIO Proposal would require a report on the "Company's internal controls over its mortgage servicing operations," while the current Proposal would require a review of and report on "the Company's internal controls related to loan modifications, foreclosures and securitizations." The supporting statements of both proposals recognize the Company as a leading servicer of home mortgages, express concern over current mortgage

modification and foreclosure practices, and express concern over the Company's potential liability to repurchase mortgages. The differences between the proposals are *de minimis* and related to the scope rather than the core issue of the proposals.

As discussed in detail in the section above, the Staff has consistently concluded that proposals may be excluded because they are substantially duplicative even if such proposals differ as to terms and scope and even if the later proposal is more specific than the prior proposal. The differences between the AFL-CIO Proposal and the current Proposal are quintessentially ones of term and scope and do not alter the fact that the core issue of the proposals is the Company's mortgage modification policies. For example, the AFL-CIO Proposal specifies that its report should discuss specifically "the Company's procedures to prevent legal defects in the processing of affidavits related to foreclosure," while the Proposal seeks more general information regarding "whether management has allocated a sufficient number of trained staff and complied with (i) applicable laws and regulations and (ii) its own policies and procedures." Similarly, the AFL-CIO Proposal seeks general information on "the Company's participation in mortgage modification programs to prevent residential foreclosures," while the Proposal seeks more specific information on "policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests." As discussed above, the actions required by the Proposal vary only in scope to the actions required by the AFL-CIO Proposal, but the core issue and principal focus of general mortgage modification practices are substantially similar for the purposes of Rule 14a-8(i)(11).

4. Conclusion

Based on the foregoing analysis, the Company believes that it may properly omit the Proposal and Supporting Statement from its 2011 Proxy Materials in reliance on Rule 14a-8(i)(11), provided that at least one of the Prior Proposals is included in the 2011 Proxy Materials.

IV. CONCLUSION

For the reasons discussed above, the Company believes that it may properly omit the Proposal and Supporting Statement from its 2011 Proxy Materials in reliance on Rule 14a-8. As such, we respectfully request that the Staff concur with the Company's view and not recommend enforcement action to the Commission if the Company omits the Proposal and Supporting Statement from its 2011 Proxy Materials. If we can be of further assistance in this matter, please do not hesitate to contact me at (202) 383-5418.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martin P. Dunn".

Martin P. Dunn
of O'Melveny & Myers LLP

Attachments

cc: Michael Garland
Executive Director of Corporate Governance
The City of New York Office of the Comptroller

Anthony Horan, Esq.
Corporate Secretary
JPMorgan Chase & Co.

*Shareholder Proposal of Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT A



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY

November 9, 2010

Mr. Anthony J. Horan
Secretary
JP Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

Dear Mr. Horan:

I write to you on behalf of the Comptroller of the City of New York, John C. Liu. The Comptroller is the custodian and a trustee of the New York City Employees' Retirement System, the New York City Fire Department Pension Fund, the New York City Teachers' Retirement System, and the New York City Police Pension Fund, and custodian of the New York City Board of Education Retirement System (the "Systems"). The Systems' boards of trustees have authorized the Comptroller to inform you of their intention to present the enclosed proposal for the consideration and vote of stockholders at the company's next annual meeting.

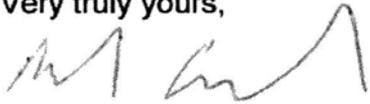
Therefore, we offer the enclosed proposal for the consideration and vote of shareholders at the company's next annual meeting. It is submitted to you in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, and I ask that it be included in the company's proxy statement.

Letters from The Bank of New York Mellon Corporation certifying the Systems' ownership, for over a year, of shares of JP Morgan Chase & Company common stock are enclosed. Each System intends to continue to hold at least \$2,000 worth of these securities through the date of the company's next annual meeting.

Ms. Horan
Page 2

We would be happy to discuss the proposal with you. Should the Board of Directors decide to endorse its provision as corporate policy, we will withdraw the proposal from consideration at the annual meeting. If you have any questions on this matter, please feel free to contact me at 1 Centre Street, Room 629, New York, NY 10007; phone (212) 669-2517.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Garland", written in a cursive style.

Michael Garland
Executive Director of Corporate Governance

MG/ma

Enclosures

Whereas:

JP Morgan Chase & Company is a leading originator, securitizer and servicer of home mortgages.

Reports of widespread irregularities in the mortgage securitization, servicing and foreclosure practices at a number of large banks, including missing or faulty documentation and possible fraud, have exposed the Company to substantial risks.

According to these reports, the specialized needs of millions of troubled borrowers overwhelmed bank operations that were designed to process routine mortgage payments. As the *New York Times* (10/24/10) reported, "computer systems were outmoded; the staff lacked the training and numbers to respond properly to the flood of calls. Traditional checks and balances on documentation slipped away as filing systems went electronic, and mortgages were packaged into bonds at a relentless pace."

Morgan Stanley estimated as many as 9 million U.S. mortgages that have been or are being foreclosed may face challenges over the validity of legal documents.

Mortgage servicers are required to act in the best interests of the investors who own the mortgages. However, a foreclosure expert testified before the Congressional Oversight Panel that perverse financial incentives lead servicers to foreclose when other options may be more advantageous to both homeowner and investor.

Fifty state attorneys general opened a joint investigation and major federal regulators initiated reviews of bank foreclosure practices, including the Federal Reserve's examination of the largest banks' policies, procedures, and internal controls related to loan modifications, foreclosures and securitizations to determine whether systematic weaknesses led to improper foreclosures.

Fitch Ratings warned the "probes may highlight weaknesses in the processes, controls and procedures of certain [mortgage] servicers and may lead to servicer rating downgrades."

"While federal regulators and state attorneys general have focused on flawed foreclosures," reported *Bloomberg* (10/24/10), "a bigger threat may be the cost to buy back faulty loans that banks bundled into securities."

Mortgage repurchases cost Bank of America, Citigroup, JP Morgan Chase and Wells Fargo \$9.8 billion in total as of September 2010, according to Credit Suisse. Goldman Sachs estimated the four banks face potential losses of \$26 billion, while other estimates place potential losses substantially higher.

The Audit Committee of the Board of Directors is responsible for ensuring the Company has adequate internal controls governing legal and regulatory compliance. With the Company's mortgage-related practices under intensive legal and regulatory scrutiny, we believe the Audit Committee should act proactively and independently to reassure shareholders that the Company's compliance controls are robust.

Resolved, shareholders request that the Board have its Audit Committee conduct an independent review of the Company's internal controls related to loan modifications, foreclosures and securitizations, and report to shareholders, at reasonable cost and omitting proprietary information, its findings and recommendations by September 30, 2011.

The report should evaluate (a) the Company's compliance with (i) applicable laws and regulations and (ii) its own policies and procedures; (b) whether management has allocated a sufficient number of trained staff; and (c) policies and procedures to address potential financial incentives to foreclose when other options may be more consistent with the Company's long-term interests.



US Securities Services

RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY

November 09, 2010

To Whom It May Concern

Re: JPMorgan Chase & Co.

CUSIP#: 46625H100

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 09, 2009 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Employees' Retirement System.

The New York City Employees' Retirement System 4,725,142 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

A handwritten signature in cursive script that reads "Alice Tiedemann".

Alice Tiedemann
Vice President



US Securities Services

RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY

November 09, 2010

To Whom It May Concern

Re: JPMorgan Chase & Co.

CUSIP#: 46625H100

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 09, 2009 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Fire Department Pension Fund.

The New York City Fire Department Pension Fund 755,265 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

A handwritten signature in cursive script that reads "Alice Tiedemann".

Alice Tiedemann
Vice President



US Securities Services

RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY

November 09, 2010

To Whom It May Concern

Re: JPMorgan Chase & Co.

CUSIP#: 46625H100

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 09, 2009 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Teachers' Retirement System.

The New York City Teachers' Retirement System 4,785,277 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

A handwritten signature in cursive script that reads "Alice Tiedemann".

Alice Tiedemann
Vice President



RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY



BNY MELLON
ASSET SERVICING

US Securities Services

November 09, 2010

To Whom It May Concern

Re: JPMorgan Chase & Co.

CUSIP#: 46625H100

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 09, 2009 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Police Pension Fund.

The New York City Police Pension Fund 2,182,967 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Alice Tiedemann
Vice President



RECEIVED BY THE

NOV 12 2010

OFFICE OF THE SECRETARY



BNY MELLON
ASSET SERVICING

US Securities Services

November 09, 2010

To Whom It May Concern

Re: JPMorgan Chase & Co.

CUSIP#: 46625H100

Dear Madame/Sir:

The purpose of this letter is to provide you with the holdings for the above referenced asset continuously held in custody from November 09, 2009 through today at The Bank of New York Mellon in the name of Cede and Company for the New York City Board of Education Retirement System.

The New York City Board of Education Retirement System 291,631 shares

Please do not hesitate to contact me should you have any specific concerns or questions.

Sincerely,

Alice Tiedemann
Vice President



JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

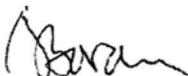
November 15, 2010

Mr. Michael Garland
Executive Director of Corporate Governance
The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

Dear Mr. Garland:

This will acknowledge receipt of a letter dated November 9, 2010, whereby you advised JPMorgan Chase & Co. of the intention of the New York City's Employees Retirement System, Fire Department Pension Fund, Teachers' Retirement System, Police Pension Fund and the Board of Education Retirement System to submit a proposal on mortgage servicing operations to be voted upon at our 2011 Annual Meeting.

Sincerely,



270 Park Avenue, New York, New York 10017-2070
Telephone 212 270 7122 Facsimile 212 270 4240 anthony.horan@chase.com

JPMorgan Chase & Co.

76792178

*Shareholder Proposal of Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT B

promise to be kept. This is especially true when the financial institution is acting under the aegis of a federal program that is specifically targeted at preventing foreclosure.

3. In 2008, J.P. Morgan Chase accepted \$25 billion in funds from the United States Government as part of the Troubled Asset Relief Program (“TARP”), 12 U.S.C. § 5211. On July 31, 2009 Michael R. Zarro Jr., Sr. Vice President of J.P. Morgan Chase Bank, NA signed a contract with the U.S. Treasury (attached as Exhibit 1 and included by reference) agreeing to participate in HAMP -- a program in which Chase received incentive payments for providing affordable mortgage loan modifications and other alternatives to foreclosure to eligible borrowers.

4. As a participating servicer in HAMP, Chase has, in turn, entered into written agreements with Plaintiffs in which it agreed to provide Plaintiffs with permanent loan modifications if Plaintiffs made three monthly trial period payments and complied with requests for accurate documentation. Plaintiffs, for their part, have complied with these agreements by submitting the required documentation and making payments. Despite Plaintiffs’ efforts, Defendant Chase has ignored its contractual obligation to modify their loans permanently.

5. The same problems affect other members of the putative class. As a result, hundreds, if not thousands, of Massachusetts homeowners are wrongfully being deprived of an opportunity to cure their delinquencies, pay their mortgage loans and save their homes. Defendant’s actions thwart the purpose of HAMP and are illegal under Massachusetts law.

JURISDICTION

6. Plaintiffs invoke the jurisdiction of this Court pursuant to 28 U.S.C. § 1332 because the action is between parties that are citizens of different states and the amount in controversy is greater than \$75,000. For diversity jurisdiction purposes, a national bank is a citizen of the state designated as its main office on its organization certificate. *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 306

(2006). J.P. Morgan Chase Bank, NA is, on information and belief, a citizen of New York.

Plaintiffs are citizens of Massachusetts.

7. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) in that it is brought as a putative class action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and at least one member of the class of plaintiffs is a citizen of a State different from any defendant.

8. Venue is proper in this Court pursuant to 28 U.S.C. 1391(b) inasmuch as the unlawful practices are alleged to have been committed in this District, Defendant regularly conducts business in this District, and the named Plaintiffs reside in this District.

PARTIES

9. Ramiza Durmic is an individual residing at *** FISMA & OMB Memorandum M-07-16 ***

10. Aziz Isaak and Nadia Mohamed are a married couple residing at *** FISMA & OMB Memorandum M-07-16 ***
*** FISMA & OMB Memorandum M-07-16 ***

11. J.P. Morgan Chase Bank, N.A. is a loan servicer with its corporate headquarters located at 270 Park Avenue, New York, NY 10017-2014.

FACTUAL BACKGROUND

The Foreclosure Crisis

12. Over the last three years, the United States has been in a foreclosure crisis. A congressional oversight panel has recently noted that one in eight U.S. mortgages is currently in foreclosure or default.¹

13. The number of Massachusetts properties with foreclosure filings in 2008 was 150% higher than in 2007 and 577% higher than in 2006 – a near seven-fold increase in only two years.²

¹ Congressional Oversight Panel, Oct. 9, 2009 report at 3. Available at <http://cop.senate.gov/reports/library/report-100909-cop.cfm>.

14. According to 2009 data, the numbers continue to rise; in the third quarter of 2009, foreclosures were filed on 12,667 Massachusetts properties, a 35% increase over the same period of 2008.³ Overall in 2009, over 36,000 individual properties in Massachusetts had foreclosure filings against them which, while slightly less than 2008, still represents an increase of over 100% from 2007 levels and an increase of more than 400% over 2004.⁴

15. Increased foreclosures have a detrimental effect not just on the borrowers who lose unique property and face homelessness, but also on the surrounding neighborhoods that suffer decreased property values and municipalities that lose tax revenue.

16. State legislative efforts were able to temporarily slow the pace of completed foreclosures in 2009, but toward the end of the year, the number of new filings once again rose, demonstrating that foreclosures were merely delayed, not prevented.⁵

17. The foreclosure crisis is not over. Economists predict that interest rate resets on the riskiest of lending products will not reach their zenith until sometime in 2011. *See* Eric Tymoigne, *Securitization, Deregulation, Economic Stability, and Financial Crisis*, Working Paper No. 573.2 at 9, Figure 30 *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1458413 (citing a Credit Suisse study showing monthly mortgage rate resets).

² RealtyTrac Staff. Foreclosure Activity Increases 81 Percent in 2008. Jan. 15, 2009. Available at <http://www.realtytrac.com/contentmanagement/pressrelease.aspx?channelid=9&acct=0&itemid=5681>.

³ RealtyTrac Staff. U.S. Foreclosure Activity Increases 5 Percent in Q3. Oct. 15, 2009. Available at <http://www.realtytrac.com/contentmanagement/pressrelease.aspx?channelid=9&acct=0&itemid=7706>.

⁴ RealtyRrac Staff. RealtyTrac Year End Report Shows Record 2.8 Million U.S. Properties with Foreclosure Filings in 2009. Available at <http://www.realtytrac.com/contentmanagement/pressrelease.aspx?channelid=9&itemid=8333>

⁵ For 2007 comparison, see Gavin, Robert. Fewer Lose Their Homes in August. Boston Globe. Sept. 23, 2009. Available at http://www.boston.com/realestate/news/articles/2009/09/23/foreclosures_in_mass_drop_but_petitions_soar/.

Creation of the Home Affordable Modification Program

18. Congress passed the Emergency Economic Stabilization Act of 2008 on October 3, 2008 and amended it with the American Recovery and Reinvestment Act of 2009 on February 17, 2009 (together, the “Act”). 12 U.S.C.A. §5201 *et. seq.* (2009).

19. The purpose of the Act is to grant the Secretary of the Treasury the authority to restore liquidity and stability to the financial system, and ensure that such authority is used in a manner that “protects home values” and “preserves homeownership.”12 U.S.C.A. §5201.

20. The Act grants the Secretary of the Treasury the authority to establish the Troubled Asset Relief Program, or TARP. 12 U.S.C. § 5211. Under TARP, the Secretary may purchase or make commitments to purchase troubled assets from financial institutions. *Id.*

21. Congress allocated up to \$700 billion to the United States Department of the Treasury for TARP. 12 U.S.C. § 5225.

22. In exercising its authority to administer TARP, the Act mandates that the Secretary “shall” take into consideration the “need to help families keep their homes and to stabilize communities.” 12 U.S.C. § 5213(3).

23. The Act further mandates, with regard to any assets acquired by the Secretary that are backed by residential real estate, that the Secretary “shall implement a plan that seeks to maximize assistance for homeowners” and use the Secretary’s authority over servicers to encourage them to take advantage of programs to “minimize foreclosures.” 12 U.S.C.A. §5219.

24. The Act grants authority to the Secretary of the Treasury to use credit enhancement and loan guarantees to “facilitate loan modifications to prevent avoidable foreclosures.” *Id.*

25. The Act imposes parallel mandates to implement plans to maximize assistance to homeowners and to minimize foreclosures. 12 U.S.C.A. §5220.

26. On February 18, 2009, pursuant to their authority under the Act, the Treasury Secretary and the Director of the Federal Housing Finance Agency announced the Making Home Affordable program.

27. The Making Home Affordable program consists of two subprograms. The first sub-program relates to the creation of refinancing products for individuals with minimal or negative equity in their home, and is now known as the Home Affordable Refinance Program, or HARP.

28. The second sub-program relates to the creation and implementation of a uniform loan modification protocol, and is now known as the Home Affordable Modification Program, or HAMP. It is this subprogram that is at issue in this case.

29. HAMP is funded by the federal government, primarily with TARP funds. The Treasury Department has allocated at least \$75 billion to HAMP, of which at least \$50 billion is TARP money.

30. Under HAMP, the federal government incentivizes participating servicers to enter into agreements with struggling homeowners that will make adjustments to existing mortgage obligations in order to make the monthly payments more affordable. Servicers receive \$1000.00 for each HAMP modification.

Broken Promises Under HAMP

31. The industry entities that perform the actual interface with borrowers – including such tasks as payment processing, escrow maintenance, loss mitigation and foreclosure – are known as “servicers.” Servicers typically act as the agents of the entities that hold mortgage loans. Chase is a servicer and its actions described herein were made as agents for the entities that hold mortgage loans.

32. Should a servicer elect to participate in HAMP,⁶ they execute a Servicer Participation Agreement (“SPA”) with the federal government.

33. On July 31, 2009, Michael R. Zarro Jr., Sr. Vice President of J.P. Morgan Chase Bank, NA, executed an SPA, thereby making Chase a participating servicer in HAMP. A copy of this SPA is attached hereto as Exhibit 1.

34. The SPA executed by Chase incorporates all “guidelines,” “procedures,” and “supplemental documentation, instructions, bulletins, frequently asked questions, letters, directives, or other communications” issued by the Treasury, Fannie Mae or Freddie Mac in connection with the duties of Participating Servicers. These documents together are known as the “Program Documentation” (SPA at ¶ 1.A.), and are incorporated by reference herein.

35. The SPA mandates that a Participating Servicer “shall perform” the activities described in the Program Documentation “for all mortgage loans it services.” (SPA at ¶¶ 1.A., 2.A.)⁷

36. The Program Documentation requires Participating Servicers to evaluate *all loans*, which are 60 or more days delinquent for HAMP modifications. (SD 09-01 at 4) In addition, if a borrower contacts a Participating Servicer regarding a HAMP modification, the Participating Servicer must collect income and hardship information to determine if HAMP is appropriate for the borrower.

37. A HAMP Modification consists of two stages. First, a Participating Servicer is required to gather information and, if appropriate, offer the homeowner a Trial Period Plan (“TPP”).⁸ The

⁶ Certain classes of loans, namely those held by Federal National Mortgage Association (“Fannie Mae”), Federal Home Loan Mortgage Corporation (“Freddie Mac”) or companies that accepted money under the TARP program, are subject to mandatory inclusion in HAMP. Otherwise, participation by servicers in the HAMP program is voluntary.

⁷ The Program Documentation also includes Supplemental Directive 09-01 (“SD 09-01,” attached hereto as Exhibit 2), Home Affordable Modification Program; Base Net Present Value (NPV) Model Specifications (“NPV Overview,” attached hereto as Exhibit 3) and Supplemental Documentation—Frequently Asked Questions (“HAMPFAQS,” attached hereto as Exhibit 4) and Supplemental Directive 09-08 (“SD 09-08,” attached hereto as Exhibit 5). These documents together describe the basic activities required under HAMP and are incorporated by reference in both of the TPP Agreements signed by Plaintiffs as well as herein.

TPP consists of a three-month period in which the homeowner makes mortgage payments based on a formula that uses the initial financial information provided.

38. Chase offers TPPs to eligible homeowners by way of a TPP Agreement, which describes the homeowner's duties and obligations under the plan and promises a permanent HAMP modification for those homeowners that execute the agreement and fulfill the documentation and payment requirements.

39. If the homeowner executes the TPP Agreement, complies with all documentation requirements and makes all three TPP monthly payments, the second stage of the HAMP process is triggered, in which the homeowner is offered a permanent modification.

40. Chase has routinely failed to live up to their end of the TPP Agreement and offer permanent modifications to homeowners. In January 2010, the U.S. Treasury reported that Chase had 424,965 HAMP-eligible loans in its portfolio. Of these loans, just 7,139 resulted in permanent modifications (approximately 1.7 %) even though many more homeowners had made the payments and submitted the documentation required by the TPP Agreement. The Treasury Report is attached hereto as Exhibit 6.

41. By failing to live up to the TPP Agreement and convert TPPs into permanent modifications, Chase is not only leaving homeowners in limbo, wondering if their home can be saved, Chase is also preventing homeowners from pursuing other avenues of resolution, including using the money they are putting toward TPP payments to fund bankruptcy plans, relocation costs, short sales or other means of curing their default.

Ramiza Durmic

⁸ The eligibility criteria for HAMP, as well as the formula used to calculate monthly mortgage payments under the modification, are explained in detail in SD 09-01, attached hereto as Exhibit 2. Generally speaking, the goal of a HAMP modification is for owner-occupants to receive a modification of a first-lien loan by which the monthly mortgage payment is reduced to 31% of their monthly income for the next five years.

42. Ramiza Durmic has been the owner of ~~the~~ ~~same~~ ~~since~~ ~~March~~ ~~29,~~ ~~2006.~~ She works at Target while raising her family.

43. On February 9, 2007 Durmic took out a \$272,000 mortgage loan (hereinafter the “mortgage loan”) for her residence ~~at~~ ~~from~~ ~~Washington~~ ~~Mutual~~ ~~Bank,~~ ~~FA.~~

44. The servicing of the Plaintiff’s mortgage loan was transferred to the Defendant Chase sometime after February 9, 2007 and continues to this date.

45. After taking out the mortgage loan, Durmic began experiencing various financial hardships, which combined to cause her to have difficulty making payments on her mortgage loan and resulted in her falling behind on her payments.

46. Around late May, 2009 or early June, 2009 Durmic applied for a *Making Home Affordable* loan modification.

47. By June, 2009 Durmic was about 9 months behind in her mortgage payments.

48. On June 19, 2009, Chase offered Durmic a TPP Agreement entitled *Home Affordable Modification Trial Period Plan* (hereinafter Trial Period Plan or TPP). A copy of the letter accompanying the TPP Agreement is attached hereto as Exhibit 7. Durmic timely accepted the offer by executing the TPP Agreement and returning it to Defendant Chase, along with the Hardship Affidavit, IRS Form 4506-T, payment and other supporting documentation, by Federal Express on June 26, 2009. A copy of the TPP signed by Durmic and other partially redacted items submitted to Defendant Chase is attached hereto as Exhibit 8.

49. The TPP Agreement provided that the plan was effective July 1, 2009 and would run from July, 2009 to September, 2009. Durmic’s monthly mortgage payments (Principle, Interest, Taxes and Insurance) were reduced to \$829.02/month under the TPP.

50. The TPP Agreement is entitled “Home Affordable Modification Program Loan Trial Period,” and the first sentence of the agreement provides: “If I am in compliance with this Loan Trial Period and my representations in Section 1 continue to be true in all material respects, then the Lender will provide me with a Loan Modification Agreement, as set forth in Section 3 [below], that would amend and supplement (1) the Mortgage on the Property, and (2) the Note secured by the Mortgage.”

51. The TPP Agreement also states “I understand that after I sign and return two copies of this Plan to the Lender, the Lender will send me a signed copy of the Plan if I qualify for the Offer or will send me written notice that I do not qualify for the offer.” Nevertheless, to date, Chase has still sent neither a signed copy of the Plan, nor a written rejection.

52. Durmic timely made each of the payments provided for in the TPP Agreement due in July, August and September, 2009. She has also timely made payments for October, November and December, 2009 and January and February, 2010, consistent with her TPP Agreement payment amount.

53. In the midst of her trial period and despite the promise in the TPP Agreement that the “Lender will suspend any scheduled foreclosure sale, provided I continue to meet the obligations under this Plan...”, Chase, through its attorney, attempted to collect on the mortgage loan by serving Durmic with:

- a. An *Order of Notice* by letter dated August 19, 2009 expressing the holder’s intention to foreclose by entry and possession and exercise of power of sale; and
- b. An August 26, 2009 *Notice of Mortgage Foreclosure Sale and Notice of Intention to Foreclose Mortgage and of Deficiency After Foreclosure of Mortgage and Notice*

September 28, 2009 at 9:00 AM.

54. Despite the threats to conduct a foreclosure sale, Durmic has continued to make payments as described in the TPP.

55. On August 28, 2009, Durmic's counsel called Chase seeking postponement of the September 28, 2009 foreclosure sale date. He was told that Chase would postpone the sale and that he should provide Chase with Durmic's last 2 pay stubs and her most recent bank statement even though her last 2 paystubs were submitted in June, 2009. Chase also indicated that it should be making a decision on whether it will offer Durmic a permanent loan modification by the end of September, 2009. Durmic's counsel sent the requested documents to Chase on August 31, 2009.

56. Having received no written confirmation from Chase that the September 28, 2009 foreclosure sale was postponed, Durmic's counsel sent a 93A demand letter to counsel for Chase seeking written confirmation of the postponement of the foreclosure sale. On September 18, 2009 counsel for Chase confirmed in writing that the foreclosure sale had been cancelled.

57. By letter dated October 2, 2009 Durmic received a written message from Chase with the startling headline: "YOUR MODIFICATION IS AT RISK-URGENT RESPONSE NEEDED!" The letter went on to state:

"...Under the terms of the Trial Plan Agreement previously sent to you, you are required to make trial plan payments and also provide certain documentation as a condition of approval for a permanent modification.

Unfortunately, we are still missing documentation necessary to evaluate your modification request... The deadline specified in your Trial Plan Agreement for submitting this documentation has passed. However, a recent decision by the Department of Treasury under the Making Home Affordable program provides you a one-time extension of this deadline, and we are writing to request that you provide these missing documents before we can proceed with a decision on your request for a modification.

58. The October 2, 2009 letter instructed Durmic to continue making TPP payments at the same amount and identified the following documentation as missing: pay stubs, signed IRS Form 4506-T, and signed Hardship Affidavit.

59. Durmic's counsel called Chase for clarification of the October 2, 2009 letter because Durmic had twice previously provided to Chase her most recent pay stubs, a signed IRS Form 4506-T, and a signed Hardship Affidavit. She had not been previously required to provide proof of residence. In that communication from Chase, it changed its document demand to:

- a. Ms. Durmic's most recent pay stub,
- b. Ms. Durmic's most recent bank statement, and
- c. A utility bill in her name at the property's address.

60. On October 9, 2009 Durmic faxed to Chase the documents demanded during the phone call with Durmic's counsel.

61. As of this date, Durmic is in compliance with her obligations under the TPP Agreement and her representations to the Defendant continue to be true in all material respects.

62. Despite having timely provided Chase with all documentation it requested, Chase did not provide Durmic with a permanent loan modification by the end of her Trial Period (September, 2009).

63. Despite Durmic's compliance in all material respects with the terms of the TPP Agreement, Durmic still has not been offered a permanent loan modification under the HAMP Program guidelines.

64. Defendant has therefore breached the provision of the TPP Agreement that compliance with the TPP Agreement for the three month trial period would result in a permanent loan modification. At this point, her TPP is now in its eighth month with no end in sight.

65. Like the other Plaintiffs in this matter, Durmic has been living in limbo, without any assurances that her home will not be foreclosed, despite her compliance with HAMP requirements and her continued monthly payments under the TPP.

Aziz Isaak and Nadia Mohamed

66. The Isaak-Mohameds have been the owners of ~~residence at~~ OMB Memorandum since November 26, 2003. They hold down 3 jobs between them while raising a family.

67. On November 18, 2005 the Isaak-Mohameds took out a \$328,500 mortgage loan (hereinafter the "mortgage loan") for their residence at ~~residence at~~ OMB Memorandum from Franklin First Financial, LTD.

68. The servicing of the Plaintiff's mortgage loan was transferred to the Defendant Chase sometime after November 18, 2005 and continues to this date.

69. After taking out the mortgage loan, the Isaak-Mohameds began experiencing financial hardships, which combined to cause them to have difficulty making payments on their mortgage loan and resulted in them falling behind on their payments.

70. By September, 2009 the Isaak-Mohameds were about 12 months behind in their mortgage payments and their home was scheduled for a foreclosure sale date of September 23, 2009. The Isaak-Mohameds decided to seek help from their loan servicer in preserving their home and making their mortgage more affordable.

71. On September 7, 2009 they applied for a HAMP loan modification by fax. On September 9, 2009 they supplemented their application with additional financial information by fax.

72. By letter dated September 16, 2009, Chase offered the Isaak-Mohameds a TPP Agreement entitled *Home Affordable Modification Trial Period Plan*. A copy of the letter accompanying the TPP Agreement is attached hereto as Exhibit 9.

73. The Isaak-Mohameds timely accepted the offer on October 9, 2009 by returning the executed TPP Agreement to Chase via Federal Express, along with along with the Hardship Affidavit, IRS Form 4506-T, payment and other supporting documentation. A copy of the TPP Agreement signed by the Isaak-Mohameds, along with the partially redacted supporting materials sent to Chase, is attached hereto as Exhibit 10.

74. The TPP Agreement provided that the plan was effective November 1, 2009 and would run from November, 2009 to January, 2010.

75. The TPP Agreement is entitled "Home Affordable Modification Program Loan Trial Period," and the first sentence of the agreement provides: "If I am in compliance with this Loan Trial Period and my representations in Section 1 continue to be true in all material respects, then the Lender will provide me with a Loan Modification Agreement, as set forth in Section 3 [below], that would amend and supplement (1) the Mortgage on the Property, and (2) the Note secured by the Mortgage."

76. The TPP Agreement also states "I understand that after I sign and return two copies of this Plan to the Lender, the Lender will send me a signed copy of the Plan if I qualify for the Offer or will send me written notice that I do not qualify for the offer." Nevertheless, to date, Chase still has sent neither a signed copy of the Plan, nor a written rejection.

77. The Isaak-Mohameds timely made each of the payments provided for in the TPP Agreement for November and December, 2009 and January, 2010. They have also timely made a payment for February, 2010 consistent with the TPP Agreement payment amount.

78. Ignoring the documents that had previously been sent by the Isaak-Mohameds on October 9, 2009, as stated above, Chase sent a letter dated October 16, 2009 (received by the Isaak-Mohameds on October 24, 2009) stating:

Chase Home Finance LLC is writing to inform you that we have not received all documents necessary to complete your request for a modification of the above referenced Loan.

In order for us to continue processing your request, you must submit the items indicated below within ten (10) days from the date of this letter. If we do not receive all the information listed below, we may be forced to cancel your request and your modification will be denied.

- Most recent bank statement including all pages, last four if self-employed.

79. Chase extended the deadline to submit the documents to October 27, 2009.

80. Despite having previously sent their most recent bank statements with their original application in September 2009, the Isaak-Mohameds responded to the October 16, 2009 letter by faxing to Chase their most recent bank statements on October 27, 2009.

81. On January 31, 2010 Chase sent the Isaak-Mohameds a letter with the startling headline: “YOUR MODIFICATION IS AT RISK-URGENT RESPONSE NEEDED!” As before Chase claimed that “we have not received all required documents necessary to complete your request for a modification of the above-referenced Loan.” This time the following documents were stated as supposedly missing:

- Properly completed Hardship Affidavit
- Properly completed 4506-Y-EZ-Request for Transcript of tax return form
- Income Documentation
 - If salaried or wage employee-two (2) most recent pay stubs indicating year-to-date earnings

The letter continues by stating “In addition to getting us the required documents, you must also continue to make trial period payments at your current amount.”

82. Despite having previously provided a Hardship Affidavit and an IRS Form 4506-T, the Isaak-Mohameds re-provided that documentation along with all of the pay-stubs requested plus a signed copy of their 2009 tax return with all schedules.

83. As of this date, the Isaak-Mohameds are in compliance with their TPP Agreement and their representations to the Defendant continue to be true in all material respects.

84. Despite having timely provided Chase with all documentation it requested, Chase did not provide the Isaak-Mohameds with a permanent loan modification by January 31, 2010.

85. Despite their compliance in all material respects with the terms of the TPP Agreement, the Isaak-Mohameds still have not been given a permanent loan modification under the HAMP Program guidelines.

86. Defendant has therefore breached the provision of the TPP Agreement that compliance with the TPP Agreement for the three month trial period would result in a permanent loan modification. At this point, the TPP is now in its fifth month with no end in sight.

87. Like the other Plaintiffs in this matter, the Isaak-Mohamed have been living in limbo, without any assurances that their home will not be foreclosed, despite their compliance with HAMP requirements and their continued monthly payments under the TPP.

Class Allegations

88. Plaintiffs repeat and re-allege every allegation above as if set forth herein in full.

89. This class action is brought by the Plaintiffs on behalf of themselves and all Massachusetts homeowners whose loans have been serviced by Defendant and who, since July 31, 2009, have complied with their obligations under a written TPP Agreement, but have not received a permanent HAMP modification.

90. Plaintiffs sue on their own behalf and on behalf of a class of persons under Rules 23(a) and (b) of the Federal Rules of Civil Procedure.

91. Plaintiffs do not know the exact size or identities of the members of the proposed class, since such information is in the exclusive control of Defendant. Plaintiffs believe that the class encompasses many hundreds of individuals whose identities can be readily ascertained from Defendant's books and records. Therefore, the proposed class is so numerous that joinder of all members is impracticable.

92. Based on the size of the modifications at issue, Plaintiffs believe the amount in controversy exceeds \$5 million.

93. All members of the class have been subject to and affected by the same conduct. The claims are based on form contracts and uniform loan modification processing requirements. There are questions of law and fact that are common to the class, and predominate over any questions affecting only individual members of the class. These questions include, but are not limited to the following:

- a. the nature, scope and operation of Defendant's obligations to homeowners under HAMP ;
- b. whether Defendant's receipt of an executed TPP Agreement, along with supporting documentation and three monthly payments, creates a binding contract or otherwise legally obligates Defendant to offer class members a permanent HAMP modification;
- c. whether Defendant's failure to provide permanent HAMP modifications in these circumstances amounts to a breach of contract and/or a breach of the covenant of good faith and fair dealing; and

d. whether the Court can order Defendant to pay damages and what the proper measure of damages is, and also whether the Court can enter injunctive relief.

94. The claims of the individual named Plaintiffs are typical of the claims of the class and do not conflict with the interests of any other members of the class in that both the Plaintiffs and the other members of the class were subject to the same conduct, signed the same agreement and were met with the same absence of a permanent modification.

95. The individual named Plaintiffs will fairly and adequately represent the interests of the class. They are committed to the vigorous prosecution of the class' claims and have retained attorneys who are qualified to pursue this litigation and have experience in class actions – in particular, consumer protection actions.

96. A class action is superior to other methods for the fast and efficient adjudication of this controversy. A class action regarding the issues in this case does not create any problems of manageability.

97. This putative class action meets both the requirements of Fed. R. Civ. P. 23(b)(2) and Fed. R. Civ. P. 23(b)(3).

98. The Defendant has acted or refused to act on grounds that apply generally to the class so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

COUNT I
Breach of Contract

99. Plaintiffs repeat and re-alleges every allegation above as if set forth herein in full.

100. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class described above.

101. As described above, the TPP Agreement sent by Defendant to Plaintiffs constitutes a valid offer.

102. By executing the TPP Agreement and returning it to Defendant along with the supporting documentation, Plaintiffs accepted Defendant's offer.

103. Alternatively, Plaintiffs' return of the TPP Agreement constitutes an offer. Acceptance of this offer occurred when Defendant accepted Plaintiffs' TPP payments.

104. Plaintiffs' TPP payments to Defendant constitute consideration. By making those payments, Plaintiffs gave up the ability to pursue other means of saving their home, and Defendant received payments it might otherwise not have.

105. Plaintiffs and Defendant thereby formed valid contracts.

106. To the extent that the contracts were subject to a condition subsequent providing Chase an opportunity to review the documentation submitted by Plaintiffs when they returned the signed TPP, this condition was waived by Chase and/or it is estopped to assert it as a defense to Plaintiffs' claims.

107. By failing to offer Plaintiffs permanent HAMP modifications, Defendant breached those contracts.

108. Plaintiffs remain ready, willing and able to perform under the contracts by continuing to make TPP payments and provide documentation.

109. Plaintiffs have suffered harm and are threatened with additional harm from Defendant's breach. By making TPP payments both during and after the TPP, Plaintiffs forego other remedies that might be pursued to save their homes, such as restructuring their debt under the bankruptcy code, or pursuing other strategies to deal with their default, such as selling their home. On

information and belief, some putative class members have suffered additional harm in the form of foreclosure activity against their homes.

COUNT II
Breach of the Implied Covenant of Good Faith and Fair Dealing

110. Plaintiffs repeat and re-alleges every allegation above as if set forth herein in full.

111. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class described above.

112. Defendant is obligated by contract and common law to act in good faith and to deal fairly with each borrower.

113. “[T]he purpose of the covenant is to guarantee that the parties remain faithful to the intended and agreed expectations of the parties in their performance.” *Uno Restaurants, Inc. v. Boston Kenmore Realty Corp.*, 441 Mass. 376, 385 (2004).

114. Defendant routinely and regularly breaches this duty by:

- a. failing to perform loan servicing functions consistent with its responsibilities to Plaintiffs;
- b. failing to properly supervise its agents and employees including, without limitation, its loss mitigation and collection personnel and its foreclosure attorneys;
- c. routinely demanding information it has already received;
- d. making inaccurate calculations and determinations of Plaintiffs’ eligibility for HAMP;
- e. failing to follow through on written and implied promises;
- f. failing to follow through on contractual obligations; and

g. failing to give permanent HAMP modifications and other foreclosure alternatives to qualified Plaintiffs.

115. As a result of these failures to act in good faith and the absence of fair dealing, Defendant caused Plaintiffs harm.

COUNT III
Promissory Estoppel, in the alternative

116. Plaintiffs repeat and re-alleges every allegation above as if set forth herein in full.

117. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class described above.

118. Defendant, by way of its TPP Agreements, made a representation to Plaintiffs that if they returned the TPP Agreement executed and with supporting documentation, and made their TPP payments, they would receive a permanent HAMP modification.

119. Defendant's TPP Agreement was intended to induce Plaintiffs to rely on it and make monthly TPP payments.

120. Plaintiffs did indeed rely on Defendant's representation, by submitting TPP payments.

121. Given the language in the TPP Agreement, Plaintiffs' reliance was reasonable.

122. Plaintiffs reliance was to their detriment. Plaintiffs have yet to receive permanent HAMP modifications and have lost the opportunity to fund other strategies to deal with their default and avoid foreclosure.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request the following relief:

a. Certify this case as a class action and appoint the named Plaintiffs to be class representatives and their counsel to be class counsel;

b. Enter a Judgment declaring the acts and practices of Defendant complained of herein to constitute a breach of contract and a breach of the covenant of good faith and fair dealing, together with a Declaration that Defendant is required by the doctrine of promissory estoppel to offer permanent modifications to class members;

c. Grant preliminary and permanent injunctive relief, enjoining Defendant's agents and employees, affiliates and subsidiaries, from continuing to harm Plaintiffs and the members of the Class in violation of their contractual and other obligations undertaken and incurred in connection with HAMP;

d. Order Defendant to adopt and enforce a policy that requires appropriate training of their employees and agents regarding their duties under HAMP;

e. Order specific performance of Defendant's contractual obligations together with other relief required by contract and law;

g. Award actual and punitive damages to the Plaintiffs and the class;

h. Award Plaintiffs the costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees; and

i. Grant Plaintiffs and the Class such other and further relief as this Court finds necessary and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully Submitted,
On behalf of the Plaintiffs

/s/ Gary Klein
Gary Klein (BBO 560769)
Shennan Kavanagh (BBO 655174)
Kevin Costello (BBO 669100)

RODDY KLEIN & RYAN
727 Atlantic Avenue
Boston, MA 02111-2810
Tel: (617) 357-5500
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Stuart Rossman (BBO 430640)
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NATIONAL CONSUMER LAW CENTER
7 Winthrop Square, 4th floor
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(617) 542-9595 (*telephone*)
(617) 542-8010 (*fax*)

Michael Raabe (BBO 546107)
NEIGHBORHOOD LEGAL SERVICES
170 Common Street, Suite 300
Lawrence, MA 01840
Tel: (978) 686-6900
Fax: (978) 685-2933

DATE: March 3, 2010

IN THE CIRCUIT COURT FOR THE 19TH JUDICIAL CIRCUIT
LAKE COUNTY - WAUKEGAN ILLINOIS

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION,

Plaintiff

vs.

FRANCES DEUTSCH; SOL DEUTSCH;
COURTYARDS AT THE WOODLANDS
CONDOMINIUM ASSOCIATION; UNKNOWN
OWNERS AND NONRECORD CLAIMANTS,

Defendants.

No. 08 CH 4035

FRANCES DEUTSCH and SOL DEUTSCH,

Defendants-Counterplaintiffs

vs.

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION,

Plaintiff-Counterdefendant

**CLASS ACTION COUNTERCLAIM
IN LIEU OF ANSWER PURSUANT TO 735 ILCS 5/15-1504**

Defendants-Counterplaintiffs, FRANCES DEUTSCH and SOL DEUTSCH, (hereinafter sometimes referred to as "DEUTSCH"), pursuant to 735 ILCS 5/15-1504, on behalf of themselves and a class of all others similarly situated, by and through their attorneys, LARRY D. DRURY, LTD. and, except as to facts known to DEUTSCH, and allege upon information and belief, following investigation of counsel against Plaintiff-Counterdefendant, JPMORGAN

CHASE BANK, NATIONAL ASSOCIATION, (hereinafter referred to as "CHASE"), as follows:

NATURE OF THE CASE

1. DEUTSCH seeks relief for themselves and a class of similarly situated CHASE mortgagors throughout Illinois and the United States against whom CHASE has initiated foreclosure proceedings between the years 2000 to the date of judgment herein.
2. CHASE's proceeding to foreclose upon DEUTSCH's residential real estate mortgage was filed on October 21, 2008, and is currently pending before this Court. DEUTSCH filed an answer on September 2, 2009.
3. On May 7, 2010, CHASE filed a motion for summary judgment pursuant to 735 ILCS 5/2-1005 wherein the undated, unverified, signed but not notarized Affidavit of Margaret Dalton, Vice President of JPMorgan Chase Bank, National Association was attached. A copy of said Affidavit is attached hereto as Exhibit A. On September 23, 2010, Deutsch filed a Motion to Strike and Dismiss Chase's Affidavit and/or In The Alternative to Answer to Chase's Motion for Summary Judgment.
4. That on or about September 30, 2010, CHASE publicly admitted that affidavits attached to their motions for summary judgment a/k/a "quick judgments", are without the personal knowledge of the affiant and, based thereon, purportedly suspended 56,000 pending foreclosure proceedings throughout the United States, including Illinois, until further notice.
5. That despite having knowledge that affidavits attached to their motions for summary judgment a/k/a "quick judgments" are false and without the personal knowledge of the affiant, as is believed to be the fact in the pending foreclosure proceeding, CHASE continues to

pursue foreclosures throughout the United States resulting in judgments of foreclosure, loss of property, deficiency judgments, fees and costs.

PARTIES, JURISDICTION AND VENUE

6. Defendants-Counterplaintiffs, FRANCES DEUTSCH and SOL DEUTSCH are residents of Lake County, Illinois.

7. Plaintiff-Counterdefendant, JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, provides mortgage and financial services in Lake County, Illinois and throughout the United States.

8. This Court has jurisdiction over this action pursuant to 735 ILCS 5/2-209 in that CHASE has transacted business and continues to transact business and commit acts and tortious conduct relating to the matters complained of herein in this State, and/or own real estate in this State.

9. Venue is proper pursuant to 735 ILCS 5/2-101 because CHASE transacts and conducts business in Lake County, Illinois and because the conduct giving rise to this Class Action Counterclaim occurred in Lake County, Illinois.

FACTUAL ALLEGATIONS

10. DEUTSCH entered into a purported mortgage transaction with CHASE on May 25, 2004. However, there are no allegations that CHASE is the holder or assignee of the Mortgage and Note upon which they have foreclosed. Further, there are no allegations that CHASE actually provided the funds for the original mortgages of DEUTSCH and the Class.

11. CHASE filed for foreclosure against DEUTSCH in the Circuit Court of Lake County, Illinois on October 21, 2008.

12. DEUTSCH filed their Answer to Complaint to Foreclose Mortgage on September 2, 2009.

13. On or about September 30, 2010, CHASE publicly admitted and announced that at least 56,000 mortgages in foreclosure proceedings throughout the United States would, purportedly, be temporarily suspended because of the lack of personal knowledge of affiants who signed affidavits, and/or the accuracy of the information contained in affidavits filed in support of CHASE's motions for summary judgment, i.e., "quick judgments". Further, on information and belief, CHASE may, purportedly, temporarily suspend evictions and sales of foreclosed properties.

14. CHASE, although engaged in the practice and policy of drafting and signing false affidavits as alleged herein, did not identify which of their mortgages have the false affidavits, what they are doing to correct same and what notice and remedy they will provide to DEUTSCH and the class to resolve their illegal conduct with respect to said affidavits as alleged herein.

15. CHASE knew or should have known that their conduct in providing false affidavits was illegal. Said actions were willful or, alternatively, were done with careless disregard for the rights and property of DEUTSCH and the Class.

16. The actions of CHASE seem to permeate the mortgage industry in that GMAC and Bank of America have also purportedly suspended their mortgage foreclosures for the same reason as CHASE - false affidavits.

17. CHASE has not set aside, designated or segregated funds to reimburse DEUTSCH and the Class for their illegal actions as alleged herein, nor have they identified the purportedly

suspended mortgages, nor a specific course of action to remedy their damaging and illegal conduct.

18. CHASE makes millions of dollars from consumers on their mortgage transactions, makes loans at high rates of interest, pays little on savings and investment accounts and took TARP money from the people of the United States, all while engaging in illegal conduct with respect to their mortgage foreclosures, depriving DEUTSCH and the Class of their rights and property.

19. On information and belief, title insurance companies will not insure, or continue to insure, the property of DEUTSCH and the Class because of the effect of the false affidavits upon title to their properties, and the sale or conveyance of said property.

20. As a further result of CHASE's illegal acts and conduct, the value of the property of DEUTSCH and the Class is diminished and is in continuing peril.

CLASS ALLEGATIONS

21. DEUTSCH brings this action individually and on behalf of a Class of similarly situated CHASE mortgagors throughout Illinois and the United States against whom CHASE has initiated foreclosure proceedings between the years 2000 to the date of judgment herein.

22. The Class is so numerous that joinder of all members is impracticable, as the Class includes thousands of persons.

23. Questions of fact or law are common to the Class and predominate over any questions affecting only individual members, including, for example the following:

- A. Whether DEUTSCH and the Class have a mortgage with CHASE and are in default of said mortgage.

- B. Whether CHASE has foreclosed upon the property of DEUTSCH and the Class.
- C. Whether CHASE has filed for summary judgment based upon a false affidavit without the personal knowledge of the affiants, and/or verifying the accuracy of the information contained in their affidavits.
- D. Whether or not CHASE is negligent or grossly negligent of the conduct alleged herein.
- E. Whether CHASE committed consumer fraud and deceptive practices and/or acted unfairly to DEUTSCH and the Class.
- F. Whether DEUTSCH and the Class are entitled to injunctive relief.
- G. Whether DEUTSCH and the Class are entitled to declaratory judgment.
- H. Whether title insurance companies are refusing to insure properties that have been or are being foreclosed on by CHASE as a result of their conduct alleged herein.
- I. Whether CHASE should provide an accounting to DEUTSCH and the Class.
- J. Whether CHASE has been unjustly enriched.
- K. Whether CHASE should pay compensatory and punitive damages to DEUTSCH and the Class.
- L. Whether CHASE should have notified and warned DEUTSCH and the Class of their false affidavits and that their foreclosure eviction and/or the sale of their property has purportedly been temporary suspended.
- M. Whether CHASE should be sanctioned pursuant to Ill. Sup. Ct. R. 137 or like and similar state statutes;
- 24. DEUTSCH's claims are typical of the claims of the other Class members.

25. DEUTSCH will fairly and adequately protect the interests of the Class. All Class members will receive proper, efficient and appropriate protection of their interests by the representative parties, as the representative parties are not seeking relief which is potentially antagonistic to the members of the Class. Additionally, DEUTSCHS' attorneys are competent, qualified and experienced to prosecute the action on behalf of the Class.

COUNT I

NEGLIGENCE

1-25. Defendant-Counterplaintiffs repeat and reallege all allegations in paragraphs 1 through 25 herein as though fully set forth in this Count I.

26. CHASE at all relevant times herein had an ongoing duty to provide legal, accurate and verified facts based upon the affiant's personal knowledge in support of their motion for summary judgment, i.e., "quick judgment" and to use ordinary and reasonable care with respect to same.

27. CHASE has breached these duties by, *inter alia*, engaging in the following conduct with respect to DEUTSCH and the Class,

- A. Failing to disclose to DEUTSCH and the Class their false affidavits;
- B. Failing to disclose to DEUTSCH and the Class that foreclosure proceedings, eviction and/or sale of their properties has purportedly been temporarily suspended;
- C. Misleading DEUTSCH and the Class as to CHASE's motion for summary judgment and/or "quick judgment" and the affiant's personal knowledge as to the accuracy of the information contained in the affidavits;

*Shareholder Proposal of Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT C



GENERAL ASSEMBLY MISSION COUNCIL

PRESBYTERIAN CHURCH (U.S.A.)

COMPASSION, PEACE AND JUSTICE

VIA OVERNIGHT DELIVERY

RECEIVED BY THE

November 4, 2010

NOV 05 2010

Mr. Anthony J. Horan, Senior Vice President and Corporate Secretary
J. P. Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

OFFICE OF THE SECRETARY

RE: Shareholder Proposal on Mortgage Servicing

Dear Mr. Horan:

I am writing on behalf of the Board of Pensions of the Presbyterian Church (USA), beneficial owner of 90 shares of J.P. Morgan Chase common stock through its General Assistance Account. Verification of ownership will be forwarded shortly by our master custodian, Mellon Bank.

The enclosed resolution is being filed for consideration and action at your 2011 Annual Meeting. In brief, the proposal requests J.P. Morgan Chase to develop and enforce policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others. Such policies would be subject to valid constraints of pooling and servicing agreements, and would be reported to shareholders by October 30, 2011. Consistent with Regulation 14A-12 of the Securities and Exchange (SEC) guidelines, please include our proposal in the proxy statement.

In accordance with SEC Regulation 14A-8, we continuously have held J.P. Morgan Chase shares totaling at least \$2,000 in market value for at least one year prior to the date of this filing. The SEC-required stock position of J.P. Morgan Chase will be maintained through the date of the 2011 Annual Meeting.

I understand that there may be co-filers to this resolution. We are authorized to act as the primary filer should J.P. Morgan Chase choose to engage in dialogue with the filers and co-filer as you have in the past. Should you wish to have such a conversation, please feel free to contact me. As the primary filer, I will gladly assist in finding a mutually agreeable date for the dialogue.

Sincerely yours,

William Somplatsky-Jarman

Rev. William Somplatsky-Jarman
Coordinator for Social Witness Ministries

Enclosure: 2011 Shareholder Resolution on Mortgage Servicing

Cc: Rev. Brian Ellison, Chairperson
Committee on Mission Responsibility Through Investment
Mr. Conrad Rocha, Attorney at Law, and Vice Chairperson
Committee on Mission Responsibility Through Investment

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

In dialogues with investors, JPM has been unwilling to provide comparisons between its servicing of portfolio loans and loans serviced for others. In contrast, investor dialogues with a number of servicers such as Citigroup and Wells Fargo have provided more insight into such comparisons. Litton, a subprime and Alt-A servicer, stated that 95% of their loans serviced for others had no limitations on modifications.

The OCC-OTS Metrics Report, covering 65% of all servicing, has shown that principal reductions or deferrals result in more successful modifications for loans like Option ARMs, but the Report (2010Q2) shows that only 39.3% of modifications on loans serviced for others had term extensions, principal reductions and/or principal deferrals while 81.7% of servicer owned loan modifications had such modifications.

Among loans with the greatest percentages of delinquencies, our estimates of the minimum unpaid principal balances on 30 June 2010 are \$21.2 billion for JPM owned subprime loans and \$45.3 billion for subprime loans serviced for others. For option ARMs \$43.2 billion for JPM owned loans and \$38.6 billion for loans serviced for others.

The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.

JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

November 15, 2010

VIA OVERNIGHT DELIVERY

Rev. William Somplatsky-Jarman
Coordinator for Social Witness Ministries
Board of Pensions of the Presbyterian Church
100 Witherspoon Street
Louisville, KY 40202-1396

Dear Reverend Somplatsky-Jarman:

I am writing on behalf of JPMorgan Chase & Co. (JPMC), which received on November 5, 2010, from the Board of Pensions of the Presbyterian Church (USA) (the Church) the shareholder proposal titled "J.P. Morgan Chase Shareholder Resolution on Loan Servicing" for consideration at JPMC's 2011 Annual Meeting of Shareholders (Proposal).

The Proposal contains certain procedural deficiencies, as set forth below, which Securities and Exchange Commission (SEC) regulations require us to bring to your attention.

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that each shareholder proponent must submit sufficient proof that he has continuously held at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the shareholder proposal was submitted. JPMC's stock records do not indicate that the Church is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof from the Church that they have satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to JPMC.

To remedy this defect, you must submit sufficient proof of ownership of JPMC shares. As explained in Rule 14a-8(b), sufficient proof may be in the form of:

- a written statement from the "record" holder of the shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted, the Church continuously held the requisite number of JPMC shares for at least one year; or
- if the Church has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of JPMC shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that the Church continuously held the required number of shares for the one-year period.

The rules of the SEC require that a response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to

270 Park Avenue, New York, New York 10017-2070
Telephone 212 270 7122 Facsimile 212 270 4240 anthony.horan@chase.com

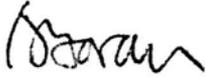
JPMorgan Chase & Co.

76742891

me at 270 Park Avenue, 38th Floor, New York NY 10017. Alternatively, you may transmit any response by facsimile to me at 212-270-4240. For your reference, please find enclosed a copy of SEC Rule 14a-8.

If you have any questions with respect to the foregoing, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Moran".

Enclosure: Rule 14a-8 of the Securities Exchange Act of 1934

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1: What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?* (1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1% of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3: How many proposals may I submit?* Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4: How long can my proposal be?* The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5: What is the deadline for submitting a proposal?* (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?* (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?* Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8: Must I appear personally at the shareholders' meeting to present the proposal?* (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?* (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law*: If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest*: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance*: If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority*: If the company would lack the power or authority to implement the proposal;

(7) *Management functions*: If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Relates to election*: If the proposal relates to a nomination or an election for membership on the company's board of directors or analogous governing body or a procedure for such nomination or election;

(9) *Conflicts with company's proposal*: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented*: If the company has already substantially implemented the proposal;

(11) *Duplication*: If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions*: If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends*: If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10*: What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11*: May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12*: If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13*: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a-6.



BNY MELLON
ASSET SERVICING

November 9, 2010

Mr. Anthony J. Horan ,Senior Vice President and Corporate Secretary
J.P. Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

Dear Mr. Horan,

This letter is to verify that the Board of Pensions of the Presbyterian Church (USA) is the beneficial owner of 90 shares of J.P. Morgan Chase & Company as of November 9, 2010. This Stock position is valued at over \$2,000.00, and has been held continuously for over one year prior to the date of the filing of the shareholder resolution.

Security Name
JPMorgan Chase & CO

Cusip
46625H100

Ticker
JPM

Sincerely,

Terri Volz
Officer, Asset Servicing
Phone: 412-234-5338
Fax: 412-236-9216
Email: Terri.Volz@bnymellon.com

RECEIVED BY THE

NOV 16 2010

OFFICE OF THE SECRETARY

Bank of New York Mellon
One Mellon Center
Aim 151-1015
Pittsburgh, PA 15258



Facsimile Transmission

Attention: Anthony Horan Fax #: 212/270-4240

Location: JPMorgan Chase Telephone #: _____

Subject: Verification of Ownership Letter

Sender: Allyn Schadt for Wm. Somplatsky-Jarman

Sender Telephone #: 502/569-5807

Sender Fax #: (502) 569-8116

100 WITHERSPOON STREET, LOUISVILLE, KY 40202-1396 ROOM # _____

You should receive 2 pages, including this cover sheet.. If you do not receive all the pages, please call the number above.

COMMENTS:

Attached is the verification of ownership letter referred to in your letter to Rev. Somplatsky-Jarman dated Nov. 15, 2010. This letter was sent by First Class mail. Please let us know if you would like the letter resent in an overnight envelope. Thank you.



RECEIVED BY THE
 NOV 16 2010
 OFFICE OF THE SECRETARY

Bank of New York Mellon
 One Mellon Center
 Aim 151-1015
 Pittsburgh, PA 15258

November 9, 2010

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 J.P. Morgan Chase & Company
 270 Park Avenue
 New York, NY 10017-2070

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Security Name	Cusip	Ticker
JPMorgan Chase & CO	46625H100	JPM

Sincerely,

Terri Volz
 Officer, Asset Servicing
 Phone: 412-234-5338
 Fax: 412-236-9216
 Email: Terri.Volz@bnymellon.com



Walden Asset Management
Investing for social change since 1975

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NOV 10 2010

OFFICE OF THE SECRETARY

November 4, 2010

Mr. Anthony Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue, 38th floor
New York, NY 10017

Dear Mr. Horan:

Walden Asset Management (Walden) holds at least 185,000 shares of JPMorgan Chase & Co. stock on behalf of clients who ask us to integrate environmental, social and governance analysis (ESG) into investment decision-making. We are pleased to be a long-term investor in JPMorgan Chase, noting particularly the company's leadership on workforce diversity and various environmental policies and initiatives. A division of Boston Trust & Investment Management Company, Walden has approximately \$1.9 billion in assets under management.

Walden believes that the mortgage foreclosure crisis remains a critical business issue for JPMorgan Chase; one that also comes with enormous human costs. Unfortunately, progress on loan modifications industry-wide has been very disappointing. We have followed closely JPMorgan Chase's conversations with concerned investors, led by William Somplatsky-Jarman (Presbyterian Church, USA) and consultant John Lind of CANICCOR, addressing its loan modification experiences, progress and challenges. We are interested in learning more about mortgage modifications for the company's serviced loans, which comprise the vast majority of its single family housing loans.

Thus Walden Asset Management is co-filing the attached resolution, led by Mr. Somplatsky-Jarman of the Presbyterian Church (USA), requesting the development of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to loans owned by the company and those serviced for others.

We are filing the enclosed shareholder proposal for inclusion in the 2011 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Walden Asset Management is the beneficial owner, as defined in Rule 13d-3 of the Securities Exchange Act of 1934, of the above mentioned number of JPMorgan Chase shares. We have been a shareholder of JPMorgan Chase for more than one year and will continue to hold a minimum of \$2,000 of stock through the next annual meeting. Verification of our ownership position is enclosed. A representative of the filers will attend the stockholders' meeting to move the resolution as required by SEC rules.

We look forward to participating in a constructive dialogue on JPMorgan Chase's response to foreclosures.

Sincerely,

Heidi Soumerai
Senior Vice President
Enc: Shareholder resolution

A Division of Boston Trust & Investment Management Company

One Beacon Street Boston, Massachusetts 02108 617.726.7250 or 800.282.8782 fax: 617.227.3664

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

In dialogues with investors, JPM has been unwilling to provide comparisons between its servicing of portfolio loans and loans serviced for others. In contrast, investor dialogues with a number of servicers such as Citigroup and Wells Fargo have provided more insight into such comparisons. Litton, a subprime and Alt-A servicer, stated that 95% of their loans serviced for others had no limitations on modifications.

The OCC-OTS Metrics Report, covering 65% of all servicing, has shown that principal reductions or deferrals result in more successful modifications for loans like Option ARMs, but the Report (2010Q2) shows that only 39.3% of modifications on loans serviced for others had term extensions, principal reductions and/or principal deferrals while 81.7% of servicer owned loan modifications had such modifications.

Among loans with the greatest percentages of delinquencies, our estimates of the minimum unpaid principal balances on 30 June 2010 are \$21.2 billion for JPM owned subprime loans and \$45.3 billion for subprime loans serviced for others. For option ARMs \$43.2 billion for JPM owned loans and \$38.6 billion for loans serviced for others.

The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



Walden Asset Management
Investing for social change since 1975

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NOV 05 2010

OFFICE OF THE SECRETARY

Mr. Anthony Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue, 38th floor
New York, NY 10017

November 4, 2010

Dear Mr. Cutler:

Walden Asset Management (Walden) holds at least 185,000 shares of JPMorgan Chase & Co. stock on behalf of clients who ask us to integrate environmental, social and governance analysis (ESG) into investment decision-making. We are pleased to be a long-term investor in JPMorgan Chase, noting particularly the company's leadership on workforce diversity and various environmental policies and initiatives. A division of Boston Trust & Investment Management Company, Walden has approximately \$1.9 billion in assets under management.

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We look forward to participating in a constructive dialogue on JPMorgan Chase's response to foreclosures.

Sincerely,

Heidi Soumerai
Senior Vice President
Enc: Shareholder resolution

A Division of Boston Trust & Investment Management Company

One Beacon Street Boston, Massachusetts 02108 617.726.7250 or 800.282.8782 fax: 617.227.3664

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Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

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The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.

JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

November 15, 2010

Ms. Heidi Soumerai
Senior Vice President
Walden Asset Management
One Beacon Street
Boston Mass 02108

Dear Ms. Soumerai:

This will acknowledge receipt of a letter dated November 4, 2010, whereby you advised JPMorgan Chase & Co. of the intention of Walden Asset Management to submit a proposal, entitled "J.P. Morgan Chase Shareholder Resolution on Loan Servicing" to be voted upon at our 2011 Annual Meeting.

Sincerely,





Boston Trust & Investment
Management Company

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NOV 15 2010

OFFICE OF THE SECRETARY

November 4, 2010

To Whom It May Concern:

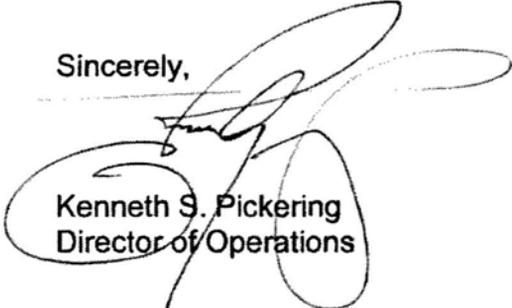
Walden Asset Management, a division of Boston Trust & Investment Management Company (Boston Trust), a state chartered bank under the Commonwealth of Massachusetts, and insured by the FDIC, is the "beneficial owner" (as that term is used under Rule 14a-8) of **185,000** shares of **JPMorgan Chase & Co** (Cusip #**46625H100**).

These shares are held in the name of Cede & Co. under the custodianship of Boston Trust and reported as such to the SEC via the quarterly filing by Boston Trust of form 13F.

We are writing to confirm that Walden Asset Management has beneficial ownership of at least \$2,000 in market value of the voting securities of **JPMorgan Chase & Co** and that such beneficial ownership has existed for one or more years in accordance with rule 14a-8(a)(1) of the Securities Exchange Act of 1934. Further we attest to our intention of to hold at least \$2,000 in market value through the next annual meeting.

Should you require further information, please contact Regina Morgan at 617-726-7259 or rmorgan@bostontrust.com directly.

Sincerely,



Kenneth S. Pickering
Director of Operations



Catholic Healthcare West

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NOV 10 2010

November 8, 2010

OFFICE OF THE SECRETARY

Mr. Anthony J. Horan, Senior Vice President and Corporate Secretary
J. P. Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

Re: **Shareholder Proposal** for 2011 Annual Meeting

Dear Mr. Horan:

Catholic Healthcare West (CHW) is a health care delivery system serving communities in the western United States. As a religiously sponsored organization, CHW seeks to reflect its values, principles and mission in its investment decisions.

Catholic Healthcare West has held the required number of shares for at least a year and we intend to maintain ownership through the date of the annual meeting. Verification of ownership will be provided upon request.

We present the attached resolution for inclusion in the proxy statement for action at the annual meeting in 2011 in accordance with rule 14a-8 of the general rules and regulations of the Securities and Exchange Act of 1934. We request that Catholic Healthcare West be listed as a sponsor of this resolution in the company proxy statement. There will be a representative present at the annual meeting to present this resolution as required by SEC rules. We are filing this resolution along with other concerned investors. Rev. William Somplatsky-Jarman, Presbyterian Church (USA), will serve as the primary contact.

We would welcome dialogue with representatives of our company, which might lead to withdrawal of the resolution prior to the 2011 annual meeting.

Sincerely,

Susan Vickers, RSM
VP Community Health

Encl.

Cc: Rev. William Somplatsky-Jarman, Presbyterian Church (USA)
Julie Wokaty, ICCR

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

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We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.

JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

November 15, 2010

VIA OVERNIGHT DELIVERY

Susan Vickers, RSM
Vice President Community Health
Catholic Healthcare West
185 Berry Street, Suite 300
San Francisco, CA 94107

Dear Sister Susan:

I am writing on behalf of JPMorgan Chase & Co. (JPMC), which received on November 8, 2010, from Catholic Healthcare West (CHW) the shareholder proposal titled "J.P. Morgan Chase Shareholder Resolution on Loan Servicing" for consideration at JPMC's 2011 Annual Meeting of Shareholders (Proposal).

The Proposal contains certain procedural deficiencies, as set forth below, which Securities and Exchange Commission (SEC) regulations require us to bring to your attention.

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that each shareholder proponent must submit sufficient proof that he has continuously held at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the shareholder proposal was submitted. JPMC's stock records do not indicate that CHW is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof from CHW that they have satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to JPMC.

To remedy this defect, you must submit sufficient proof of ownership of JPMC shares. As explained in Rule 14a-8(b), sufficient proof may be in the form of:

- a written statement from the "record" holder of the shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted, CHW continuously held the requisite number of JPMC shares for at least one year; or
- if CHW has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of JPMC shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any

270 Park Avenue, New York, New York 10017-2070
Telephone 212 270 7122 Facsimile 212 270 4240 anthony.horan@chase.com

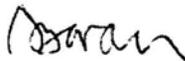
JPMorgan Chase & Co.

subsequent amendments reporting a change in the ownership level and a written statement that CHW continuously held the required number of shares for the one-year period.

The rules of the SEC require that a response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at 270 Park Avenue, 38th Floor, New York NY 10017. Alternatively, you may transmit any response by facsimile to me at 212-270-4240. For your reference, please find enclosed a copy of SEC Rule 14a-8.

If you have any questions with respect to the foregoing, please contact me.

Sincerely,



Enclosure: Rule 14a-8 of the Securities Exchange Act of 1934

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1: What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?* (1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3: How many proposals may I submit?* Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4: How long can my proposal be?* The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5: What is the deadline for submitting a proposal?* (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?* (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?* Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8: Must I appear personally at the shareholders' meeting to present the proposal?* (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?* (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law*: If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest*: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance*: If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority*: If the company would lack the power or authority to implement the proposal;

(7) *Management functions*: If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Relates to election*: If the proposal relates to a nomination or an election for membership on the company's board of directors or analogous governing body or a procedure for such nomination or election;

(9) *Conflicts with company's proposal*: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented*: If the company has already substantially implemented the proposal;

(11) *Duplication*: If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions*: If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10: What procedures must the company follow if it intends to exclude my proposal?* (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11: May I submit my own statement to the Commission responding to the company's arguments?*

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12: If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?*

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?*

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a-6.



Catholic Healthcare West

RECEIVED BY THE

NOV 24 2010

OFFICE OF THE SECRETARY

November 22, 2010

Anthony J. Horan
JP Morgan Chase & Co.
270 Park Avenue
New York, NY 10017-2070

Dear Mr. Horan:

Please find enclosed as requested the proof of stock ownership from Catholic Healthcare West. Catholic Healthcare West will continue to hold ownership of this stock through the scheduled 2011 Shareholder Meeting.

Sincerely,

Susan Vickers, RSM

VP, Community Health
Catholic Healthcare West

STATE STREET
GLOBAL SERVICES

RECEIVED BY THE

NOV 29 2010

OFFICE OF THE SECRETARY

State Street Global Services

Enn Rodriguez
Vice President
444 S. Flower Street
Suite 4500
Los Angeles CA 90071

Telephone 213-362-7371
Facsimile 213-362-7330

erodriguez@statestreet.com

November 16, 2010

Sr. Susan Vickers
VP Community Health
Catholic Healthcare West
185 Berry Street, Suite 300
San Francisco, CA 94107
Fax #415-591-2404

Re: Stock Verification Letter

Dear Susan:

Please accept this letter as confirmation that Catholic Healthcare West has owned at least 200 shares or \$2,000.00 of the following securities from November 8, 2009 – November 8, 2010. The November 8, 2010 share positions are listed below:

Security	CUSIP	Shares
JP Morgan Chase	46625H100	452,775

Please let me know if you have any questions.

Regards,





Haymarket People's Fund
42 Seaverns Avenue
Boston, MA 02130

RECEIVED BY THE

NOV 22 2010

OFFICE OF THE SECRETARY

November 16, 2010

Mr. Anthony Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue, 38th floor
New York, NY 10017

Dear Mr. Horan:

Haymarket People's Fund holds 400 shares of JPMorgan Chase & Co. stock. Since 1974, our foundation has provided funds and support to grassroots groups working for economic and social justice in New England. We believe that companies with a commitment to customers, employees, communities and the environment will prosper long-term.

We are submitting the enclosed shareholder proposal as a co-sponsor for inclusion in the 2011 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. We are the beneficial owner, as defined in Rule 13d-3 of the Securities Exchange Act of 1934, of the above mentioned number of JPMorgan Chase shares.

We have been a continuous shareholder for more than one year and verification of our ownership position is enclosed. We will continue to hold at least \$2,000 worth of JPMorgan Chase stock through the stockholder meeting. A representative of the filers will attend the stockholders' meeting to move the resolution as required by SEC rules.

We consider Presbyterian Church as the "primary filer" of this resolution, and ourselves as a co-filer. Please copy correspondence both to me and Timothy Smith at Walden Asset Management (tsmith@bostontrust.com) our investment manager. We look forward to your response.

Sincerely,

Louise Profumo / RPH
Louise Profumo

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

In dialogues with investors, JPM has been unwilling to provide comparisons between its servicing of portfolio loans and loans serviced for others. In contrast, investor dialogues with a number of servicers such as Citigroup and Wells Fargo have provided more insight into such comparisons. Litton, a subprime and Alt-A servicer, stated that 95% of their loans serviced for others had no limitations on modifications.

The OCC-OTS Metrics Report, covering 65% of all servicing, has shown that principal reductions or deferrals result in more successful modifications for loans like Option ARMs, but the Report (2010Q2) shows that only 39.3% of modifications on loans serviced for others had term extensions, principal reductions and/or principal deferrals while 81.7% of servicer owned loan modifications had such modifications.

Among loans with the greatest percentages of delinquencies, our estimates of the minimum unpaid principal balances on 30 June 2010 are \$21.2 billion for JPM owned subprime loans and \$45.3 billion for subprime loans serviced for others. For option ARMs \$43.2 billion for JPM owned loans and \$38.6 billion for loans serviced for others.

The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



Boston Trust & Investment
Management Company

RECEIVED BY THE

NOV 22 2010

OFFICE OF THE SECRETARY

November 16, 2010

To Whom It May Concern:

Boston Trust & Investment Management Company, a state chartered bank under the Commonwealth of Massachusetts, and insured by the FDIC, manages assets and acts as custodian for the **Haymarket People's Fund** through its Walden Asset Management division.

We are writing to verify that **Haymarket People's Fund** currently owns **400** shares of **JPMorgan Chase & Co.** (Cusip #**46625H100**). These shares are held in the name of Cede & Co. under the custodianship of Boston Trust and reported as such to the SEC via the quarterly filing by Boston Trust of Form 13F.

We confirm that **Haymarket People's Fund** has continuously owned and has beneficial ownership of at least \$2,000 in market value of the voting securities of **JPMorgan Chase & Co.** and that such beneficial ownership has existed for one or more years in accordance with rule 14a-8(a)(1) of the Securities Exchange Act of 1934.

Further, it is the intent to hold at least \$2,000 in market value through the next annual meeting.

Should you require further information, please contact Regina Morgan at 617-726-7259 or rmorgan@bostontrust.com directly.

Sincerely,

Timothy Smith
Senior Vice President
Boston Trust & Investment Management Company
Walden Asset Management

JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

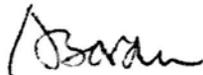
November 23, 2010

Ms. Louise Profumo
Haymarket People's Fund
42 Seaverns Avenue
Boston, MA 02130

Dear Ms. Profumo:

This will acknowledge receipt of a letter dated November 16, 2010, whereby you advised JPMorgan Chase & Co. of your intention to submit a proposal, as co-filer with the Presbyterian Church, titled "J.P. Morgan Chase Shareholder Resolution on Loan Servicing" to be voted upon at our 2011 Annual Meeting.

Sincerely,



cc: Timothy Smith – Walden Asset Management

270 Park Avenue, New York, New York 10017-2070
Telephone 212 270 7122 Facsimile 212 270 4240 anthony.horan@chase.com

JPMorgan Chase & Co.

77007520



RECEIVED BY THE
NOV 22 2010
OFFICE OF THE SECRETARY

November 19, 2010

James Dimon, CEO
JPMorgan Chase
270 Park Avenue
NY NY 10017-2070

Dear Mr. Dimon:

On behalf of Mercy Investment Services, I am authorized to submit the following resolution which requests the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011, for inclusion in the 2011 proxy statement under Rule 14 a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Mercy Investment Services is sponsoring this resolution with the Presbyterian Church USA. Additional investors associated with the Interfaith Center on Corporate Responsibility also may file this resolution.

Mercy Investment Services has been engaged with JPMorgan Chase on fair lending policies and practices for many years. CRA, predatory lending and mortgage servicing are major affordable housing and justice issues for the finance and banking industries. The current credit crisis does not appear to be lessening for home buyers or home owners desiring to refinance. We urge attention to our resolution requests.

Mercy Investment Services is the beneficial owner of 54,710 shares of JPMorgan Chase stock. Verification of ownership follows. We plan to hold the stock at least until the time of the annual meeting and will be present in person or by proxy at that meeting.

Yours truly,

Valerie Heinonen

Valerie Heinonen, o.s.u.
Director, Shareholder Advocacy
205 Avenue C, #10E ~ New York, NY 10009
212-674-2542 heinonenv@juno.com

Susan S. Makos

Susan Smith Makos
Director of Social Responsibility
Mercy Investment Services, Inc.
513-673-9992
smakos@sistersofmercy.org

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

In dialogues with investors, JPM has been unwilling to provide comparisons between its servicing of portfolio loans and loans serviced for others. In contrast, investor dialogues with a number of servicers such as Citigroup and Wells Fargo have provided more insight into such comparisons. Litton, a subprime and Alt-A servicer, stated that 95% of their loans serviced for others had no limitations on modifications.

The OCC-OTS Metrics Report, covering 65% of all servicing, has shown that principal reductions or deferrals result in more successful modifications for loans like Option ARMs, but the Report (2010Q2) shows that only 39.3% of modifications on loans serviced for others had term extensions, principal reductions and/or principal deferrals while 81.7% of servicer owned loan modifications had such modifications.

Among loans with the greatest percentages of delinquencies, our estimates of the minimum unpaid principal balances on 30 June 2010 are \$21.2 billion for JPM owned subprime loans and \$45.3 billion for subprime loans serviced for others. For option ARMs \$43.2 billion for JPM owned loans and \$38.6 billion for loans serviced for others.

The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



Congregation of Benedictine Sisters of Perpetual Adoration

Finance Office

31970 State Highway P, Clyde, MO 64432-8100

Phone: (660) 944-2251 Fax: (660) 944-2202

November 26, 2010

RECEIVED BY THE

NOV 30 2010

SECRETARY

Anthony J. Horan
Corporate Secretary
JP Morgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

Dear Mr. Horan:

I am writing you on behalf of Benedictine Convent of Perpetual Adoration in support the stockholder resolution on Loan Servicing. In brief, the proposal requests the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.

I am hereby authorized to notify you of our intention to co-file this shareholder proposal with Presbyterian Church (USA) for consideration and action by the shareholders at the 2011 Annual Meeting. I hereby submit it for inclusion in the proxy statement for consideration and action by the shareholders at the 2011 annual meeting in accordance with Rule 14-a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934. A representative of the shareholders will attend the annual meeting to move the resolution as required by SEC rules.

We are the owners of 3,040 shares of JP Morgan Chase & Co. stock and intend to hold \$2,000 worth through the date of the 2011 Annual Meeting. Verification of ownership will follow.

We truly hope that the company will be willing to dialogue with the filers about this proposal. Please note that the contact person for this resolution/proposal will be: Rev. William Somplatsky-Jarman of the Presbyterian Church (USA) at 502-569-5809 or at bill.somplatsky-jarman@pcusa.org.

Respectfully yours,

Sr. Valerie Stark, O.S.B.

Sr. Valerie Stark, O.S.B.
Treasurer

Enclosure: 2011 Shareholder Resolution



Congregation of Benedictine Sisters of Perpetual Adoration

Finance Office

31970 State Highway P, Clyde, MO 64432-8100

Phone: (660) 944-2251 Fax: (660) 944-2202

**Loan Servicing
2011 – J.P. Morgan Chase & Co.**

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

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We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



"Change. Not Charity."

666 Broadway, Suite #500
New York, NY 10012
212.529.5300
Fax: 212.982.9272
E-mail: fexexc@aol.com
<http://www.fex.org>

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OFFICE OF THE SECRETARY

November 23, 2010

MEMBERSHIP

- Appalachian Community Fund
Knoxville, TN
- Bread and Roses Community Fund
Philadelphia, PA
- Chinook Fund
Denver, CO
- Crossroads Fund
Chicago, IL
- Fund for Santa Barbara
Santa Barbara, CA
- Fund for Southern Communities
Atlanta, GA
- Haymarket People's Fund
Boston, MA
- Headwaters Fund
Minneapolis, MN
- Liberty Hill Foundation
Los Angeles, CA
- The People's Fund
Honolulu, HI
- McKenzie River Gathering
Foundation
Portland/Eugene, OR
- North Star Fund
New York, NY
- Three Rivers Community Fund
Pittsburgh, PA
- Vanguard Public Foundation
San Francisco, CA
- Wisconsin Community Fund
Madison/Milwaukee, WI

Mr. Anthony Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue, 38th floor
New York, NY 10017

Dear Mr. Horan:

The Funding Exchange holds 2,000 shares of JPMorgan Chase stock. The Funding Exchange is a network of regionally-based community foundations that currently makes grants each year for projects related to social and economic justice. We believe that companies with a commitment to customers, employees, communities and the environment will prosper long-term.

Therefore, we are submitting the enclosed shareholder proposal for inclusion in the 2011 proxy statement as co-filer with the Presbyterian Church as the primary filer, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. The Funding Exchange is the beneficial owner, as defined in Rule 13d-3 of the Securities Exchange Act of 1934, of the above mentioned number of shares. We have been a continuous shareholder for more than one year and will hold at least \$2,000 of JPMorgan Chase stock through the next annual meeting and verification of our ownership position is enclosed. A representative of the filers will attend the stockholders' meeting to move the resolution as required by the SEC rules.

We look forward to hearing from you. We would appreciate it if you would please copy us and Walden Asset Management on all correspondence related to this matter. Timothy Smith at Walden Asset Management is serving as the primary contact for us (tsmith@bostontrust.com) our investment manager.

Thank you.

Sincerely,

Ron Hanft
Associate Director

NATIONAL GRANTS PROGRAMS

- Donor-Advised Funds
- OUT Fund for
Lesbian and Gay Liberation
- Paul Robeson Fund for
Independent Media
- Saguaro Fund

Cc: Timothy Smith, Walden Asset Management

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

In dialogues with investors, JPM has been unwilling to provide comparisons between its servicing of portfolio loans and loans serviced for others. In contrast, investor dialogues with a number of servicers such as Citigroup and Wells Fargo have provided more insight into such comparisons. Litton, a subprime and Alt-A servicer, stated that 95% of their loans serviced for others had no limitations on modifications.

The OCC-OTS Metrics Report, covering 65% of all servicing, has shown that principal reductions or deferrals result in more successful modifications for loans like Option ARMs, but the Report (2010Q2) shows that only 39.3% of modifications on loans serviced for others had term extensions, principal reductions and/or principal deferrals while 81.7% of servicer owned loan modifications had such modifications.

Among loans with the greatest percentages of delinquencies, our estimates of the minimum unpaid principal balances on 30 June 2010 are \$21.2 billion for JPM owned subprime loans and \$45.3 billion for subprime loans serviced for others. For option ARMs \$43.2 billion for JPM owned loans and \$38.6 billion for loans serviced for others.

The Department of Justice in January 2010 created the Fair Lending Unit to enforce fair lending laws in lending as well as loan modifications. JPM's regulator, the OCC, revised its Handbook on Fair Lending to include examination procedures that contain specific risk indicators of potential disparate treatment in loan servicing and loss mitigation.

We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



Boston Trust & Investment
Management Company

November 23, 2010

To Whom It May Concern:

Boston Trust & Investment Management Company, a state chartered bank under the Commonwealth of Massachusetts, and insured by the FDIC, manages assets and acts as custodian for the **Funding Exchange** through its Walden Asset Management division.

We are writing to verify that **Funding Exchange** currently owns **2,000** shares of **JPMorgan Chase & Co.** (Cusip #**46625H100**). These shares are held in the name of Cede & Co. under the custodianship of Boston Trust and reported as such to the SEC via the quarterly filing by Boston Trust of Form 13F.

We confirm that **Funding Exchange** has continuously owned and has beneficial ownership of at least \$2,000 in market value of the voting securities of **JPMorgan Chase & Co.** and that such beneficial ownership has existed for one or more years in accordance with rule 14a-8(a)(1) of the Securities Exchange Act of 1934.

Further, it is the intent to hold at least \$2,000 in market value through the next annual meeting.

Should you require further information, please contact Regina Morgan at 617-726-7259 or rmorgan@bostontrust.com directly.

Sincerely,

Timothy Smith
Senior Vice President
Boston Trust & Investment Management Company
Walden Asset Management



4550 Montgomery Avenue, Bethesda, MD 20814
301.951.4800 / www.calvert.com

November 29, 2010

Mr. Anthony J. Horan
Secretary
J.P. Morgan Chase & Co.
270 Park Avenue
New York, NY 10017-2070

RECEIVED BY THE

DEC 01 2010

OFFICE OF THE SECRETARY

Dear Mr. Horan:

Calvert Asset Management Company, Inc. ("Calvert"), a registered investment advisor, provides investment advice for the 51 mutual funds sponsored by Calvert Group, Ltd., including 24 funds that apply sustainability criteria. Calvert currently has over \$14 billion in assets under management.

The Calvert Social Index Fund is a beneficial owner of over \$2000 in market value of securities entitled to be voted at the next shareholder meeting (supporting documentation available upon request). Furthermore, the Fund has held these securities continuously for at least one year, and it is Calvert's intention that the Fund continues to own shares in J.P. Morgan Chase through the date of the 2011 annual meeting of shareholders.

We are notifying you, in a timely manner, that Calvert, on behalf of the Fund, is presenting the enclosed shareholder proposal for vote at the upcoming stockholders meeting. We submit it for inclusion in the proxy statement in accordance with Rule 14a-8 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

As a long-standing shareholder, we are filing the enclosed resolution requesting our Board of Directors to oversee the development and enforcement of policies to ensure loan modifications are applied uniformly.

We understand that Rev. William Somplatsky-Jarman, on behalf of the Presbyterian Church (USA), is submitting an identical proposal. Calvert recognizes Presbyterian Church (USA) as the lead filer and intends to act as a co-sponsor of the resolution. Rev. Somplatsky-Jarman has agreed to coordinate contact between J.P. Morgan Chase management and any other shareholders filing the proposal, including Calvert. However, Calvert would like to receive copies of all correspondence sent to Rev. Somplatsky-Jarman as it relates to the proposal. In this regard, Shirley Peoples, Senior Sustainability Analyst, will represent Calvert. Please feel free to contact her at (301) 951-4817 or via email at shirley.peoples@calvert.com.

We appreciate your attention to this matter and look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Ivy Wafford Duke".

Ivy Wafford Duke
Assistant Vice President

cc: James Dimon, CEO, J.P. Morgan Chase
William Somplatsky-Jarman, Presbyterian Church (USA)
Bennett Freeman, Senior Vice President for Social Research and Policy,
Calvert Asset Management Company, Inc.
Stu Dalheim, Manager of Advocacy, Calvert Asset Management Company,
Inc.
Shirley Peoples, Senior Sustainability Analyst, Calvert Asset Management
Company, Inc.

Encl: Resolution Text

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

Many borrowers, especially low income borrowers, are becoming delinquent because of the present economic crisis, causing losses to JPM as well as to the investors, who own the securitized loans serviced by JPM. To reduce defaults and subsequent losses, modifications are made to loans when the modification provides greater value to the owner of the loan than a foreclosure sale.

Investors filing this resolution want assurance that the modifications made to loans serviced for others are the same as modifications made to loans owned by the servicer, especially non-prime loans like subprime loans and Option ARMs, which were heavily promoted among lower income and minority borrowers.

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We believe that JPM should carefully examine its servicing, comparing its performance on loans serviced for others to loans held in portfolio, to ensure equal treatment for loans of low income and minority borrowers in order to avoid possible reputational, litigation and financial risk.

RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



Board of Pensions
Evangelical Lutheran Church in America
God's work. Our hands.

800 Marquette Ave., Suite 1050
Minneapolis, MN 55402-2892
(800) 352-2876 • (612) 333-7651
Fax: (612) 334-5399
mail@elcabop.org • www.elcabop.org

VIA OVERNIGHT DELIVERY

November 29, 2010

Anthony J. Horan
Senior Vice President and Corporate Secretary
J.P. Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

RECEIVED BY THE
DEC 01 2010
OFFICE OF THE SECRETARY

Dear Mr. Horan,

As a faith-based pension plan and institutional investor, the Board of Pensions of the Evangelical Lutheran Church in America (ELCA) believes it is possible to positively impact shareholder value while at the same time aligning with the values, principles and mission of the ELCA. We believe that corporations need to promote positive corporate policies including loan servicing reporting.

The ELCA Board of Pensions is beneficial owner of over 922,000 shares of J.P. Morgan common stock. A letter of ownership verification from the custodian of our portfolio will follow under separate cover. We have been a shareholder of more than \$2,000 of common stock for over one year, and we intend to maintain a requisite ownership position through the 2011 annual meeting of shareholders.

Enclosed is a shareholder proposal requesting that J.P. Morgan issue a report describing its policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints. According to SEC Rule 14a-8, we ask that this resolution be included in the proxy materials for the 2011 annual meeting of shareholders. Should the Board of Directors choose to oppose the resolution, we ask that our supporting statement be included as well in the proxy materials. The Board of Pensions of the Presbyterian Church (USA) is the primary filer on this resolution.

The Board of Pensions of the Presbyterian Church (USA) will continue as the lead shareholder, and is prepared to assemble the dialogue team as quickly as convenient. If you have any questions, please contact Kurt Kreienbrink, Corporate Governance Analyst for the ELCA Board of Pensions, at 612-752-4253.

Sincerely,

Curtis G. Fee, CFA
Vice President, Chief Investment Officer
ELCA Board of Pensions

CC: Kelli Dever – Mellon
Global Security Services
135 Santilli Highway
Everett, MA 02149

J. P. Morgan Chase Shareholder Resolution on Loan Servicing

J.P. Morgan Chase (JPM) serviced \$1.35 trillion of single family housing loans on 30 June 2010, of which less than 20% of these serviced loans were owned by the corporation (portfolio loans), while the remaining more than 80% were loans serviced for others but primarily originated by JPM or one of its recent acquisitions.

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RESOLVED: the shareholders request the Board of Directors to oversee development and enforcement of policies to ensure that the same loan modification methods for similar loan types are applied uniformly to both loans owned by the corporation and those serviced for others, subject to valid constraints of pooling and servicing agreements, and report policies and results to shareholders by October 30, 2011.



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OFFICE OF THE SECRETARY

November 30, 2010

Anthony J. Horan
Senior Vice President and Corporate Secretary
J.P. Morgan Chase & Company
270 Park Avenue
New York, NY 10017-2070

Dear Mr. Horan,

This letter is to confirm that Bank of New York Mellon, custodian for the Board of Pensions of the Evangelical Lutheran Church in America (ELCA), has held 646,280 shares of J.P. Morgan common stock for over one year.

As of this date, the ELCA - Board of Pensions intends to hold its shares of J.P. Morgan common stock through the date of your next annual meeting.

If you have any questions, please call me at (617) 382-6624.

Sincerely,

A handwritten signature in cursive script that reads "Kelli Dever".

Kelli Dever
Vice President
Client Services

CC: Curtis G. Fee, CFA
ELCA - Board of Pensions
800 Marquette Ave., Suite 1050
Minneapolis, MN 55402-2892

*Shareholder Proposal of Comptroller of the City of New York
JPMorgan Chase & Co.
Securities Exchange Act of 1934 Rule 14a-8*

EXHIBIT D

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000
www.aflcio.org

EXECUTIVE COUNCIL

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Capt. John Prater
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Fredric V. Rolando
Newton B. Jones
DaMaurice F. Smith
James Boland
Loe A. Sauncoers

November 10, 2010

Sent by Facsimile and UPS

Anthony J. Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

RECEIVED BY THE

NOV 10 2010

OFFICE OF THE SECRETARY

Dear Mr. Horan,

On behalf of the AFL-CIO Reserve Fund (the "Fund"), I write to give notice that pursuant to the 2010 proxy statement of JPMorgan Chase and Co. (the "Company"), the Fund intends to present the attached proposal (the "Proposal") at the 2011 annual meeting of shareholders (the "Annual Meeting"). The Fund requests that the Company include the Proposal in the Company's proxy statement for the Annual Meeting.

The Fund is the beneficial owner of 2892 shares of voting common stock (the "Shares") of the Company. The Fund has held at least \$2,000 in market value of the Shares for over one year, and the Fund intends to hold at least \$2,000 in market value of the Shares through the date of the Annual Meeting. A letter from the Fund's custodian bank documenting the Fund's ownership of the Shares is being sent under separate cover.

The Proposal is attached. I represent that the Fund or its agent intends to appear in person or by proxy at the Annual Meeting to present the Proposal. I declare that the Fund has no "material interest" other than that believed to be shared by stockholders of the Company generally. Please direct all questions or correspondence regarding the Proposal to Brandon Rees at 202-637-3900.

Sincerely,

Daniel F. Pedrotty
Director
Office of Investment

DFP/sw
opeiu #2, afl-cio

Attachment

RESOLVED: Shareholders recommend that JPMorgan & Chase Co. (the "Company") prepare a report on the Company's internal controls over its mortgage servicing operations, including a discussion of:

- the Company's participation in mortgage modification programs to prevent residential foreclosures,
- the Company's servicing of securitized mortgages that the Company may be liable to repurchase, and
- the Company's procedures to prevent legal defects in the processing of affidavits related to foreclosure.

The report shall be compiled at reasonable expense and be made available to shareholders by the end of 2011, and may omit proprietary information as determined by the Company.

SUPPORTING STATEMENT

In our view, the foreclosure crisis has become a significant social policy issue affecting our Company's mortgage servicing operations. Our Company is a leading servicer of home mortgages. As a mortgage servicer, our Company processes payments from borrowers, negotiates mortgage modifications with borrowers, and processes foreclosure documents when necessary.

Our Company has foreclosed on a large number of home mortgages. According to an estimate by SNL Financial, our Company had \$19.5 billion of its residential mortgage loans in foreclosure, and another \$54.5 billion of mortgages it services for other lenders in foreclosure as of June 30, 2010. (*Wall Street Journal*, J.P. Morgan, BofA, Wells Fargo Tops in Foreclosed Home Loans, October 12, 2010.)

In our opinion, the modification of homeowner mortgages to affordable levels is a preferable alternative to foreclosure. Foreclosures are costly to process and reduce property values. We believe that our Company should provide greater disclosure of its efforts to prevent foreclosures by its participation in government mortgage modification programs such as the Home Affordable Modification Program as well as our Company's proprietary mortgage modifications.

We are also concerned about our Company's potential liability to repurchase mortgages from investors in mortgage backed securities that have been serviced by our Company. According to an estimate by J.P. Morgan Chase & Co. analysts, industry-wide bank losses from repurchases of securitized mortgages could total \$55 billion to \$120 billion. (*Wall Street Journal*, Bondholders Pick a Fight With Banks, October 19, 2010.)

In 2010, our Company announced that it would review its affidavits in 102,000 foreclosure cases. (*Wall Street Journal*, J.P. Morgan Widens Mortgage Review to 41 States, October 13, 2010.) All 50 state attorneys general have launched investigations into allegations that foreclosure affidavits were improperly prepared by some mortgage servicers (a practice known as "robo-signing"). (*Wall Street Journal*, Attorneys General Launch Mortgage Probe, October 13, 2010.)

In our view, our Company's shareholders will benefit from a report that provides greater transparency regarding our Company's mortgage servicing operations. We believe that such a report will also help improve our Company's corporate reputation by disclosing its responses to the foreclosure crisis, including its efforts to modify mortgages to prevent foreclosure, to properly service investor-owned mortgages, and to comply with state foreclosure laws.

For these reasons, we urge you to vote "FOR" this proposal.

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000
www.aflcio.org

EXECUTIVE COUNCIL

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James Andrews

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William Lucy
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Cecil Roberts
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Warren George
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Randi Weingarten
Patrick D. Finley
Robert McElrath
John W. Wilhelm
Bob King
Maria Elena Durazo

ARLENE HOLT BAKER
EXECUTIVE VICE PRESIDENT

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Malcolm B. Futhy Jr.
Roberta Reardon
Ken Howard
General Holiefield
Terence M. O'Sullivan

Patricia Friend
R. Thomas Buffenbarger
Joseph J. Hunt
Leo W. Gerard
John Gage
Laura Rico
Capt. John Prater
Fred Redmond
Fredric V. Rolando
Newton B. Jones
DeMaurice F. Smith
James Boland
Lee A. Saunders

November 10, 2010

Sent by Facsimile and UPS

Anthony J. Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

RECEIVED BY THE

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OFFICE OF THE SECRETARY

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The Proposal is attached. I represent that the Fund or its agent intends to appear in person or by proxy at the Annual Meeting to present the Proposal. I declare that the Fund has no "material interest" other than that believed to be shared by stockholders of the Company generally. Please direct all questions or correspondence regarding the Proposal to Brandon Rees at 202-637-3900.

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Director
Office of Investment

DFP/sw
opeiu #2, afl-cio

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In our view, our Company's shareholders will benefit from a report that provides greater transparency regarding our Company's mortgage servicing operations. We believe that such a report will also help improve our Company's corporate reputation by disclosing its responses to the foreclosure crisis, including its efforts to modify mortgages to prevent foreclosure, to properly service investor-owned mortgages, and to comply with state foreclosure laws.

For these reasons, we urge you to vote "FOR" this proposal.

One West Monroe
Chicago, Illinois 60603-5301
Fax 312/267-8775



November 10, 2010

Sent by Fax (212) 270-4240 and US Mail

Anthony J. Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

Dear Mr. Horan,

AmalgaTrust, a division of Amalgamated Bank of Chicago, is the record holder of 2892 shares of common stock (the "Shares") of JPMorgan Chase & Company beneficially owned by the AFL-CIO Reserve Fund as of November 10, 2010. The AFL-CIO Reserve Fund has continuously held at least \$2,000 in market value of the Shares for over one year as of November 10, 2010. The Shares are held by AmalgaTrust at the Depository Trust Company in our participant account No. *** FISMA & OMB Memorandum M-07-16 ***

If you have any questions concerning this matter, please do not hesitate to contact me at (312) 822-3220.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence M. Kaplan".

Lawrence M. Kaplan
Vice President

cc: Daniel F. Pedrotty
Director, AFL-CIO Office of Investment

One West Monroe
Chicago, Illinois 60603-5301
Fax 312/267-8775



November 10, 2010

RECEIVED BY THE

NOV 17 2010

OFFICE OF THE SECRETARY

Sent by Fax (212) 270-4240 and US Mail

Anthony J. Horan
Corporate Secretary
JPMorgan Chase & Co.
270 Park Avenue
New York, New York 10017-2070

Dear Mr. Horan,

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Sincerely,

A handwritten signature in black ink that reads "Lawrence M. Kaplan". The signature is fluid and cursive.

Lawrence M. Kaplan
Vice President

cc: Daniel F. Pedrotty
Director, AFL-CIO Office of Investment



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OFFICE OF THE SECRETARY

Date: November 10, 2010

To: Anthony Horan, JPMorgan Chase & Co.

Fax: 212-270-4240

From: Daniel Pedrotty, Office of Investment, AFL-CIO

Pages: 3 (including cover page)

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JPMORGAN CHASE & CO.

Anthony J. Horan
Corporate Secretary
Office of the Secretary

November 15, 2010

Mr. Brandon Reese
AFL-CIO
815 Sixteenth Street, N.W.
Washington DC 20006

Dear Mr. Reese:

This will acknowledge receipt of a letter dated November 10, 2010, whereby Mr. Pedrotty advised JPMorgan Chase & Co. of the intention of the AFL-CIO Reserve Fund to submit a proposal on mortgage servicing operations to be voted upon at our 2011 Annual Meeting.

Sincerely,

