

Richard L. Wynne (NY Bar No. 1861426)  
 Howard F. Sidman (NY Bar No. 3970985)  
 JONES DAY  
 222 East 41st Street  
 New York, NY 10017.6702  
 Telephone: 212-326-3939  
 Facsimile: 212-755-7306

IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE SOUTHERN DISTRICT OF NEW YORK

-----	x	
	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, et al.,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
	)	
	)	
-----	x	

**FINANCIAL GUARANTY INSURANCE COMPANY’S  
STATUS CONFERENCE REPORT**

Financial Guaranty Insurance Company (“FGIC”) submits this Report to inform the Court about the status of the discovery process regarding the proposed RMBS settlement and respectfully states as follows:

**Preliminary Statement**

1. FGIC<sup>1</sup> understands that the Debtors seek to retain both the November 5 Hearing date and the intermediate deadlines. However, the significant delay caused by the Debtors’ failure to timely produce requested documentation, as well as the unwieldy and cumbersome nature of the data room used by the Debtors, make it impossible to properly evaluate the

<sup>1</sup> FGIC is the plaintiff in twelve lawsuits filed against several of the above-captioned debtors (collectively, the “Debtors”) and their non-debtor affiliates, and is a creditor of the Debtors with claims in excess of \$1 billion. Although FGIC is also co-chair of the Official Committee of Unsecured Creditors (“OCC”), it has retained its own expert advisors and engaged in separate discovery to evaluate the settlement. In filing this response, FGIC seeks to provide its own perspective to the Court and does not speak for the OCC.



proposed settlement in the time remaining. The Debtors did not provide a detailed index to their data room and its design makes it impossible to search for specific documents between specific parties or about specific topics. And only on Friday, September 14, did the Debtors start loading “thousands” of emails and other documents into the data room, the completion date for which remains unknown.

2. Against this backdrop, fact discovery against the Debtors is set to close on September 24, 2012. This deadline would provide FGIC a mere five days to review the Debtors’ new (and continuing) voluminous discovery responses and prepare for and conduct multiple depositions—even assuming the Debtors had completed, not just begun, their production.

3. The Court was told that the Debtors “will move Mother Earth” to keep the November 5 hearing date. (Hr’g Tr. at 31:18-19, Sept. 11, 2012 (Exhibit “A” attached hereto)). But, the Scheduling Order was based on the assumption that the Debtors would expeditiously provide the data necessary to conduct a meaningful analysis. (*See id.* at 17:6-9, 18-21). While there was a seismic shift after the September 11 Status Conference, it remains insufficient.

4. FGIC is entitled to the documents it has sought and to adequate time to review and analyze the information provided and that is still promised. As the Court has expressed, interested parties must be allowed “a full and fair opportunity to prepare and be able to put on whatever case they wish to put on” with respect to the 9019 Motion. (*Id.* at 41:1-4).

**The Debtors Have Been Dilatory in Responding to FGIC’s July 2012 Discovery Requests**

5. FGIC served its Document Requests and Interrogatories on the Debtors two months ago, on July 13 and July 18, 2012, respectively.<sup>2</sup> Initially, the Debtors only agreed to

---

<sup>2</sup> FGIC has served discovery on the Debtors, and its parent AFI, as well as on the Steering Committee of RMBS claimants represented by Gibbs & Bruns, and the Talcott Franklin group of investors. That discovery has not yet been completely responded to by AFI and Gibbs & Bruns.

provide access to a virtual “data room” containing documents that the Debtors represented would both respond to FGIC’s discovery requests and enable FGIC to evaluate the proposed settlement.

6. Although the data room is organized into a variety of folders, it is not readily searchable, and until recently neither were most of the individual documents. There is no identifying index of all documents set out with normal headings such as To, From, Date, Category (*i.e.*, email, correspondence, agreement, court pleading). Further, there is no identifying information (*i.e.*, a unique description or even a date) on the individual documents.

7. The document names contain no identifying description—not even who authored the document or when it was authored—such that, even though a search is possible, any search is effectively useless. Initially, the data room contained 1,700 PDF files labeled only with a generic sequential number, such as RC 9019\_00029765. Exhibit “B” attached hereto is a screenshot of the database, showing the contents of one folder. Because of this design, every individual document has to be separately opened and examined to identify it, and the reviewing party must create its own index to search for and find relevant documents.<sup>3</sup>

8. FGIC wrote to the Debtors on August 30, 2012 to explain the deficiencies in the Debtors’ discovery responses, including the problems with the data room. (*See* Exhibit “C” attached hereto). One key issue was that no emails, memoranda or other correspondence concerning the settlement and the settlement process had been produced.

9. The Debtors delayed responding until September 6 (*see* Exhibit “D” attached hereto), and were unable to participate in a meet and confer until Wednesday, September 12,

2012. Following the Court’s comments at the September 11 conference that the Debtors’ have

---

<sup>3</sup> By way of example only, Kathy Patrick of Gibbs & Bruns LLP represented the largest group of RMBS holders and was apparently a key participant in negotiating this settlement with the Debtors and AFI. As such, documents sent to or from Ms. Patrick and her firm are obviously relevant to the issues, and essential to review prior to depositions of the relevant parties. However, a search of “Patrick” or “Kathy Patrick” in the database turns up no results. The only way for FGIC or any other party to locate such a document (FGIC has located only two so far) is by opening and reviewing literally every single document.

“not complied with the schedule” regarding discovery (Hr’g Tr. at 18:14-18), and that the November 5th hearing date was in jeopardy, (*see id.*; *id* at 47:20-23), the Debtors did begin on September 14, 2012 providing substantial documents relating to settlement negotiations. However, it is currently unknown when the Debtors will complete their production. This is to say nothing of the substantial time required to access, load, review, and analyze those documents, and prepare for depositions.

10. On Monday, September 17, 2012, the Debtors provided a purported partial cure to the unworkable nature of the data room by replacing many of the documents with individually searchable versions, albeit if separately located, opened, and viewed. The Debtors still have not provided an index, the documents are still not labeled or named, so it is still impossible to search across the entire production. The thousands of new documents that are just now being dumped into the data room, will still have to be individually opened and sorted in order to be identified and analyzed. FGIC has already expended considerable time and expense making the originally produced documents searchable and will incur further delay and expense to make available the reproduced documents on its review platform.

11. Finally, FGIC has not received a privilege log that would explain the number, scope and nature of the documents withheld and the theory for preventing disclosure. Issues relating to privilege determinations will undoubtedly require further time to resolve.

**Ally Financial, Inc. Has Refused to Engage in Discovery With FGIC**

12. Compounding the Debtors’ failure to timely and properly comply with their discovery obligations, FGIC continues to be stonewalled in its efforts to receive discovery from another key party to the settlement process; namely, the Debtors’ parent company, Ally Financial, Inc. (“AFI”). AFI remarkably claims that it is not a relevant party to the settlement for

discovery purposes, notwithstanding its central role in designing this bankruptcy case, the RMBS Settlement and the simultaneously negotiated Plan Support Agreements that provided for a Plan containing releases for AFI from the Debtors and all third parties, like FGIC, who have asserted claims against AFI. Indeed, it appears that these bankruptcy cases have been pursued, directed, and managed by AFI as a critical part of AFI's long term business and operational plans. As the Debtors' ultimate parent company, AFI is inextricably bound to the negotiation, consummation, effect and operation of the settlement arrangement.

13. This is reflected in the very press release AFI issued in connection with the Debtors bankruptcy filing, titled "Ally Financial Announces Key Strategic Actions to Strengthen Company and Accelerate Ability to Repay U.S. Treasury." The Press Release, attached hereto as Exhibit "E" goes on to state:

Ally Financial Inc. (Ally) today announced key strategic actions aimed at strengthening the company's longer term financial profile and accelerating repayment of the U.S. Treasury's investment. The actions include the decision by the mortgage subsidiary, Residential Capital, LLC and certain of its subsidiaries (ResCap), to file Chapter 11

...

The action by ResCap will enable Ally to achieve a permanent solution to its legacy mortgage risks and put these issues behind us, said Ally Chief Executive Officer Michael A. Carpenter.

...

A key feature of ResCap's prearranged Chapter 11 plan is proposed settlements among Ally, ResCap's Chapter 11 estates and certain of ResCap's creditors that provide for the release of, among other things, all existing and potential claims between Ally and ResCap, as well as a release of all existing or potential causes of action against Ally by third parties.

...

Absent the determination by the ResCap board of directors to file for Chapter 11, ResCap would have required billions of dollars of support from its parent to meet its obligations, which would have substantially delayed Ally's plans to repay the remaining capital investment to the U.S. Treasury.

14. FGIC has written AFI to challenge AFI's refusal to produce relevant documents and is currently awaiting AFI's response.

**The Current Discovery Deadlines Should Be Extended and the November 5th Hearing Date Postponed Until Meaningful Discovery Is Complete**

15. The extensive delay by the Debtors, coupled with AFI's total obstinacy, has made it impossible for FGIC, in the words of the Court, to "hav[e] a full and fair opportunity to prepare and be able to put on whatever case they wish to put on" with respect to the 9019 Motion. (Hr'g Tr. at 41:1-4). The Debtors have not fulfilled the heavy burden they undertook to meet the aggressive timetable they sought to impose.

16. In light of the foregoing, FGIC respectfully requests that the Court adjust the current Scheduling Order, providing additional time for discovery, and move the hearing as the Court deems appropriate.

Dated: September 18, 2012

/s/ Richard L. Wynne

Richard L. Wynne (NY Bar No. 1861426)

Howard F. Sidman (NY Bar No. 3970985)

JONES DAY

222 East 41st Street

New York, NY 10017.6702

Telephone: 212-326-3939

Facsimile: 212-755-7306

Carl E. Black (Ohio Bar No. 0069479)

JONES DAY

North Point

901 Lakeside Avenue

Cleveland, OH 44114.1190

Telephone: 216-586-3939

Facsimile: 216-579-0212

Attorneys for Creditor

Financial Guaranty Insurance Company

# **EXHIBIT A**

**In Re:**  
*RESIDENTIAL CAPITAL, LLC, et al.*  
*Case No. 12-02020-mg*

---

*A.M. SESSION ONLY*  
*September 11, 2011*

---

*eScribers, LLC*  
*(973) 406-2250*  
*operations@escribers.net*  
*www.escribers.net*

*To purchase copies of this transcript, please contact us by phone or email*



Min-U-Script® with Word Index

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

Case No. 12-12020-mg

- - - - -x

In the Matter of:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court  
One Bowling Green  
New York, New York

September 11, 2012  
10:06 AM

B E F O R E:  
HON. MARTIN GLENN  
U.S. BANKRUPTCY JUDGE

**RESIDENTIAL CAPITAL, LLC, ET AL.**

17

1 That, in itself, is not at issue. I'm, frankly, more concerned  
2 that -- over the status of the discovery. There was a  
3 scheduling order that was agreed to. You filed a status report  
4 on Friday. It indicated that discovery is substantially on  
5 track. Then I read the committee's report yesterday, and it  
6 certainly appears that discovery is not on track. The setting  
7 of a November 1st -- November 5th hearing was premised on  
8 substantially complete discovery in accordance with the  
9 schedule that everyone agreed upon and that I approved, okay?  
10 I left it to the parties to negotiate the schedule. They did  
11 so and I told them, look, if you can't agree, I will do so, but  
12 it's better when the parties do that.

13 The parties did that. They presented the Court with  
14 an agreed schedule. The Court entered it. It's the operative  
15 document. I don't underestimate the task that's involved on  
16 all parties -- for all parties in complying with a schedule.  
17 You wanted a hearing as soon as possible. Okay. There were  
18 others who wanted the schedule moved out. I believe I made it  
19 clear from the start that going forward with an aggressive  
20 schedule was contingent upon complying with all discovery  
21 obligations. The committee or any other objectors are entitled  
22 to full discovery and an opportunity to prepare for all of the  
23 issues that are going to be raised at the hearing.

24 This is, to put it euphemistically, a huge deal.  
25 You're seeking approval of a settlement that would provide an

**RESIDENTIAL CAPITAL, LLC, ET AL.**

18

1 allowed claim of 1 -- 8.7 billion dollars. It has enormous  
2 consequences for this case as a whole. That's fine. I'll go  
3 ahead. But you've already failed to comply with the agreed  
4 schedule.

5 The changes that you may be negotiating to try and  
6 deal with objections that have been raised informally or  
7 formally, that's pretty standard. It may be that when we get  
8 to a date for a hearing, the changes will be so substantial  
9 that parties will be objecting: they've changed the deal, we  
10 haven't had an opportunity to prepare, this raises new issues.  
11 I don't know. I'm not going to prejudge any of that. But the  
12 process of amending agreements, that's pretty common; I see  
13 that all the time.

14 But the one thing that I won't abide, I want to make  
15 it crystal clear, your November 5th hearing date is  
16 substantially in jeopardy right now because you've not complied  
17 with the schedule that was agreed to by the parties and so  
18 ordered by the Court.

19 MR. PRINCI: Okay. Your Honor, a couple of things.  
20 There's a -- there's some basic propositions that you've  
21 stated, they've been stated by other parties; I just want to  
22 make sure that we're on the record as being absolutely clear  
23 that we're in full agreement.

24 This is a settlement of significant proportions. I  
25 think the term that the committee used in its response to our

**RESIDENTIAL CAPITAL, LLC, ET AL.**

31

1 out. But you're not going to get to that point.

2 Here's what we're going to do, I don't want to  
3 spend -- I want to give -- if you have some last points on the  
4 RMBS status you want to talk about it, I'll let you do that.  
5 We're going to have a separate conference to deal with the  
6 discovery issues.

7 MR. PRINCI: Okay.

8 THE COURT: And I don't want to -- I've reacted  
9 strongly to what on the one hand you file a status report and  
10 say everything's hunky-dory with respect to discovery and they  
11 file a sta -- if I see a bunch of status reports saying, no,  
12 no, no, no, no. So I want to move forward with the agenda. If  
13 there's some last points you want to make, we'll do that. But  
14 the message, I think, I got across pretty clearly is if it  
15 doesn't happen on November 5th, it probably isn't happening  
16 until sometime in January. So you better go through backflips  
17 if you want to keep to the schedule.

18 MR. PRINCI: Your Honor, we will move Mother Earth to  
19 keep that schedule, and I appreciate Your Honor allowing us the  
20 time to first try to address this with the committee, and,  
21 then, we can bring to the Court, as Your Honor sees fit,  
22 whatever real discovery disputes there are. And I emphasize  
23 the word "real", Judge, because, again, the committee is taking  
24 a position that goes beyond that and I want to address that  
25 which is --

RESIDENTIAL CAPITAL, LLC, ET AL.

41

1 I'm more concerned -- I said it before, I'm more concerned  
2 about them having a full and fair opportunity to prepare and be  
3 able to put on whatever case they wish to put on. The November  
4 5th date may be precarious but it still is holding. So I think  
5 your --

6 MR. PRINCI: Understood. Judge, trust me when I say  
7 this: we hear you loud and clear on this.

8 One last point, Judge, and I do, unfortunately, have  
9 to make a response to.

10 In paragraph 12 of the committee's response, there's  
11 an unfortunate statement, it's untrue and we have to respond,  
12 Judge. It says flatly, "The settlement," this being the RMBS  
13 settlement, "The settlement was negotiated by debtors with  
14 little motivation to protect creditors by limiting the  
15 settlement number and with every motivation to lock in the RMBS  
16 investors' support for the debtors' pre-negotiated plan  
17 providing Ally with a global release of the state and third-  
18 party claims." That's just terribly unfortunate, Judge. It is  
19 vehemently denied by the debtor and that sort of thing's  
20 unnecessary. And that's it for now, Judge. Thank you.

21 THE COURT: Well, when we get to the motion to --  
22 well, let me -- I'll get to that later.

23 Go ahead, Mr. Eckstein. Or I don't know which of your  
24 colleagues is --

25 MR. PRINCI: Judge, I guess I'll wait for the

RESIDENTIAL CAPITAL, LLC, ET AL.

47

1 presented to me. So I don't want to hear that you've been  
2 talking for weeks about there's a common interest objection and  
3 as a result they haven't produced any -- they haven't produced  
4 any documents. You'll get it resolved pretty quickly.

5 I will see you on the discovery dispute next Wednesday  
6 the 19th at 10 a.m.

7 MR. ECKSTEIN: Your Honor, I'm happy to come back and  
8 defer but it's obvious that the discovery deadline is expiring  
9 and we'll, obviously, have to deal with that next week but  
10 we're not in a position to meet the discovery responsibilities  
11 given where the facts stand today, and I respectfully do not  
12 believe it is possible for us to meet those deadlines given  
13 where the facts stand.

14 THE COURT: And, you know, every case is different --

15 MR. ECKSTEIN: And this is not a question of bad  
16 faith.

17 THE COURT: -- but go look at the order I entered in  
18 that Paymentech adversary procedure.

19 MR. ECKSTEIN: I've looked at it, Your Honor.

20 THE COURT: And that's -- I told Mr. Princi the  
21 November 5th date is hanging by a thread and if it doesn't  
22 happen then, see you next year. Okay? I'm not -- it's not an  
23 empty threat. I mean it's -- I've got fully paid-for tickets  
24 to be out of the country and I've got a full docket before and  
25 I arranged those dates after these dates were all set and was

# **EXHIBIT B**

Hub

**Project Bounce II** x  
Centerview and Morrison & ...

Documents

Users & Groups

### Project Bounce II

Add Document Add Folder

Filters

Folders

- ▲ Folders
  - ▲ 3.0 Corporate Information
    - 3.1 Corporate Profiles
    - 3.3 Organizational Charts
  - ▶ 6.0 Financial Information
  - ▶ 7.0 GSE Information
  - ▶ 8.0 HR
  - ▶ 9.0 Industry Materials
  - ▶ 12.0 Legal
  - ▶ 15.0 Origination
  - ▶ 18.0 Servicing
  - ▲ 30.0 9019 Documents
    - 30.1 Initial 9019 Document Upload**
    - 30.2 Select RMBS-Related Pleading
    - 30.3 Add'l Fortace Docs - Not Relie
    - ▶ 30.4 Select Redacted MBIA Depo
    - 30.5 Tolling Agreements
    - 30.6 Updated Waterfall Presentati
    - 30.7 Debtors PLS Demand Data

Actions Display Print Export

30.1 Initial 9019 Document Upload Unfiltered

Display only: New Since: mm/dd/yyyy Unread Clear Update

#	Title	Note	Added On	Modified On
30.1.1	RC-9019_00029661		7/9/12 2:03 PM	8/7/12 4:15 PM
30.1.2	RC-9019_00029665		7/9/12 2:05 PM	8/7/12 4:15 PM
30.1.3	RC-9019_00029674		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1.4	RC-9019_00029686		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1.5	RC-9019_00029698		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1.6	RC-9019_00029710		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1.7	RC-9019_00029722		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1.8	RC-9019_00029733		7/9/12 2:09 PM	8/7/12 4:15 PM
30.1.9	RC-9019_00029744		7/9/12 2:07 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029755		7/9/12 2:06 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029765		7/9/12 2:10 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029776		7/9/12 2:06 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029786		7/9/12 2:05 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029795		7/9/12 2:08 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029816		7/9/12 2:08 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029837		7/9/12 2:06 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029847		7/9/12 2:05 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029856		7/9/12 2:08 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029864		7/9/12 2:03 PM	8/7/12 4:15 PM
30.1....	RC-9019_00029869		7/9/12 2:03 PM	8/7/12 4:15 PM

# **EXHIBIT C**

**JONES DAY**

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017.6702  
TELEPHONE: +1.212.326.3939 • FACSIMILE: +1.212.755.7306

Direct Number: (212) 326-3418  
hfsidman@JonesDay.com

August 30, 2012

**VIA E-MAIL AND OVERNIGHT MAIL**

Jamie Levitt  
Morrison & Foerster LLP  
1290 Avenue of the Americas  
New York, New York 10104  
jlevitt@mofo.com

Re: *In re: Residential Capital, LLC, et al.*,  
Case No. 12-12020 (MG)

Dear Ms. Levitt:

We represent Financial Guaranty Insurance Company (“FGIC”) in connection with the above-captioned case. On July 13, 2012, FGIC served Debtors with their First Request for Production of Documents to the Debtors Regarding the Proposed (I) RMBS Trust Settlement Agreements and (II) Plan Support Agreements (the “FGIC Document Requests”). On July 18, 2012, FGIC served Debtors with their First Set of Interrogatories to the Debtors Regarding the Proposed (I) RMBS Trust Settlements and (II) Plan Support Agreements (the “FGIC Interrogatories”).<sup>1</sup>

In response to the FGIC Document Requests, and pursuant to our e-mail agreement of July 19, 2012, Debtors provided FGIC with access to a virtual data room containing numerous documents which Debtors indicated would respond to most of FGIC’s requests and fully enable FGIC to evaluate the proposed RMBS Trust Settlement. However, FGIC’s preliminary review of the documents in the data room has shown that, while many of these documents do relate broadly to the RMBS Trust Settlement and Plan Support Agreements, the documents are nevertheless unresponsive to most, if not all, of FGIC’s thirty-five particularized and specific requests. Significantly, FGIC’s preliminary review has been inhibited by the lack of any identifying information pertaining to the documents provided by Debtors, as each document is an individual PDF, and the database is not readily searchable. Therefore, if Debtors believe that they have produced documents responsive to each of the FGIC Document Requests, please

---

<sup>1</sup> Except where otherwise noted, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Debtors’ Motion Pursuant to Fed. R. Bankr. P. 9019 For Approval of the RMBS Trust Settlement Agreements, and/or any amendments, exhibits, attachments, or supplements thereto.

JONES DAY

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017.6702  
TELEPHONE: +1.212.326.3939 • FACSIMILE: +1.212.755.7306

Jamie Levitt  
August 30, 2012  
Page 2

identify the data room location and any identifying information for the documents that relate to each particular request.

In particular, the data room does not contain any documents relevant to the specific calculations used to support the contentions underlying the terms of the RMBS Trust Settlement Agreement. For instance, Debtors have failed to provide any documents or communications regarding the calculations referenced in the Declaration of Frank Sillman that was submitted in support of the Settlement Agreement, including how the parties to the Settlement Agreement arrived at the 20% Loss Share Rate and the resulting \$8.7 million Total Allowed Claim.

In order to fairly and adequately consider the terms of the Settlement Agreement, including the calculation of the Loss Share Rate and the Total Allowed Claim, FGIC is entitled to all of the information it has sought from Debtors. Nevertheless, to even begin to evaluate the Settlement Arrangement Debtors have proposed, FGIC requires *at a minimum* the information it already requested in the FGIC Interrogatories. As requested in Interrogatory No. 1, FGIC seeks, *inter alia*:

With respect to each of the Trusts referenced in the RMBS Trust Settlement and/or the Settlement Motion, provide in Excel format:

- (a) cumulative collateral losses for each Trust;
- (b) cumulative collateral losses to each Trust on loans that made less than or equal to the first 24 months of payments following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (c) cumulative collateral losses to each Trust on loans that made less than or equal to the first 6 months of payments following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (d) cumulative collateral losses to each Trust on loans that made less than or equal to the first 12 months of payments, but more than the first 6 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (e) cumulative collateral losses to each Trust on loans that made less than or equal to the first 18 months of payments, but more than the first 12 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;

**JONES DAY**

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017.6702  
TELEPHONE: +1.212.326.3939 • FACSIMILE: +1.212.755.7306

Jamie Levitt  
August 30, 2012  
Page 3

- (f) cumulative collateral losses to each Trust on loans that made less than or equal to the first 24 months of payments, but more than the first 18 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (g) cumulative collateral losses to each Trust on loans that made less than or equal to the first 30 months of payments, but more than the first 24 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (h) cumulative collateral losses to each Trust on loans that made less than or equal to the first 36 months of payments, but more than the first 30 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (i) cumulative collateral losses to each Trust on loans that made more than the first 36 months of payments, following the cut-off date of the relevant transaction, including the original balance of the loans and the loan count;
- (j) projected remaining losses (also known as Forecasted Remaining Lifetime Losses) with respect to each Trust;
- (k) the payment status and delinquency data that was used concerning the calculations, assumptions, and/or determinations with respect to each Trust;
- (l) the methodology used for any calculations, assumptions, and/or determinations regarding the payment status and delinquency data with respect to each Trust, and rationale for the methodology that was employed, including whether payment status and delinquency data is based upon reporting methodologies established by the Mortgage Banker Association of America or the Office of Thrift Supervision;
- (m) the vintage and type of mortgage and/or loan product associated with each of the Trusts, and the methodology used to define, determine, and/or account for such mortgage and/or loan type with respect to each Trust; and

**JONES DAY**

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017.6702  
TELEPHONE: +1.212.326.3939 • FACSIMILE: +1.212.755.7306

Jamie Levitt  
August 30, 2012  
Page 4

- (n) the transaction name and characteristics, including the vintage and type of mortgage and/or loan product, concerning any individual Trust relied upon in a representative capacity in arriving at any of the assumptions, calculations, and/or determinations for the Total Allowed Claim.

We note that FGIC's requests have been before Debtors for more than one month. The FGIC Interrogatories requested that responsive information be provided no later than August 8, 2012, while the FGIC Document Requests requested similar information by August 3, 2012. Both of those dates have long since passed. FGIC therefore requests that you provide forthwith documents and information responsive to each of the FGIC Document Requests and FGIC Interrogatories and, in particular, that you immediately provide the specific information identified in Interrogatory No. 1 as set forth above, so that FGIC can fully assess the terms of the proposed Settlement Agreement.

Please note that on August 23, 2012, FGIC served its First Request for Production of Documents to Ally Financial, Inc. Regarding the Proposed RMBS Trust Settlement Agreement. Ally Financial, Inc.'s responses are due by September 4, 2012.

In addition, while we agreed to delay obtaining documents concerning AFI's involvement in the negotiations or documents relating to the PSA, we do believe that those documents are necessary for our review. It does not appear for instance that any internal emails have been produced, nor emails or correspondence with parties to the settlement agreement or memoranda. We only located, for example, the two "direction letters" by Kathy Patrick. Please let us know if ResCap will agree to produce the documents relating to the negotiations as we requested, and if not, we will ask the Court to consider the issue. We do not believe that Judge Glenn will find those materials not to be relevant.

We are aware that the Committee has served discovery on you, and that in particular the Committee has served interrogatories seeking the identification of the parties who participated in the negotiations. We would request that we receive access from you of all discovery materials and responses provided to the Committee. Please let us know if this is acceptable or if we should serve you with supplemental discovery requests.

Finally, we expect that the Committee will take the lead role in scheduling depositions of both your fact and expert witnesses, however, we think it makes sense for a schedule to be coordinated next week among the interested parties.

**JONES DAY**

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017.6702  
TELEPHONE: +1.212.326.3939 • FACSIMILE: +1.212.755.7306

Jamie Levitt  
August 30, 2012  
Page 5

We are available to discuss these issues, as well as the timing of further production by the Debtors, and look forward to your prompt response. FGIC reserves all of its rights.

Very truly yours,



Howard F. Sidman

cc: Richard Wynne, Esq.  
Carl Black, Esq.  
Steven Bennett, Esq.

# **EXHIBIT D**



**To:**  
**Cc:**  
**Bcc:**  
**Subject:** \*Confidential: RE: In re Residential Capital, LLC, Case No. 12-12020 (MG)

---

**From:** "Levitt, Jamie A." <JLevitt@mofo.com>  
**To:** "hfsidman@JonesDay.com" <hfsidman@JonesDay.com>  
**Cc:** "Princi, Anthony" <APrinci@mofo.com>, "Rains, Darryl P." <DRains@mofo.com>, "Clark, Daniel E." <DClark@mofo.com>, "Carl E. Black" <ceblack@JonesDay.com>, "Richard L Wynne" <rlwynne@JonesDay.com>  
**Date:** 09/06/2012 10:25 PM  
**Subject:** FW: \*Confidential: RE: In re Residential Capital, LLC, Case No. 12-12020 (MG)

---

Howard,

In response to your August 30 letter, I believe it would make sense to set up a meet and confer call, so we can help you navigate the dataroom and discuss the information you enumerate in your letter. I note that in addition to the extensive trust information we provided in RC-9019\_00000001-2 and other documents, we can also make available our client's Vision investor website, which contains extensive loan-level data for the majority of the trusts. We can explain Vision to you when we speak or if you are already familiar with it, please let Dan Clark (copied here) know who at your firm would like access and he can arrange.

With respect to the issue of documents concerning settlement negotiations, after further deliberations, we have decided that to provide the information you believe you need to analyze the reasonableness of the RMBS Settlement (and putting aside our objection as the appropriateness of the request in the context of the 9019 analysis), we will agree to produce non-privileged documents regarding our RMBS Settlement negotiations. Furthermore, we will make available to you all responses to Committee 9019 discovery requests.

Please let me know what days work for you next week so we can coordinate.

Thanks,

Jamie

---

**From:** Howard F Sidman [<mailto:hfsidman@JonesDay.com>]  
**Sent:** Thursday, July 19, 2012 6:15 PM  
**To:** Levitt, Jamie A.  
**Cc:** Princi, Anthony; Carl E. Black; Clark, Daniel E.; Richard L Wynne  
**Subject:** \*Confidential: RE: In re Residential Capital, LLC, Case No. 12-12020 (MG)

Jamie:

Thank you for the email and the follow on edits to the confidentiality agreement. Your email accurately reflects our agreement regarding discovery in the context of the 9019 motion. FGIC reserves all of its rights with respect to all discovery issues, including the Debtors' refusal to provide discovery to FGIC regarding Ally's involvement in the RMBS settlement and whether discovery regarding the PSA is "ripe"

now.

Howard



**Howard F. Sidman** • Partner

222 East 41st Street • New York, New York 10017  
**DIRECT** 212.326.3418 • **FAX** 212.755.7306 • **MOBILE** 646.528.7721  
[hfsidman@jonesday.com](mailto:hfsidman@jonesday.com)

From: "Levitt, Jamie A." <[JLevitt@mofo.com](mailto:JLevitt@mofo.com)>  
To: "Howard F Sidman" <[hfsidman@JonesDay.com](mailto:hfsidman@JonesDay.com)>, "Carl E. Black" <[ceblack@JonesDay.com](mailto:ceblack@JonesDay.com)>  
Cc: "Clark, Daniel E." <[DClark@mofo.com](mailto:DClark@mofo.com)>, "Princi, Anthony" <[APrinci@mofo.com](mailto:APrinci@mofo.com)>  
Date: 07/19/2012 01:34 PM  
Subject: RE: \*Confidential: In re Residential Capital, LLC, Case No. 12-12020 (MG)

Howard and Carl,

Thanks for talking to us this morning. I write to confirm the agreement reached during our call regarding discovery in the context of the 9019 motion (discovery regarding the PSA is not ripe). Reserving all rights and objections relating to your discovery requests, the Debtors agree as soon as our confidentiality agreement is executed to produce via a secure data room the documents we believe respond to most of your requests and fully enable FGIC to evaluate the proposed RMBS Trust Settlement. We also agreed that you reserve the right to seek additional information and we will continue to meet and confer with if need be after you have reviewed the information in the data room. Accordingly the Debtors will not formally respond/object at this time to FGIC's First Request for Production of Documents to the Debtors Regarding the Proposed (I) RMBS Trust Settlements and (II) Plan Support Agreements or to FGIC's First Set of Interrogatories to the Debtors Regarding the Proposed (I) RMBS Trust Settlements and (II) Plan Support Agreements -- but again, both FGIC and the Debtors have agreed to reserve their rights with respect to all discovery issues.

Thank you.

Jamie

---

**From:** Howard F Sidman [<mailto:hfsidman@JonesDay.com>]  
**Sent:** July 18, 2012 5:05 PM  
**To:** Princi, Anthony  
**Cc:** Carl E. Black; Clark, Daniel E.; Levitt, Jamie A.; Richard L Wynne  
**Subject:** \*Confidential: In re Residential Capital, LLC, Case No. 12-12020 (MG)

Anthony:

Attached is a copy of Financial Guaranty Insurance Company's First Set of Interrogatories to the Debtors Regarding the Proposed (I) RMBS Trust Settlements and (II) Plan Support Agreements, which was sent to your attention today via overnight mail. The purpose of these interrogatories is to address specific questions about the structure and mechanics of the settlement agreement. To the extent you and your colleagues have an opportunity to review these interrogatories today or tomorrow and want to discuss them on our call tomorrow, we are happy to do so. Please let me know if you have any questions.

Regards,  
Howard



**Howard F. Sidman** • Partner

---

222 East 41st Street • New York, New York 10017  
**DIRECT** 212.326.3418 • **FAX** 212.755.7306 • **MOBILE** 646.528.7721  
[hfsidman@jonesday.com](mailto:hfsidman@jonesday.com)

-----  
To ensure compliance with requirements imposed by the IRS, Morrison & Foerster LLP informs you that, if any advice concerning one or more U.S. Federal tax issues is contained in this communication (including any attachments), such advice is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

For information about this legend, go to  
<http://www.mofo.com/Circular230/>

=====  
=====  
This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail @mofo.com, and delete the message.  
-----

# **EXHIBIT E**

- [Ally Home](#)
- [About Ally](#)
- [Company Profile](#)
- [Home](#)

## **Ally Financial Announces Key Strategic Actions to Strengthen Company and Accelerate Ability to Repay U.S. Treasury**

**\* ResCap mortgage subsidiaries file Chapter 11**

**\* Company launches process to explore strategic alternatives for its international businesses**

**\* No impact on Ally's leading U.S. auto finance and direct banking businesses**

**\* Strengthens Ally's financial position going forward and accelerates ability to repay the U.S. Treasury**

**DETROIT, May 14, 2012** -- Ally Financial Inc. (Ally) today announced key strategic actions aimed at strengthening the company's longer term financial profile and accelerating repayment of the U.S. Treasury's investment. The actions include the decision by the mortgage subsidiary, Residential Capital, LLC and certain of its subsidiaries (ResCap), to file Chapter 11, and the decision by Ally to launch a process to explore strategic alternatives for its international operations. These actions will enable Ally to further invest in and grow its leading U.S.-based automotive services and direct banking franchises and be best positioned to return additional capital to the U.S. taxpayer by year-end.

"The action by ResCap will enable Ally to achieve a permanent solution to its legacy mortgage risks and put these issues behind us," said Ally Chief Executive Officer Michael A. Carpenter.

"This action, along with pursuing alternatives for the international businesses, will allow Ally to focus 100 percent of its energies on further strengthening its already leading U.S. auto finance and direct banking franchises."

Carpenter continued, "The depth and breadth of our automotive services operation is unmatched in the industry, and we see significant opportunities to broaden and strengthen this business domestically. In addition, our U.S. direct banking platform, Ally Bank, helps to power our auto business, and its consumer-value proposition has attracted a strong and loyal customer base in the growing direct banking segment.

"Together, we believe these businesses, which represent the core of the company, are a winning combination and will continue to deliver value for our shareholders and provide opportunities to complete the important task of repaying the remaining investment of the U.S. taxpayer," said Carpenter.

Ally has paid approximately \$5.5 billion to the U.S. Treasury, which has enabled the taxpayer to recover about one-third of the investment made in the company. Upon successful completion of the announced strategic initiatives, Ally expects to have returned a total of two-thirds of the taxpayer's investment.

### **ResCap Chapter 11 Filing**

Earlier today, ResCap filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code. In connection with the Chapter 11 filing, ResCap announced it has reached agreement with certain of its



### **Related materials**

- **FAQs: ResCap filing and Ally actions**
- **Investor call information**
- **Investor presentation**
- **8-K filing**
- **ResCap website**
- **ResCap Press Release**

key creditors, including Ally, on the terms of a prearranged Chapter 11 plan.

Ally Financial, Ally Bank and all other Ally entities are not part of the ResCap Chapter 11 cases and there will be no change or interruption to Ally's business operations as a result of ResCap's action. In addition, ResCap and its origination and servicing platform are expected to operate in the normal course during this process.

A key feature of ResCap's prearranged Chapter 11 plan is proposed settlements among Ally, ResCap's Chapter 11 estates and certain of ResCap's creditors that provide for the release of, among other things, all existing and potential claims between Ally and ResCap, as well as a release of all existing or potential causes of action against Ally by third parties. The settlements also contain milestones for ResCap to emerge from Chapter 11 by year-end.

Ally has agreed to take certain steps to support the stability of ResCap and its leading mortgage servicing platform during the Chapter 11 cases. Those steps include:

- Making a cash contribution of \$750 million to the ResCap Chapter 11 estate upon confirmation of the plan;
- Making a stalking horse bid for up to \$1.6 billion of ResCap-owned mortgages currently marked at 45 percent of UPB;
- Providing ResCap a \$150 million debtor in possession financing facility;
- Supporting ResCap's consumer lending originations during the process; and
- Other arrangements to support ResCap's Chapter 11 plan.

ResCap has also obtained support for its prearranged Chapter 11 restructuring from the ad hoc steering committee representing ResCap's junior secured notes, as well as other certain noteholders, and to date has affirmative support from entities holding \$781 million of these notes.

In addition, institutional investors in residential mortgage-backed securities issued by ResCap's affiliates and, at present, holding more than 25 percent of at least one class in each of 290 securitizations have agreed to support ResCap's reorganization. These 290 securitizations (out of a total of 392 outstanding securitizations with an original principal balance of \$221 billion) have an aggregate original principal balance of more than \$164 billion. The settlements reached with these creditors and with ResCap are subject to Bankruptcy Court approval.

Ally has determined that, on and as a result of the Chapter 11 filing, ResCap will be deconsolidated from Ally's financial statements and Ally's equity interest in ResCap will be written-down to zero.

Ally is expected to record an associated charge of approximately \$1.3 billion in the second quarter of 2012. The estimated charge is primarily driven by a write-down to zero of Ally's approximate \$400 million equity investment in ResCap, the \$750 million cash contribution and approximately \$130 million related to the establishment of a mortgage repurchase reserve at Ally Bank that replaces a reserve previously held at ResCap. Absent the determination by the ResCap board of directors to file for Chapter 11, ResCap would have required billions of dollars of support from its parent to meet its obligations, which would have substantially delayed Ally's plans to repay the remaining capital investment to the U.S. Treasury.

"The decision by the ResCap board to pursue this course will best enable it to preserve more than 3,500 jobs and keep its talented workforce focused on assisting homeowners by servicing the more than 2.4 million loans in its portfolio," Carpenter concluded.

### **International Businesses**

Ally will explore strategic alternatives for all of its international operations, which includes auto finance, insurance, and banking and deposit operations in Canada, Mexico, Europe, the U.K. and South America.

The international businesses represent strong franchises in each of the respective countries, and Ally's mission in exploring alternatives for these businesses is to maximize shareholder value in a timely manner, while also protecting the interests of the dealers and automakers that the company serves.

The international businesses operate independently of the U.S. businesses, and, as a result, strategic actions taken with regard to these businesses will have no adverse operating impact on Ally's U.S. businesses.

### **Repayment of Government Support Programs and U.S. Auto Recovery**

Ally has paid approximately \$5.5 billion to the U.S. Treasury, enabling the taxpayer to recover about one-third of the investment made into the company. Upon successful completion of the announced strategic initiatives, Ally expects to return at least another third of the total investment, thereby enabling the U.S. Treasury to recover at least two-thirds of its investment in Ally by year-end.

In addition, Ally's cash and available liquidity will ensure the company reaches another milestone in the fourth quarter as all Ally debt issued under the FDIC's Temporary Liquidity Guarantee Program (TLGP) will also be paid in full, further reducing another form of governmental support that was put in place during the economic crisis.

Since 2009, Ally has been an instrumental part of the U.S. auto recovery and, through its automotive finance operation, has provided financing for nine million vehicles sold to more than 6,000 U.S. auto dealers and has assisted American consumers in financing vehicles worth almost \$100 billion.

"Ally was a key part of supporting the recovery of the U.S. auto industry by ensuring that thousands of dealers and millions of consumers had access to financing during the crisis. We took that responsibility very seriously and take equally seriously the mission to repay the remaining U.S. taxpayer investment in full as soon as possible," Carpenter said.

Ally is advised by Evercore Partners, Kirkland & Ellis and Mayer Brown on the ResCap matters and by Citi and Evercore Partners on the strategic matters related to the international businesses.

### **Ally Investor Call**

Ally Chief Executive Officer Michael A. Carpenter and Senior Executive Vice President of Finance and Corporate Planning Jeffrey Brown will host a conference call for investors at 8:30 a.m. EDT on Tuesday, May 15, 2012, to discuss these developments. The call will include formal comments by Ally senior management followed by a question and answer session. The call is expected to last approximately 60 minutes.

Conference Call Information: Dial 1-800-659-2056 (or +1-617-614-2714 for international access) at least 15 minutes prior to the start time and enter the participant code 14798537.

The conference call will also be webcast live on Ally's Investor Relations website in the Events & Presentations section (<http://www.ally.com/about/investor/events-presentations/index.html>).

A presentation will be posted in the Events & Presentations section of Ally's Investor Relations website on May 15, approximately one hour prior to the start of the call.

Archive: A taped replay of this call will be made available from 10:30 a.m. EDT on May 15, until May 22, 2012. Please dial 1-888-286-8010 (or +1-617-801-6888 for international access) and enter participant code 26255191 to access the taped replay. A replay of the webcast will also be made available on the Ally Investor Relations website.

### **ResCap Press Release**

ResCap's press release and additional information can be viewed at <http://www.kccllc.net/rescap>.

### **About Ally**

Ally Financial Inc. is a leading automotive financial services company powered by a top direct banking franchise. Ally's automotive services business offers a full suite of financing products and services, including new and used vehicle inventory and consumer financing, leasing, inventory insurance, commercial loans and vehicle remarketing services. Ally Bank, the company's direct banking subsidiary, offers an array of deposit products, including certificates of deposit, savings accounts, money market accounts, IRA deposit products and online checking. Ally's Commercial Finance unit provides financing to middle-market companies across a broad range of industries.

With approximately \$186 billion in assets as of March 31, 2012, Ally operates as a bank holding company. For more information, visit the Ally media site at <http://media.ally.com> or follow Ally on Twitter: @ally.

### **Forward-Looking Statements**

*In this press release and in any related comments by Ally Financial Inc. ("Ally") management, the use of the words "expect," "anticipate," "estimate," "forecast," "initiative," "objective," "plan," "goal," "project," "outlook," "priorities," "target," "explore," "positions," "intend," "evaluate," "pursue," "seek," "may," "would," "could," "should," "believe," "potential," "continue," or the negative of any of those words or similar expressions is intended to identify forward-looking statements. All statements herein and in related charts and management comments, other than statements of historical fact, including without limitation, statements about future events and financial performance, are forward-looking statements that involve certain risks and uncertainties.*

*While these statements represent our current judgment on what the future may hold, and we believe these judgments are reasonable, these statements are not guarantees of any events or financial results, and Ally's actual results may differ materially due to numerous important factors that are described in the most recent reports on SEC Forms 10-K, 10-Q, and 8-K for Ally, each of which may be revised or supplemented in subsequent reports filed with the SEC. Such factors include, among others, the following: the approval of the bankruptcy court and the timely consummation of Residential Capital LLC's proposed bankruptcy plan, including the settlement agreements contemplated therein; maintaining the mutually beneficial relationship between Ally and General Motors ("GM"), and Ally and Chrysler Group LLC ("Chrysler"); the profitability and financial condition of GM and Chrysler; the ability to secure low cost funding; our ability to realize the anticipated benefits associated with being a bank holding company, and the increased regulation and restrictions that we are now subject to; any additional future impact resulting from delayed foreclosure sales or related matters; the potential for legal liability resulting from claims related to the sale of private-label mortgage-backed securities; risks related to potential repurchase obligations due to alleged breaches of representations and warranties in mortgage securitization transactions; changes in U.S. government-sponsored mortgage programs or disruptions in the markets in which our mortgage subsidiaries operate; continued challenges in the residential mortgage markets; the potential for deterioration in the residual value of off-lease vehicles; disruptions in the market in which we fund our operations, with resulting negative impact on our liquidity; changes in our accounting assumptions that may require or that result from changes in the accounting rules or their application, which could result in an impact on earnings; changes in the credit*

*ratings of Ally or its subsidiaries, Chrysler, or GM; changes in economic conditions, currency exchange rates or political stability in the markets in which we operate; and changes in the existing or the adoption of new laws, regulations, policies or other activities of governments, agencies and similar organizations (including as a result of the Dodd-Frank Act and Basel III).*

*Investors are cautioned not to place undue reliance on forward-looking statements. Ally undertakes no obligation to update publicly or otherwise revise any forward-looking statements, whether as a result of new information, future events or other such factors that affect the subject of these statements, except where expressly required by law.*

**Contact:**

Gina Proia  
646-781-2692  
gina.proia@ally.com