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Bank of American Counsel letter to the FCIC

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Reginald J. Brown

June 16, 2010

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VIA HAND DELIVERY

Bradley J. Bondi, Esq.
Financial Crisis Inquiry Commission
1717 Pennsylvania Avenue, NW, Suite 800
Washington, D.C. 20006-4614

Re: April 21, 2010 Request for Information Regarding the Community Reinvestment Act

Brad:

Below please find Bank of America Corporation's ("BAC" or the "Bank") initial response to your request for information dated April 21, 2010, regarding the Community Reinvestment Act ("CRA"). As discussed on the phone with Michael Sharp, we will soon be providing you with additional information in response to this request.

INTERROGATORIES:

(1) Please list:

- (a) each commitment (to a government body or to a third-party such as a community-based organization) related to the Community Reinvestment Act ("CRA") that Bank of America made from January 1, 1990, through March 31, 2010, including the date, amount, and name of the Bank of America entity making the CRA commitment;**
- (b) which commitments were fulfilled in whole or in part with single-family mortgage loans;**
- (c) the number and dollar amount of mortgage loans originated and purchased by Bank of America from January 1, 1990, through March 31, 2010, to meet those commitments, including the date, amount, and name of the entity originating the loans; and**
- (d) the entity to which each commitment was made.**

RESPONSE:

BAC historically has set for itself ambitious community development lending and investing goals. These goals are not CRA-specific. Instead, they are part of a broader effort to demonstrate how BAC positively impacts traditionally underserved communities, primarily low- and moderate-income (“LMI”) and minority populations, through a broad continuum of community development-related activities. Mortgage loans are just one product by which BAC seeks to serve these communities and populations. While some community development lending is undertaken in partnership with community-based organizations, the vast majority of CRA-qualified loans are not. Further, only a small portion of mortgage loans to LMI and minority populations are originated as a result of community-based organization partnerships. Generally, between 50% and 60% of lending and investing performance counted under our community development goal is also CRA-qualified.

BAC’s goals over the past two decades have included the following:

Goal	Years	Goal-Setting Organization
\$10 billion Exceeded in 4 years	1992 - 1995	NCNB
\$350 billion Superseded by \$750B goal after 6 th year	1999 - 2004	NationsBank
\$750 billion Superseded by \$1.5 Trillion goal after 4 th year	2005 - 2008	Bank of America
\$1.5 trillion On-going	2009 - 2018	Bank of America

- (2) Please provide the number and dollar amount of mortgages that Bank of America originated and purchased in each year from January 1, 1990, through March 31, 2010, that were deemed to have helped satisfy CRA commitments (to a government body or to a third-party such as a community-based organization)? For each year, please provide data concerning:
- (a) mortgage type (*e.g.*, fixed or adjustable) and terms (*e.g.*, annual percentage rate);
 - (b) the weighted-average FICO scores of the borrowers;
 - (c) the range of FICO scores of the borrowers; and

(d) the number and dollar amount of those mortgages that were ever delinquent for more than 90 days.

Explain why the mortgage loans were deemed to have helped satisfy a commitment and identify the commitment.

RESPONSE:

BAC maintains data regarding loans made to LMI borrowers as defined by the CRA. The attached schedules, described below, reflect residential mortgage data from the period for which data is available, January 1, 2004, through March 31, 2010, for LMI borrowers as defined by the CRA.¹ “Unit” and “#” refer to mortgages made to LMI borrowers. The schedules include data available from Bank of America and from predecessor institutions for which data is available. (To the extent that the data field is blank, the requested data is not available for that entity.)

Schedule 2.1: Loans to LMI Borrowers Funded and Purchased

	BANA		Fleet National Bank		United States Trust Company		LaSalle Bank Midwest, NA	
			Date of Merger: 6/13/2005		Date of Merger: 2/22/2008		Date of Merger: 10/1/07	
Year	Units #	Dollars \$ (millions)	Units	Dollars \$ (millions)	Units	Dollars \$ (millions)	Units	Dollars \$ (millions)
2004	141,192	\$18,482	16,996	\$1,805				
2005	131,631	\$19,500	2,715	\$199				
2006	171,825	\$26,483						
2007	194,476	\$30,322			24	\$11		
2008	108,453	\$16,405					760	\$97
2009	346,778	\$55,227						
2010	89,960	\$14,201						

¹ Loans made to “LMI borrowers” include both loans made to individuals defined as low- to moderate-income as well as loans made to borrowers who obtain a mortgage in a LMI census tract.

	Countrywide Bank, FSB		Merrill Lynch		MBNA	
	Date of Merger: 4/27/2009		Date of Merger: 7/1/2009		Date of Merger: 1/1/2006	
Year	Units	Dollars \$ (millions)	Units	Dollars \$ (millions)	Units	Dollars \$ (millions)
2004						
2005						
2006						
2007						
2008	255,080	\$41,204				
2009	90,244	\$14,850				
2010						

Schedule 2.2: Mortgage Types for Loans to LMI Borrowers

Year	Rate Structure	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2004	Adjustable Rate	21,634					
	Fixed Rate	102,837		9,036			
	Unclassified	11,600		7,960			
	Fixed - Balloon	5,121					
2005	Adjustable Rate	17,491					
	Fixed Rate	90,625		1,901			
	Unclassified	16,733		814			
	Fixed - Balloon	6,782					
2006	Adjustable Rate	12,418					
	Fixed Rate	117,976					
	Unclassified	34,232				752	
	Fixed - Balloon	6,447					
2007	Adjustable Rate	10,292					
	Fixed Rate	161,371					
	Unclassified	17,124				3	24
	Fixed - Balloon	5,686					
2008	Adjustable Rate	3,986	12,593				
	Fixed Rate	84,021	242,487				
	Unclassified	17,907			760		
	Fixed - Balloon	2,539					
2009	Adjustable Rate	9,575	300				
	Fixed Rate	336,968	89,944				
	Unclassified	191					

Year	Rate Structure	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
	<i>Fixed - Balloon</i>	44					
2010	<i>Adjustable Rate</i>	3,016					
	<i>Fixed Rate</i>	86,938					
	<i>Unclassified</i>	6					
	<i>Fixed - Balloon</i>	0					

Schedule 2.3: Dollar-weighted Average FICO Score for LMI borrowers

Year	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2004	724		731			
2005	724		712			
2006	713					
2007	707					
2008	730	698				
2009	727	716				
2010	725					

Schedule 2.4: Range of FICO Scores for LMI Borrowers

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2004	<620	5,629		639			
2004	620-679	23,408		1,803			
2004	680-719	26,799		1,610			
2004	720+	70,136		4,938			
2004	Unavailable	15,220		8,006			

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2005	<620	5,863		208			
2005	620-679	20,697		468			
2005	680-719	24,141		355			
2005	720+	62,093		862			
2005	Unavailable	18,837		822			

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2006	<620	10,892					

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2006	620-679	31,509					
2006	680-719	27,137					
2006	720+	63,905					
2006	Unavailable	37,630				752	

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2007	<620	17,276					
2007	620-679	50,095					
2007	680-719	33,452					
2007	720+	73,431					
2007	Unavailable	20,219				3	24

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2008	<620	4,916	40,469				
2008	620-679	15,573	65,034				
2008	680-719	17,465	46,984				
2008	720+	51,754	100,874				
2008	Unavailable	18,745	1,719		760		0

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2009	<620	9,065	7,986				
2009	620-679	80,111	21,179				
2009	680-719	64,010	15,036				
2009	720+	189,939	43,889				
2009	Unavailable	3,652	2,154				

Year	FICO Range	BANA	Countrywide	Fleet	LaSalle	MBNA	US Trust
2010	<620	2,081					
2010	620-679	21,948					
2010	680-719	16,730					
2010	720+	46,764					
2010	Unavailable	258					

Schedule 2.5: LMI Mortgage Delinquency Information (information available only for those LMI Loans originated by BAC or Countrywide that are still serviced by BAC). “Ever 90+” refers to mortgages that have ever been more than 90 days past due:

Year	BANA Total LMI		BANA Ever 90+	
	#	Current Balance	#	Current Balance
2004	62,608	\$6,298,176,128	5,406	\$664,302,838
2005	70,612	\$8,754,262,234	8,694	\$1,354,189,869
2006	93,338	\$12,641,847,214	18,320	\$3,268,886,553
2007	140,009	\$20,493,311,737	31,229	\$5,875,672,315
2008	77,521	\$10,740,352,747	6,314	\$1,108,369,551
2009	325,048	\$51,274,554,258	2,325	\$395,693,317
2010	75,747	\$11,982,303,300	12	\$1,769,718

Year	Countrywide Total LMI		Countrywide Ever 90+	
	#	Current Balance	#	Current Balance
2008	196,725	\$30,082,811,776	27,505	\$4,838,723,739
2009	86,034	\$13,816,614,321	2,794	\$490,871,305

- (3) Of the mortgages that Bank of America originated or purchased that were deemed to have helped satisfy CRA commitments, which mortgages are held currently on the books by Bank of America? Of those mortgages currently held by Bank of America, please provide data concerning:
- (a) the total number and principal amount of the mortgages currently held; and
 - (b) the number and dollar amount of those mortgages that are seriously delinquent (i.e., delinquent for more than 90 days or in the foreclosure process).

RESPONSE:

The table below provides information concerning mortgages made to LMI borrowers that Bank of America originated or purchased, which are currently held on the balance sheet. "Currently 90+" refers to mortgages that were at least 90 days over due as of June 1, 2010.

Year	BANA Total LMI		BANA Currently 90+	
	#	Current Balance	#	Current Balance
2004	62,608	\$6,298,176,128	2,237	\$316,269,411
2005	70,612	\$8,754,262,234	4,091	\$700,825,936
2006	93,338	\$12,641,847,214	9,616	\$1,848,714,237
2007	140,009	\$20,493,311,737	17,788	\$3,538,799,148
2008	77,521	\$10,740,352,747	3,119	\$536,206,254
2009	325,048	\$51,274,554,258	1,151	\$195,703,760
2010	75,747	\$11,982,303,300	11	\$1,760,042

Year	Countrywide Total LMI		Countrywide Currently 90+	
	#	Current Balance	#	Current Balance
2008	196,725	\$30,082,811,776	13,024	\$2,306,255,800
2009	86,034	\$13,816,614,321	1,211	\$211,270,802

* * * *

BAC's response may contain confidential information, including highly sensitive and proprietary business information and supervisory information that would have important implications if disclosed to third parties. Federal securities law recognizes that the use or disclosure of non-public information regarding a publicly-traded company may result in harm to public investors. Selective disclosures or selective releases of information regarding the timing of any future public disclosures may also result in harm to investors and violate federal securities laws. Accordingly, at this time BAC respectfully requests that its response be maintained confidentially by the FCIC and its staff. Neither this letter nor BAC's providing information to the FCIC today is intended to, and does not, waive any applicable privilege or other legal basis under which information may not be subject to production. If it were found that any of the information provided by BAC constitutes disclosure of such information, BAC does not intend to waive and has not waived any privilege or other protection.

Bradley J. Bondi, Esq.
June 16, 2010
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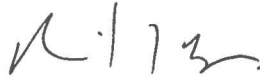
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BAC also asks that the FCIC staff provide the undersigned with notice and an opportunity to be heard in the event the FCIC determines that it will disclose any information from this production and letter to a third party. Such treatment would be consistent with respect for sensitive and proprietary business information that Congress has shown in the past.

* * * *

Please call me (202-663-6430) or Michael Sharp (212-937-7502) if you have any questions.

Sincerely,



Reginald J. Brown
Michael J. Sharp