

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into between the United States, acting through the United States Department of Justice (“DOJ”), and Ally Financial Inc. and its current and former subsidiaries and affiliates (collectively, “Ally”). The United States and Ally are collectively referred to herein as “the Parties.”

### **Recitals**

A. The United States Attorney’s Office for the Central District of California conducted an investigation into the packaging, marketing, structuring, arrangement, underwriting, issuance and sale of residential mortgage-backed securities (“RMBS”) by Ally subsidiaries between 2006 and 2007 and related matters. Based on that investigation the United States believes that there is an evidentiary basis to compromise potential legal claims by the United States against Ally for violations of federal laws in connection with the packaging, marketing, structuring, arrangement, underwriting, issuance and sale of RMBS and other matters subject to investigation by the United States Attorney’s Office for the Central District of California.

B. Ally acknowledges the facts set out in the Statement of Facts set forth in **Annex A**, attached and hereby incorporated.

C. In consideration of the mutual promises and obligations of the Agreement, the Parties agree and covenant as follows:

### **Terms and Conditions**

1. **Payment.** Ally shall pay a total amount of \$52,000,000.00 to resolve pending and potential legal claims in connection with the Covered Conduct, as defined in paragraph 3 below (“Settlement Amount”). The Settlement Amount, recovered pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”), 12 U.S.C. § 1833a, shall be deposited into the General Fund of the United States Treasury, and paid as follows:

- a. Within fifteen business days of receiving written payment processing instructions from the Department of Justice, Office of the Associate Attorney General, Ally shall pay \$37,500,000.00 by electronic funds transfer to the Department of

Justice.

- b. Within fifteen business days of the effective date of withdrawal of Ally Securities LLC's broker-dealer registration as set forth in Paragraph 2 and Annex B, but no later than December 31, 2016, Ally shall pay \$14,500,000.00 by electronic funds transfer to the Department of Justice.

2. **Additional Relief.** As acknowledgement of the conduct set forth in the Statement of Facts set forth in **Annex A**, Ally Securities LLC (f/k/a Residential Funding Securities LLC) shall withdraw its registration as a broker-dealer, and wind down its affairs as set forth in **Annex B**.

3. **Covered Conduct.** "Covered Conduct" as used herein is defined as the creation, pooling, structuring, arranging, formation, packaging, marketing, underwriting, sale or issuance prior to January 1, 2009 by Ally of any RMBS, including without limitation, the RMBS identified in **Annex C**, attached and hereby incorporated. Covered Conduct includes any representations, disclosures, non-disclosures, or statements made to RMBS investors prior to the Effective Date of this Agreement about the creation, pooling, structuring, arranging, formation, packaging, marketing, underwriting, sale or issuance of RMBS (or its underlying collateral) by Ally prior to January 1, 2009.

4. **Cooperation.** Until the date upon which all investigations and any prosecution arising out of the Covered Conduct are concluded by DOJ, whether or not they are concluded within the term of this Agreement, Ally shall, subject to applicable laws or regulations: (i) cooperate fully with the DOJ (including the Federal Bureau of Investigation) and any other law enforcement agency designated by DOJ regarding matters arising out of the Covered Conduct; (ii) assist DOJ in any investigation or prosecution arising out of the Covered Conduct by providing logistical and technical support for any meeting, interview, grand jury proceeding, or any trial or other court proceeding; (iii) use its best efforts to secure the attendance and truthful statements or testimony of any officer, director, agent, or employee of any of the entities released in Paragraph 5 at any meeting or interview or before the grand jury or at any trial or other court proceeding regarding matters arising out of the Covered Conduct; and (iv) provide the DOJ, upon request, all non-privileged information, documents, records, or other tangible evidence regarding matters arising out of the Covered Conduct about which DOJ or any designated law enforcement agency inquires.

5. **Releases by the United States.** Subject to the exceptions in Paragraph 6 (“Excluded Claims”), and conditioned upon satisfaction of the terms set forth in Paragraphs 1 and 2, the United States fully and finally releases Ally and each of its current and former subsidiaries and affiliated entities, as well as any entity with any direct or indirect equity or membership interest(s) in Ally Financial Inc. (and any predecessor entities) at any time prior to the date of its Initial Public Offering on or around March 27, 2014 (collectively, the “Released Entities”), and each of their respective successors and assigns from any civil claim the United States has against the Released Entities for the Covered Conduct arising under FIRREA, 12 U.S.C. § 1833a; the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801, *et seq.*; the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961, *et seq.*; the Injunctions Against Fraud Act, 18 U.S.C. § 1345; common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud, and aiding and abetting any of the foregoing; or that the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 C.F.R. § 0.45.

6. **Excluded Claims.** Notwithstanding the releases in Paragraphs 5 of this Agreement, or any other term(s) of this Agreement, the following claims are specifically reserved and not released by this Agreement:

- A. Any criminal liability;
- B. Any liability of any individual;
- C. Any liability arising under Title 26 of the United States Code (the Internal Revenue Code);
- D. Any claim related to compliance with the National Mortgage Settlement (“NMS”), or to compliance with the related agreements reached between the settling banks and individual states;
- E. Any liability to or claims of the United States of America or its agencies for any conduct not related to the Covered Conduct.
- F. Any administrative liability, including the suspension and debarment rights of any federal agency; and
- G. Any liability based upon obligations created by this Settlement Agreement.

7. **Ally Releases.** The Released Entities and any of their respective successors and assigns fully and finally release the United States, and its officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the Released Entities have asserted, could have asserted, or may assert in the future against the United States, and its officers, agents, employees, and servants, related to the Covered Conduct and the investigation to date thereof.

8. **Unallowable Costs Defined.** All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Ally, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- A. the matters covered by this Agreement;
  - B. the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
  - C. Ally's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
  - D. the negotiation and performance of this Agreement; and
  - E. the payment Ally makes to the United States pursuant to this Agreement,
- are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

9. **Future Treatment of Unallowable Costs.** Unallowable Costs will be separately determined and accounted for by Ally, and Ally shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

10. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Central District of California.

11. The Parties acknowledge that this Agreement is made without any trial or adjudication or finding of any issue of fact or law, and is not a final order of any court or governmental authority.

12. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

13. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

14. Nothing in this Agreement in any way alters the terms of the NMS, or Ally's obligations under the NMS, to the extent that any exist.

15. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for the purposes of the Internal Revenue laws, Title 26 of the United States Code.

16. For the purposes of construing the Agreement, this Agreement shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.

17. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

18. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

19. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

20. This Agreement is binding on Ally's successors, transferees, heirs, and assigns.

21. All parties consent to the disclosure to the public of this Agreement, and information about this Agreement, by Ally, and the United States.

22. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

For the United States of America:

 Dated: 11/21/16  
EILEEN M. DECKER  
United States Attorney  
Central District of California

For Ally Financial Inc.:

 Dated: 21 Nov 2016  
SCOTT STENGEL  
General Counsel  
Ally Financial Inc.