

Attachment A
To
Exhibit J

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1. Between January 2006 and March 2012, SunTrust Mortgage, Inc. (SunTrust) was a Direct Endorsement Lender approved by the Federal Housing Administration (FHA) and U.S. Department of Housing and Urban Development (HUD). As a Direct Endorsement Lender, SunTrust was authorized by HUD to originate and underwrite mortgage loans on HUD's behalf, including determining a borrower's creditworthiness and whether the proposed loan met all applicable HUD requirements. As a Direct Endorsement Lender, SunTrust was authorized to endorse mortgage loans for HUD insurance without any review of the mortgage application by HUD.

2. In originating, underwriting, and endorsing mortgage loans for FHA insurance, Direct Endorsement Lenders such as SunTrust were required to follow applicable HUD requirements, including those set out in HUD's Handbooks and Mortgagee Letters.¹ With respect to creditworthiness of the proposed borrower, Direct Endorsement Lenders such as SunTrust were required to follow HUD Handbook 4155.1. At a general level, HUD Handbook 4155.1 required Direct Endorsement Lenders such as SunTrust to: (1) evaluate the borrower's credit history; (2) analyze the borrower's liabilities; (3) not accept or use certain documentation transmitted by interested parties; (4) determine the authenticity of faxed documents and portions of certain printouts downloaded from the internet; (5) in some situations, document reasons for approving a mortgage when the borrower has collections accounts or judgments, determine the purpose of recent debts, and/or require sufficient written explanation from the borrower for major indications of derogatory credit; (6) verify certain employment history of the

¹ The requirements referenced in paragraphs two through eleven of this document reflect standard HUD-FHA program requirements for Direct Endorsement Lenders as provided in HUD's Handbooks and Mortgagee Letters.

borrower(s); (7) determine the income stability of the borrower(s) and whether the borrowers' income level can be reasonably expected to continue for a certain period of time; (8) verify that the borrower has funds to cover the required minimum down payment; (9) document the source of funds used for the required minimum down payment, as well as any closing costs and fees; and (10) if applicable, calculate certain debt and income ratios and compare those ratios to the fixed ratios set by HUD including, as necessary, any compensating factors that might permit deviation from the fixed ratios.

3. Direct Endorsement Lenders such as SunTrust were required to submit certain proposed FHA originations through a HUD-approved Automated Underwriting System (AUS) in conjunction with a tool known as Technology Open to Approved Lenders (TOTAL). According to the FHA's TOTAL Mortgage Scorecard User Guide, TOTAL evaluated the overall creditworthiness of the applicants based on a number of credit variables. TOTAL also either: (1) approved the mortgage subject to certain conditions, including conditions that the lender validate the information that formed the basis for TOTAL's determination; or (2) referred the mortgage back to the lender for manual underwriting in accordance with HUD requirements. SunTrust understood that TOTAL's determination was based on the integrity of the data supplied by the lender. HUD has promulgated requirements regarding how to calculate each data point used by TOTAL.

4. To maintain Direct Endorsement Lender status, Direct Endorsement Lenders such as SunTrust were required to implement and maintain a quality control program in accordance with HUD Handbook requirements for FHA loans. As a Direct Endorsement Lender, SunTrust's FHA quality control function was required to be

independent of its FHA mortgage origination and underwriting functions. In carrying out quality control programs, Direct Endorsement Lenders such as SunTrust were required to perform a review of a sample of FHA mortgage loan files and also to review each FHA mortgage loan that went into default within the first six payments, which HUD defines as “early payment defaults” or EPDs. In performing these quality control reviews, Direct Endorsement Lenders such as SunTrust were required to review the mortgage loan file, re-verify certain information, review the soundness of underwriting judgments, document its review and any findings in a quality control review report, and retain the quality control review report for two years.

5. Direct Endorsement Lenders such as SunTrust were required to self-report to HUD all findings that FHA mortgage loans constituted “material violations of FHA or mortgagee requirements and represent an unacceptable level of risk” and all findings of “fraud or other serious violations.” Direct Endorsement Lenders such as SunTrust were also required to take “prompt action to deal appropriately with any material findings.”

6. In the forms HUD-92001-A, Application for FHA Lender Approval, Direct Endorsement Lenders such as SunTrust were required to certify as follows:

I certify that, upon the submission of this application, and with its submission of each loan for insurance or request for insurance benefits, [SunTrust] has and will comply with the requirements of the Secretary of Housing and Urban Development, which include, but are not limited to, the National Housing Act (12 U.S.C. § 1702 *et seq.*) and HUD’s regulations, FHA handbooks, mortgagee letters, and Title I letters and policies with regard to using and maintaining its FHA lender approval.

7. Additionally, Direct Endorsement Lenders such as SunTrust were required to submit an Annual Certification stating:

I know, or am in a position to know, whether the operations of [SunTrust] conform to HUD-FHA regulations, handbooks, and policies. I certify that to the best of my knowledge, [SunTrust] conforms to all HUD-FHA regulations necessary to maintain its HUD-FHA approval, and that [SunTrust] is fully responsible for all actions of its employees including those of its HUD-FHA approved branch offices.

or submit a statement to HUD that it was unable to so certify.

8. With respect to each mortgage loan endorsed by SunTrust for FHA insurance, either a SunTrust mortgagee representative or a SunTrust direct endorsement underwriter was required to certify that the mortgage “is eligible for HUD mortgage insurance under the Direct Endorsement program.” For each loan that was approved using an AUS, a SunTrust mortgagee representative was required to certify to “the integrity of the data supplied by [SunTrust] used to determine the quality of the loan [and] that a Direct Endorsement Underwriter reviewed the appraisal.” For each FHA loan that SunTrust approved using manual underwriting, a SunTrust direct endorsement underwriter was required to certify that he or she “personally reviewed the appraisal report (if applicable), credit application, and all associated documents and ha[s] used due diligence in underwriting th[e] mortgage.”

9. For every mortgage loan SunTrust endorsed for FHA insurance, whether through manual underwriting or the use of an AUS, a SunTrust direct endorsement underwriter was required to certify that:

“I, the undersigned, as authorized representative of [SunTrust] at this time of closing of this mortgage loan, certify that I have personally reviewed the mortgage loan documents, closing statements, application for insurance endorsement, and all accompanying documents. I hereby make all certifications required for this mortgage as set forth in HUD Handbook 4000.4.”

10. Additionally, for each mortgage loan endorsed, a SunTrust direct endorsement underwriter was required to certify, to the best of his or her knowledge, that the information in the loan application was true and correct, that the conditions listed in HUD Form 92900-A or appearing in any outstanding commitment issued under the loan's case number have been satisfied, that the information used to validate the borrower's employment, income, and assets was transmitted directly to the lender and did not pass through any third party, and that the proposed loan met the applicable HUD requirements.

11. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a Direct Endorsement Lender such as SunTrust, SunTrust (or, if SunTrust transferred the mortgage or servicing rights after closing, the mortgage holder or servicer) has the option of submitting a claim to HUD to compensate the lender for any loss the lender sustained as a result of the default. As such, once a mortgage loan is endorsed for FHA insurance, HUD bears the risk of the borrower defaulting on that mortgage, which is realized if an insurance claim is submitted.

12. The Department of Justice has investigated SunTrust with regard to its origination, underwriting, quality control and endorsement practices, as well as its submission of certifications, related to certain FHA-insured mortgage loans secured by single-family residential mortgage loans originated between January 1, 2006 and March 31, 2012, and for which claims for FHA insurance benefits had been submitted by September 30, 2013 (the "Released Loans"). The following statements apply to the Released Loans only.

13. Between January 1, 2006 and March 31, 2012, SunTrust endorsed for FHA mortgage insurance pursuant to the Direct Endorsement Lender Program certain Released Loans that did not meet underwriting requirements contained in HUD's handbooks and mortgagee letters, and therefore were not eligible for FHA mortgage insurance under the Direct Endorsement Lender Program. As a result of SunTrust's conduct, HUD-FHA insured certain Released Loans endorsed by SunTrust that were not eligible for FHA mortgage insurance and that HUD-FHA would not otherwise have insured; and HUD consequently incurred losses when it paid insurance claims on those SunTrust-endorsed Released Loans.

14. SunTrust self-reported fewer Released Loans than were required to be reported. Between January 2009 and March 2012, SunTrust's internal quality control report documented 256 FHA mortgage loans originated by SunTrust with a Level 1 risk grade, which captured material underwriting issues broader than the self-reporting standard set forth in the HUD-FHA guidelines. During this same time period, SunTrust self-reported as materially deficient 11 mortgages to HUD.

15. In October 2009, an internal presentation regarding "broken loans" stated in part that SunTrust underwriters received "less training than those at other mortgage companies." The presentation also stated that with respect to FHA loans, these "loans are more complicated to underwrite and will likely continue to be scrutinized given the overall reserve situation."

16. In December 2009, a SunTrust internal presentation listed top causes for broken loans, some of which applied to FHA loans. These included: (1) "Income Calculation," described as "[i]ncorrect treatment of different income types (commission,

bonus, overtime, alimony) per guidelines”; (2) “AUS Data Integrity,” regarding “key data elements”; (3) failure to condition or properly clear conditions; (4) “Appraisal Issues,” described to include “[f]ield reviews after close showing declining values”; (5) “Asset Documentation” for “gift funds” and “earnest money deposit”; (6) “Credit Policy Clarifications,” related to “Verbal [verification of employment]” and the “FHA [requirement for] 12 consecutive on-time [mortgage] payments; and (7) Misrepresentations” described as relating to “[f]alsified bank statements,” “W2s/tax returns,” employment status, and the borrower’s intent to occupy the property. The presentation noted, among other things, that it “does not represent a formal data driven root cause analysis, but rather a [subject matter expert] interview methodology to quickly draw directionally correct solutions around root causes and solution accordingly.” The presentation also noted that SunTrust management had designed solutions to correct these problems but failed to complete them “due to multiple demands and shifting priorities.”

17. An internal SunTrust audit report from 2009 that reflects that it was distributed to certain SunTrust management stated, to the extent applicable to SunTrust’s FHA origination and underwriting, that “the system of internal control is ineffective.”

The report also stated in part:

Three significant control weaknesses impair the overall system of internal control. The first significant issue is the lack of consistent performance reviews on each underwriter to assess their performance and the quality of underwriting decisions. The second significant issue is the lack of standards over the timing of when loan approval conditions must be cleared (e.g., prior to close vs. at close) and which conditions or tasks must be performed by the underwriter. The third significant issue is insufficient loan origination/underwriting training due to the lack of instructor-led curriculum, case studies, and annual refresher training. SunTrust Audit Services believes these three control weaknesses are key

catalysts to the high level of errors and loan defects identified in 2009 by the SunTrust Mortgage Quality Control Team.

Regarding the lack of consistent performance reviews on underwriters, the “Management Action Plan” portion of the report stated in part that “[m]anagement agrees with this finding and recognized this weakness mid-2009 when volume prevented Group Underwriting Managers from consistently performing this function. It should be noted that the Group Managers have been performing this type of performance review, but there has been no consistency, no documented policy, and no control to escalate to senior management when resources prevented the activity from occurring.” It further stated that SunTrust would implement “a process control function to ensure appropriate testing is performed.” Management also agreed with the audit finding regarding closing conditions and noted that it had “recently implemented revised documentation and standards for conditioning, and implemented an automated tool to assist with improved consistency and standardization.” With regard to the training issue, the “Management Action Plan” stated that SunTrust was working “to define and build a formal new hire training program for Underwriters, Processors, and Closers” and anticipated completing the program by August 2010, but that “very good, customized training programs take a long time to develop,” and that, therefore, “additional customization of the program is anticipated in 2011.”

18. A July 19, 2010 internal SunTrust presentation stated, to the extent applicable to SunTrust-originated FHA mortgages, that the quality control “error rate is at an unacceptable level,” with the rate of material errors within target range and significant errors above target range. The presentation further stated that “following a large improvement in 2009, there has been minimal improvement in [the quality control] error

rate in 2010,” that “[s]pecific actions are in development to aggressively address this issue,” and that “stronger focus needs to be placed on [FHA] loans.” To the extent applicable to FHA mortgages, the presentation also stated, in part, that prior to July 2010, the “sampling size and methodology” in SunTrust’s quality control process had been “severely flawed.” The presentation also stated in part that, to the extent applicable to FHA mortgages, the “error rate has been misleading” because the “[c]uring of QC errors was allowed, deflating error rates,” that “[t]his curing is not realistic in a normal population when error detection would occur years later,” that the “classification of Material and Significant is thought to be overly generous with some of the Material errors classified as Significant,” and that SunTrust lacked “a definitive list and pre-established categorization of Material and Significant errors.” The presentation further stated that, to the extent applicable to FHA mortgages, “the effectiveness and work product of the QC team needs to be significantly improved,” and that SunTrust had “corrected” some of the QC issues.

19. A 2010 SunTrust internal audit report of SunTrust’s quality control process, which reflects that it was distributed to certain SunTrust management, stated, to the extent applicable to FHA mortgages, that SunTrust’s “controls need improvement.” The report further stated, to the extent applicable to FHA mortgages, that “[a]lthough Material and Significant defects have been reported at elevated levels for the past several years, the actual volume of defects has been underreported, unclearly defined, and inconsistently applied.” The report further found, to the extent applicable to FHA mortgages, that SunTrust’s quality control reviews failed to adequately control for “non-sampling error . . . introduced by inconsistent interpretation among QC Analysts, faulty

definitions, misunderstanding, and processing errors.” The report further identified “the lack of sufficient documentation to evidence compliance with . . . HUD quality control requirements.” The management response portion of the report stated, among other things, that SunTrust had been “working to improve the QC process in 2010” and had “implemented several enhancements in recent months.”

20. Another 2010 SunTrust internal audit report that reflects that it was distributed to certain SunTrust management, stated, to the extent applicable to SunTrust’s FHA mortgage origination and underwriting, that “[t]he overall system of internal control . . . is ineffective,” and further “identified pervasive weaknesses in many controls that . . . impair continuity and consistency of operations and management’s ability to generate high-quality loans.”

21. A 2011 SunTrust internal audit report of SunTrust’s origination and underwriting, which reflects that it was distributed to certain SunTrust management, to the extent applicable to SunTrust’s FHA mortgages, stated, in part, that:

Based on the results of this review, the overall system of internal controls is ineffective. Controls over mortgage origination continue to be weak. Over the past year, there has been an increase in the volume of origination errors and the current level of errors is unacceptable. Since July 2011, the Quality Control (QC) function has reported total error rates on monthly loan production of 36% to 59%. Excessive errors have been identified in appraisals, assets, AUS (automated underwriting system), and VVOE (verbal verification of employment).

The report further found, to the extent applicable to FHA mortgages, that “[e]rror rates in loan originations remain at elevated levels due to significant process changes, insufficient controls, unclear roles and responsibilities, new staff, [and] poor incentive payment administration[,]” and that “QC reviews for February 2012 continue to show no material

improvement[.]” The report included a “Management Action Plan” section in which SunTrust management described the actions that it planned to take in response to the issues raised by the audit report.

22. A SunTrust internal audit report from June 2011, related to the Government Insuring (GI) department, which reflects that it was distributed to certain SunTrust management, stated that the GI department “manages the insuring process on [FHA] loans originated by the Retail and Broker channels.” In the “Overall Evaluation of Controls” section of the report, the report stated that the system of internal control around the insuring of FHA-insured mortgages “needs improvement.” The report further stated, in part, that:

The volume of technical defects, procedural errors, and noncompliance with underwriting rules is excessive. Half of the [FHA] loans submitted by the origination channels contained documentation irregularities (called “pends”) that must be addressed or corrected by [Government Insuring]. However [Government Insuring] has been unable to correct all deficiencies. From June 2010 to March 2011, Production Quality Control randomly sampled 519 [FHA]-insured mortgages and found errors or exceptions in 41% . . . [T]hese high error rates result from weak loan origination processes that cause half of the loan files submitted to [Government Insuring] to contain document irregularities that must be addressed before the loan can be insured. While [Government Insuring] processes and controls catch and correct many of these errors and irregularities, they do not catch enough to keep rescission and indemnification exposure to a tolerable level . . . [FHA] require[s] SunTrust to certify that the loan is eligible for government insurance in conformance with [FHA] requirements. Lenders who submit false certifications and claims may be subject to penalties or lawsuits under the False Claims Act (31 U.S.C. § 3729).

The report stated that the errors included “missing documents, missing paystubs, appraisal issues, incorrect debt-to-income ratio, document errors, et cetera.”

23. A 2011 internal audit report of SunTrust's quality control process that reflects that it was distributed to certain SunTrust management, stated, to the extent applicable to FHA mortgages, that "[w]hile [SunTrust worked to improve the [quality control] process throughout 2010, additional improvements and corrections are needed . . . [g]iven [among other things] the ongoing high volume of loan production errors[.]" The audit report stated, in part, that "employment and deposit reverifications on FHA" mortgages "do not consistently comply with standards," and "that the QC process for documenting employment and asset" re-verifications was "restricted by the limitations of a manual (Excel) environment. In April [2011], QC took steps to improve this process by defining business requirements for the automated capture, tracking, and reporting of required reverification information."

24. A 2012 SunTrust audit report regarding SunTrust's government insuring department, which reflects that it was distributed to certain SunTrust management, stated, in part, that:

The volume of technical defects, procedural errors, and noncompliance with standards remains excessive. Missing documents, errors, and other pending items continue to plague many of the [FHA] loan files submitted by the origination channels and the [Government Insuring] department has insufficient ability or resources to identify and correct all problems. There has been no improvement in processes and controls since the last audit (audit report dated June 14, 2011) as this report reflects repeat issues. Production Quality Control continues to identify an excessive level of loan file exceptions ([up to] 56% [or greater] defect rate on [FHA] loans originated from January to March 2012)[.] . . . Management should take immediate action to install gatekeepers in the loan origination process to ensure [FHA] loan files contain all required documentation and that each document is accurate and complete[.] . . . Management should also expand managerial oversight of the pre-insurance review process.

The report noted two “significant” issues, “Broken Loan Origination Process” and “Deficient Government Insuring Process.” The “Broken Loan Origination Process” issue noted that:

Loan production processes are broken as origination channels submit an excessive number of [FHA] loan files that contain documentation irregularities that must be corrected or addressed by the Government Insuring team. The excessive number of documentation irregularities increases the risk of impaired loans that do not meet FHA standards. Half ([up to] 51% [or more]) of all [FHA] loan files submitted to Government Insuring were missing documents or contained documentation irregularities. Missing documents and other documentation irregularities (collectively called ‘pends’) preclude the loan from being insured until pending items can be corrected. [SunTrust Audit Services] notes that the excessive level of pending loans (51% as of March 2012) is essentially the same level of error observed in the last audit dated June 14, 2011. . . . For loans originated from January to March 2012, approximately 90% of pends were on simple matters such as missing entire documents, missing pages on documents, or blanks on data fields, signature lines, and date fields.”

The “Deficient Government Insuring Process” issue noted that:

The [government insuring] department is not meeting its quality standards as an excessive number of loans processed and insured by the department contain errors or defects (e.g., missing or incomplete documentation . . . Moreover, the [SunTrust Mortgage] Quality Control team has identified a[n up to] 56% [or greater] defect rate on [FHA] loans originated from January to March 2012.

The report also included management action plans to address the issues noted in the audit.

25. In March 2012, two SunTrust managers made a presentation regarding SunTrust’s portfolio. Their presentation noted that, over the three

months analyzed, (November 2011-January 2012), SunTrust's retail FHA mortgages evidenced a 55.8% error rate.

26. The statements herein apply only to certain mortgages which are the subject of the release in this Agreement. This document is not an admission as to any conduct related to any mortgage not released in this Agreement, nor is it an admission of any legal liability. SunTrust reserves the right to contest the use and/or application of this document in any future litigation.