



September 1, 2021

United States Trustee Program
U.S. Department of Justice
441 G Street NW, Suite 6150
Washington, DC 20530

Subject: Independent Compliance Report – Validation Review of U.S. Bank National Association’s Satisfaction of Conditions as Required by the Memorandum of Understanding with the Executive Office for United States Trustees of the Department of Justice

To: United States Trustee Program

The Compliance Quality Assurance (“CQA”) of U.S. Bank National Association (“U.S. Bank”) has completed a Validation Review as required by the Memorandum of Understanding (“MOU”) between the Executive Office for United States Trustees (“EOUST”) and U.S. Bank, entered into on December 3, 2020. The MOU requires actions to address matters concerning certain historical Bankruptcy Servicing practices of U.S. Bank for Borrowers in Chapter 13 Bankruptcy Cases during the Relevant Period.¹

The MOU requires that: within nine (9) months after the Effective Date of the MOU (or as otherwise mutually agreed upon by the Parties), CQA shall validate whether U.S. Bank satisfied the following three (3) conditions, collectively referred to as the “Validation Review”:

- a) U.S. Bank properly identified the Open and Closed Accounts;
- b) U.S. Bank provided the corrective action contemplated by the POC Remediation, PCN Remediation, Payment Application Remediation, PPFN Remediation, and Fixed Payment Remediation; and
- c) U.S. Bank completed the Operational Enhancements outlined in Section VII of the MOU.

This report summarizes the results of CQA’s validation of the MOU conditions and U.S. Bank’s satisfaction of the same. The report includes a section entitled Details of Review which describes the scope of validation and testing, including sampling methodology, that CQA executed as part of its Validation Review.

Scope:

CQA, using industry accepted testing procedures, statistically relevant sampling, and available data and records, performed tests and evaluated populations to confirm:

- a) the proper identification of Open and Closed Accounts by conducting a reconciliation of U.S. Bank’s identified population to an independently sourced population;
- b) the accuracy and completeness of corrective action provided in the POC Remediation, PCN Remediation, Payment Application Remediation, PPFN Remediation, and Fixed Payment Remediation by reperformance testing of the Loan-Level Reviews for a statistically relevant sample of accounts; and
- c) the completion and sustainability of the Operational Enhancements by conducting periodic reviews that validated the existence and effective operating performance of the required Operational Enhancements.

The scope of testing included Open and Closed Accounts in Bankruptcy Cases (1) between December 1, 2011 and August 1, 2014 on the Mortgage Servicing Platform (“MSP”) and (2) between December 1, 2011 and October 10, 2014 on the Advanced Loan System (“ALS”). A statistically relevant sample with

¹ Defined terms used throughout this Report align with those in the MOU.

95% confidence interval and a 5% margin of error was applied where sampling techniques were used in the testing approach. For exceptions that CQA identified during the Validation Review, CQA determined the root cause and looked to determine if there were similarly impacted accounts in need of remedial action. CQA validated that U.S. Bank undertook remedial actions to resolve all exceptions and to address any additional populations of impacted accounts identified by CQA. Validation of remedial actions included confirmation that a payment was disbursed in the correct amount to the appropriate payee.

Conclusion:

CQA concludes that U.S. Bank has satisfied the three conditions prescribed in the MOU. The conclusion is based on results of CQA's Validation Review, which confirmed that U.S. Bank:

- a) properly identified the Open and Closed Accounts. All Open Accounts were properly identified and included in the remediation population. Nineteen (19) Closed Accounts had been omitted from the initial remediation population of approximately 13,224 accounts and subsequently were remediated as a result of the reconciliation. CQA confirmed that all 19 Closed Accounts have been properly remediated and the requirement is satisfied,
- b) remediated impacted accounts as described in the MOU. CQA conducted an independent loan-level review of a statistically relevant sample of accounts (380) in order to determine whether those accounts were remediated within an acceptable level of accuracy. Of the 380 accounts tested, CQA identified 11 accounts (2.89% exception rate) where the amount of U.S. Bank's original remediation calculation differed from the amount of CQA's remediation calculation by \$50.00 or more. In instances where additional de minimis corrections were identified, those accounts also were remediated but were not included in the calculation of the exception rate. Additionally, CQA identified a small number of accounts that were properly identified to receive a Fixed Payment Remediation payment but had not been referred to the third-party vendor for payment disbursement. CQA confirmed all identified under-remediated exceptions have been properly remediated and the requirement is satisfied; and
- c) completed the Operational Enhancements outlined in Section VII. CQA reviewed policies and procedures, quality review programs, vendor oversight, the scope of 53 CQA reviews and routine transactional compliance tests which confirmed the Operational Enhancements were implemented and are operating effectively in a sustained manner.

During the Validation Review, observations and questions regarding the populations and the Loan-Level Reviews were tracked to resolution. Exceptions identified in the Validation Review were all verified to be properly remediated. Additional information on the testing methodology, procedures, and analysis performed in conducting the Validation Review is provided below.

Details of Review

Background

This review was conducted by CQA, U.S. Bank's independent testing division. Independent Risk Review, of which CQA is a part, is a U.S. Bank Risk Management Committee chartered division of Risk Management and Compliance responsible for independent review and testing. CQA provides independent testing of regulatory compliance and compliance-related internal controls associated with products and services across U.S. Bank. CQA staffing includes tenured quality assurance professionals with expertise in Bankruptcy and that attest annually that they have completed continuing education and considered conflicts of interest that could result in competing interests or allegiance.

CQA Validation

a) Validation of Open and Closed Account Population

Section VIII of the MOU requires CQA to validate whether U.S. Bank properly identified the Open and Closed Accounts. To achieve this objective, CQA performed an independent reconciliation between its queried population and the population that was subject to U.S. Bank's remediation review. Specifically, CQA independently queried for accounts (1) between December 1, 2011 and August 1, 2014 on the MSP mortgage servicing platform and (2) between December 1, 2011 and October 10, 2014 on the ALS mortgage servicing platform as defined in the MOU. The independent queries were further refined to remove accounts that were not eligible as described in the MOU, including those Open Accounts with a Material Status Change. The integrity of the data was confirmed by comparing a sample of accounts to the respective systems of record and to public court records.

In some instances, applicable loan-level information was limited or not available due to U.S. Bank's established retention, archival, and purge criteria for data based on age for some accounts subject to the MOU. For this reconciliation procedure, CQA supplemented MSP and ALS data with data from the Recovery Management System ("RMS") and the Foreclosure Asset Management Group system ("FAMG") which houses information for some ALS serviced accounts.

CQA then compared the independently obtained Open and Closed Account populations to the Open and Closed Account populations provided by U.S. Bank. Where differences were noted, account data was researched to determine whether the account was appropriately excluded from the population or if the account should have been subject to review for potential remediation.

CQA identified 19 out of approximately 13,224 accounts, totaling \$22,800.00 in Fixed Payment Remediation, that were omitted from the Closed Account population. The omissions were caused by a failure to consider the timing of case status changes or missed bankruptcy chapter conversions. CQA verified that all 19 accounts were properly remediated and a check in the correct amount was remitted to the appropriate payee.

b) Validation of Corrective Action – Testing of Open Account Loan-Level Review

Section VIII of the MOU requires CQA to validate whether U.S. Bank provided the corrective action contemplated by the POC Remediation, PCN Remediation, Payment Application Remediation, PPFN Remediation, and Fixed Payment Remediation in the MOU. To achieve this objective, CQA tested by conducting a loan-level review of a sample of Open Accounts and by comparing CQA's review with the Loan-Level Review completed by third-party vendor, National Bankruptcy Service ("NBS").

Sampling Method:

A statistically relevant sample size was determined using a population of 12,568 Open Accounts which were subject to a Loan-Level Review and based on a 95% Confidence Level and five percent (5%) Error Tolerance. A minimum sample size of 373 accounts was determined to be needed and was rounded up to 380 accounts. For each of the 380 accounts in the sample, CQA tested all attributes of the Loan-Level Reviews, thereby allowing CQA to opine on the overall effectiveness and quality rate of the Loan-Level Reviews. Because the remediation outcome for the Loan-Level Reviews could result in one of several remedies, CQA also ensured a minimum sample size for each sub-population based on the remediation performed, including POC Remediation, PCN Remediation, Payment Application Remediation, and PPFN Remediation (collectively, the "Remedial Sub-Populations"), as well as accounts that were determined not to require remediation. A modified proportional sampling methodology was used for stratification with an established minimum volume of 30 accounts for each Remedial Sub-Population. The accounts were randomly selected based on the size of each Remedial Sub-Population.

Loan-Level Review Test Procedures:

CQA conducted loan-level reviews using data from the MSP, ALS, RMS, and FAMG systems, as well as from public court records to verify compliance with the Bankruptcy Code and Bankruptcy Rules and accurate fee and payment processing. The mortgage arrearage as of the petition date was independently calculated and then compared to the filed POC; when a POC was not filed, the review determined if remediation was needed for the missed POC. A full review of payment changes, payment application, and fees was completed for each of the 380 sample accounts, so as to confirm all necessary PCNs or PPFNs were filed with the court, and payments were applied correctly. The testing also included validating the timeliness of the POC, PCN, and PPFN filings. After all potential remediation scenarios were considered for each sampled account, CQA then compared its findings with the Loan-Level Reviews completed by NBS. CQA noted an exception when its Validation Review identified (a) an under-remediation in the amount of \$50.00 or more in connection with the Loan-Level Review, or (b) an under-remediation in the amount of the Fixed Payment Remediation. All discrepancies identified, regardless of the amount, were tracked and resolved as part of the Validation Review.

Loan-Level Review Test Results:

The exception rate identified by the loan-level review was 2.89%, or 11 of 380 accounts tested, totaling \$18,856.39. The exceptions were caused primarily by human error in failing to identify an untimely or missed PCN, which, in turn, impacted the amount of remediation provided to the Borrower(s). These PCN exceptions were found across most of the Remedial Sub-Populations. There also was one missed late fee caused by human error that resulted in an understatement of a PPFN Remediation. CQA's analysis of the exceptions determined that there were no systemic causes, such as process or control weaknesses, that would warrant further testing or review. CQA concludes that the exception rate is representative of the total population and is reasonable to satisfy the MOU requirement.

CQA also identified 13 de minimis discrepancies totaling \$293.93 that did not rise to the level of an exception because the amount of each discrepancy was less than \$50.00. All exceptions and discrepancies subsequently were validated as having been remediated properly by confirming the disbursement of checks to the appropriate payee.

Testing of Remediation Payment:

In addition to testing the accuracy of the Loan-Level Reviews, CQA reviewed the disbursement process, and the 380 Open Accounts were tested to confirm the accuracy of any necessary remediation and proper inclusion in remediation payment files. U.S. Bank used a third-party vendor, Rust Consulting, Inc. ("Rust"), to mail remediation checks for all accounts eligible for Fixed Payment Remediation and all accounts CQA identified as meriting additional remediation as part of the Validation Review. Rust contractually was required to facilitate the administrative, payment-related tasks outlined in the MOU, including disbursing checks, conducting Borrower current address searches, handling Borrower communications, and addressing undeliverable checks reissuance and escheatment.

CQA conducted a walk-through of the Rust process and compared accounts that U.S. Bank provided for check disbursement with Rust status reports to confirm checks were disbursed in a timely manner and in

accordance with the MOU, including accounts requiring additional remediation during the Validation Review. For each impacted account, CQA verified that the payment was made to the appropriate payee in the accurate amount.

Remediation Payment Results:

CQA identified three (3) out of the 380 accounts that were correctly identified as eligible for Fixed Payment Remediation, but where checks were not mailed to the Borrowers because those three (3) accounts were not included in the remediation payment files provided to Rust. CQA has confirmed that those three (3) accounts subsequently have been provided to Rust and that a check in the correct amount was remitted to the appropriate payee(s) on each account.

Separate and apart from the 380 sampled accounts, CQA performed a trend analysis looking to identify any other accounts that NBS had noted as requiring Fixed Payment Remediation but were not included in the remediation files provided to Rust. As part of this analysis, CQA performed searches across 12,568 Open Accounts and identified an additional 80 accounts that had not been properly provided to Rust for payment:

- Twenty-two (22) accounts, totaling \$11,000.00, with a loan modification completed that did not include an assessment of the last filed POC but were not identified as a Loan Modification POC.
- Fifty-eight (58) accounts, totaling \$11,600.00, where the filed POC did not include the accurate arrearage amount owing but was not identified as a Substantively Inaccurate POC.

Accounts identified in both scenarios were found to be the result of human error in tracking the Fixed Payment Remediation. The data analysis and additional review by CQA identified all accounts that required additional Fixed Payment Remediation, and CQA concludes all such accounts have been fully remediated.

c) Validation of Operational Enhancements

Section VIII requires CQA to validate whether U.S. Bank completed the Operational Enhancements outlined in Section VII of the MOU. CQA evaluated the Operational Enhancements by reviewing U.S. Bank's present-day policies, procedures, training, quality assurance/control programs and results, and its third-party risk management oversight. In analyzing the effectiveness of the multiple quality-review programs, CQA considered the frequency of the tests, the sample size, the testable attributes, and how management handles exceptions.

Operational Enhancement Test Approach/Procedures:

CQA, through the risk-based annual CQA review plan, completed annual testing of compliance with Bankruptcy Servicing requirements. The testing frequency and coverage was determined using a risk-based methodology on an annual testing cycle. CQA evaluated the scope of the reviews and testing procedures on an annual basis, performed periodic substantive testing which measured the quality rate of bankruptcy compliance, and conducted broader scope reviews to assess the adequacy of the design and performance of the controls. As part of the Validation Review, CQA also completed a historical coverage assessment to ensure that there is recent, relevant CQA testing of any updates or changes to people, processes, and systems supporting U.S. Bank's Bankruptcy Servicing. CQA has a formalized issue protocol for reporting and tracking remediation of quality or control gaps identified as a result of testing. To the extent that any loan-level issues were identified between 2014 and 2021, CQA ensured that any such issues were reported, tracked, and remediated and that the root cause was identified. The effective closure of all issues has been verified by CQA.

Operational Enhancement Test Results:

CQA found that the Operational Enhancements were implemented adequately and continue to be sustainable. Policies and procedures provide guidance and steps to accurately and timely apply payments and to file court documents. Training is provided on a recurring basis to existing staff and new staff are required to complete training upon on-boarding. Processors complete side-by-side training with seasoned staff. Quality review programs include a multi-level pre- and post-filing review of documents



(POC, PCN, and PPFN). NBS also conducts a quality review. Third parties (NBS and local counsel) are managed through U.S. Bank's Third Party Risk Management program which includes a review to verify adherence to contracts and a quality review of completed work. Continuous testing of Bankruptcy Servicing has been in place since 2014 and the results (which were provided previously to the EOUST) evidence that U.S. Bank effectively has sustained the Operational Enhancements with adequate controls to prevent and detect errors.

Recent and past CQA testing validated that all Operational Enhancement requirements were satisfactorily completed and are sustainable. The following table details the required enhancement, CQA's validation, and results:

Operational Enhancement	CQA Review Validating Enhancement and Result
Bankruptcy Servicing Practices and Procedures in General:	
1) In August 2014, U.S. Bank engaged NBS to assist U.S. Bank with certain aspects of its Bankruptcy Servicing operations.	CQA previously confirmed that U.S. Bank engaged NBS in August 2014 to assist in its Bankruptcy Servicing operations. CQA verified that NBS continues to provide support for POC, PCN, and PPFN processes. The requirement is satisfied.
2) In September 2014, U.S. Bank centralized and relocated its primary Bankruptcy Servicing operations to Irving, Texas. Subsequently, U.S. Bank increased its Bankruptcy Servicing staffing, made significant changes to its existing staffing, and hired new senior management responsible for Bankruptcy Servicing, including a Senior Vice President and a Vice President.	CQA previously confirmed U.S. Bank centralized and relocated its primary Bankruptcy Servicing operations to Irving, Texas in September 2014, and increased staff, made necessary changes, and hired senior management (including a Senior Vice President and a Vice President) to strengthen the Bankruptcy Servicing operations. CQA confirmed that there is continuity in staffing and key leadership to date. The requirement is satisfied.
3) Also, in September 2014, U.S. Bank began a comprehensive forward-looking review of its Bankruptcy Servicing practices to ensure compliance with the Bankruptcy Code and Bankruptcy Rules. In connection with this review, U.S. Bank made significant enhancements to its Bankruptcy Servicing policies and procedures as described herein. U.S. Bank also implemented a rigorous approval process for these enhancements, which entails prior review and approval by Bankruptcy Servicing management, U.S. Bank's compliance personnel, and U.S. Bank's Law Division, among others.	CQA performed walkthroughs of Bankruptcy Servicing processes and reviewed policy and procedures to confirm they are designed adequately to ensure compliance with Bankruptcy Code and Bankruptcy Rules. CQA also verified that U.S. Bank's change management approval processes are adhered to and are effective in ensuring Bankruptcy Servicing policies and procedures continue to adhere to the Bankruptcy Code and Bankruptcy Rules. The requirement is satisfied.
Substantively Inaccurate, Untimely, and Missed POCs, PCNs, and PPFNs:	
1) Policies and procedures for the servicing of U.S. Bank's POCs, PCNs, and PPFNs, which provide a detailed explanation of the tasks that must be performed and U.S. Bank's oversight of such tasks.	CQA reviewed policies and procedures to validate there are sufficient details to perform all necessary actions to comply with applicable Bankruptcy Servicing requirements. CQA testing confirmed that procedures are designed adequately and are operating effectively to service POCs, PCNs, and PPFNs in an accurate and timely manner. The requirement is satisfied.
2) Enhanced training, performed by in-house trainers, U.S. Bank's Law Division, and outside vendors, of employees involved in the approval of POCs, PCNs, and PPFNs for filing. Regular	CQA reviewed Bankruptcy Servicing training content (including changes for updates to policies and procedures), calendars, and attendance completion reports to confirm the training program

Operational Enhancement	CQA Review Validating Enhancement and Result
<p>training occurs when U.S. Bank updates its Bankruptcy Servicing policies and procedures. Additionally, new bankruptcy processors receive side-by-side training to ensure that they understand their assigned Bankruptcy Servicing tasks and the applicable policies and procedures.</p>	<p>is designed adequately and is effective to ensure that processors have requisite knowledge to approve POCs, PCNs, and PPFNs. The requirement is satisfied.</p>
<p>3) Enhanced policies and procedures requiring multiple levels of substantive pre- and post-filing quality control review, as well as enhanced training for personnel who perform quality control reviews.</p>	<p>CQA reviewed policies, procedures, and training for conducting pre- and post-filing quality control reviews. CQA verified that policies, procedures, and training were designed adequately to require multiple levels of substantive pre- and post-filing quality control review. Testing further confirmed that personnel accurately performs quality control reviews. The requirement is satisfied.</p>
<p>Quality Control:</p>	
<p>1) U.S. Bank oversees NBS' involvement in Bankruptcy Servicing, including by holding regular meetings with NBS, and requiring that NBS follow U.S. Bank's policies and procedures, to ensure compliance with the Bankruptcy Code and Bankruptcy Rules.</p>	<p>CQA tested Bankruptcy Servicing's adherence to U.S. Bank's Third Party Risk Management policy requirements. The requirement is satisfied.</p>
<p>2) U.S. Bank has developed a robust quality control system, consisting of multi-level, business line, pre-filing review (Business Line Quality Assurance and Quality Control) and post-filing review (Quality Management and Compliance Quality Assurance), in addition to NBS' own additional quality assurance review and an outside business line control team review. POCs, PCNs, and PPFNs filed in the Bankruptcy Courts are subject to the quality control system described above.</p>	<p>CQA tested the Bankruptcy Servicing quality control system which is the primary control over NBS processing and confirmed it is adequately designed and effective to ensure compliance with Bankruptcy Servicing. CQA also confirmed that NBS has a quality control system. The requirement is satisfied.</p>
<p>Payment Application Errors:</p>	
<p>1) Since approximately September 2014, U.S. Bank or NBS, as part of its Bankruptcy Servicing for U.S. Bank, has prepared a Pencil Ledger in all Bankruptcy Cases upon occurrence of the following triggering events: prior to the filing of a Motion for Relief from the Stay; prior to U.S. Bank returning an account to a non-bankruptcy servicing status; following notification of default of Agreed Orders; and prior to filing a RFC. The Pencil Ledgers are designed to ensure that payments have been accurately accounted for (whether from the borrower or the Chapter 13 trustee) and that any necessary adjustments, including corrective actions and waiver of fees as necessary, are initiated.</p>	<p>CQA tested the accurate completion of the Pencil Ledgers (a detailed financial ledger review and reconciliation) upon triggering events including any necessary corrective actions and found the process to be operating effectively. The requirement is satisfied.</p>
<p>2) In approximately March 2016, U.S. Bank implemented the use of a web-based application that automates the processing of Chapter 13 trustee payments and delivers electronic posting details to U.S. Bank. This application relies on</p>	<p>After implementation of the web-based application, CQA tested and confirmed that payment processing applies payments correctly and validated that adequate Payment Application training is provided to Default Cash and</p>



Operational Enhancement	CQA Review Validating Enhancement and Result
information received directly from Chapter 13 trustee ledgers to help automate payment processing and reduce the potential for error created by manual entry. U.S. Bank has provided Payment Application training to employees of its Default Cash and Bankruptcy Servicing teams that utilize this application.	Bankruptcy Servicing teams that utilize the application. The requirement is satisfied.
3) Enhanced training, performed by in-house trainers, and outside vendors, of employees responsible for Payment Application in Bankruptcy Cases. Regular training occurs when U.S. Bank updates its policies and procedures relating to Payment Application in Bankruptcy Cases. Additionally, new Payment Application processors responsible for Payment Application in Bankruptcy Cases receive side-by-side training to ensure that they understand their assigned tasks and the applicable policies and procedures relating to Payment Application in Bankruptcy Cases.	CQA reviewed Bankruptcy Servicing training content including changes when updates were made to policies and procedures to confirm the training program is effectively designed. CQA testing confirmed that payments are applied accurately and timely. The requirement is satisfied.
4) Enhanced policies and procedures designed to address Payment Application Errors and ensure compliance with applicable law, including the Bankruptcy Code and Bankruptcy Rules.	CQA reviewed Payment Application Error policies and procedures to confirm there are sufficient details to perform necessary actions to comply with Bankruptcy Servicing requirements. CQA confirmed that payment application errors are detected and corrected. The requirement is satisfied.