

**UNITED STATES OF AMERICA
BEFORE THE CONSUMER FINANCIAL PROTECTION BUREAU**

**IN THE MATTER OF
RADIAN GROUP INC.**

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: **No.**
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**RADIAN GROUP INC.'S
PETITION TO SET ASIDE OR MODIFY
CIVIL INVESTIGATIVE DEMAND**

Pursuant to Section 1052(f) of the Consumer Financial Protection Act, 12 U.S.C. § 5562(f), and 12 C.F.R. § 1080.6(e), Radian Group Inc. (“Radian”) hereby petitions the Consumer Financial Protection Bureau (the “Bureau”) to set aside the Civil Investigative Demand (“CID”) issued to Radian on June 20, 2012, or, in the alternative, to modify the CID.¹

The Bureau seeks to investigate time-barred claims under statutory provisions that have no application to Radian. “Compliance with a subpoena is a burden, and one that a person or institution that can show it is not subject to the regulatory regime in aid of which the subpoena was issued should not be required to bear.” *Reich v. Great Lakes Indian Fish & Wildlife Comm’n*, 4 F.3d 490, 492 (7th Cir. 1993). The CID should be set aside because, as currently framed, it exceeds the Bureau’s authority and imposes burdens on Radian for no legitimate purpose, when the practice the Bureau seeks to investigate has ceased to exist. At a minimum

¹ Radian adopts, and incorporates by reference, the objections and arguments in the petitions to set aside or modify civil investigative demands filed today by Genworth Mortgage Insurance Corporation, United Guaranty Residential Insurance Company, Mortgage Guaranty Insurance Corporation, and Triad Guaranty Insurance Corporation.

the CID should be modified in numerous respects because it is indefinite, overly broad and unduly burdensome, as set forth below.²

BACKGROUND

On January 3, 2012, the Bureau informed Radian that it had opened an investigation into whether mortgage insurers, and the mortgage lenders they insure, violated Section 1036 of the CFPA, 12 U.S.C. § 5536, and Section 8 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2607, by entering into so-called “captive reinsurance” arrangements. In these arrangements, an affiliate of a lender (a “captive reinsurer”) reinsured a portion of risk under mortgage guaranty insurance policies issued by a mortgage insurer to the lender.

By way of background, mortgage guaranty insurance is insurance purchased by a lender to protect itself from loss in the event a borrower defaults on a home mortgage loan and the lender is unable to recover the full amount owed in a foreclosure sale. Such insurance is typically purchased when the amount of the borrower’s loan exceeds 80% of the value of the home. The mortgage insurance rates that a mortgage insurer is permitted to charge its lender-insureds must be filed with, and approved by, the relevant insurance regulators in the jurisdictions in which the mortgage insurer does business. Although a lender typically passes on the cost of the mortgage insurance to the borrower, the borrower benefits from lower financing costs due to the mortgage insurance coverage.

Unlike many other types of insurance, such as property and casualty insurance or title insurance, which typically have a stable and predictable loss experience from year to year, the mortgage insurance industry is much more volatile, experiencing years of relatively low losses

² Additional objections and modifications to individual requests in the CID are set forth in Attachment A, which is incorporated herein by reference.

followed by sudden, even catastrophic spikes in claims. For example, after experiencing low loss levels in the 1970s, mortgage insurers experienced dramatic losses in the late 1980s and early 1990s. Mortgage insurers experienced even more dramatic losses during and following the financial crisis that began in 2008.

From approximately 1996 to 2008, Radian Guaranty Inc., a subsidiary of Radian that provides mortgage guaranty insurance, purchased catastrophic reinsurance coverage from captive reinsurers affiliated with certain mortgage lenders. This coverage was generally not available from any other source in the market. Because the reinsurance was intended to provide protection against catastrophic losses, the captive reinsurer provided “excess of loss” coverage, meaning that coverage would be triggered only when Radian Guaranty’s losses on loans covered by the agreement reached a certain level or “entry percentage.” The reinsurer would then be responsible for 100% of the losses until an agreed upon limit or “exit percentage” was reached, at which point the reinsurance coverage would cease and Radian Guaranty would be responsible for any remaining losses.

In addition to providing direct monetary protection against catastrophic losses, the existence of the reinsurance agreements with captive reinsurance companies served to better align the interests of the lender with which the captive reinsurance company was affiliated with Radian Guaranty’s interests, theoretically reducing Radian Guaranty’s risk of loss.

While Radian Guaranty ceded a portion of its premiums to captive reinsurers to pay for the reinsurance coverage, the captive reinsurers did not receive the ceded premiums for their own use. Instead, under Pennsylvania laws and regulations governing reinsurance, ceded premiums

were deposited into trust accounts solely for the benefit of Radian Guaranty, as security for the payment of reinsurance claims.³

Most of the excess-of-loss captive reinsurance arrangements have been terminated in the wake of the financial crisis, either by commutation or by being put into run-off. Radian has not placed any loan in a captive reinsurance arrangement since December 2009.

To date, Radian Guaranty has received more than \$450 million in reinsurance payments from captive reinsurers.

RADIAN'S OBJECTIONS TO THE CID

The CID should be set aside

The sole authority relied on by the Bureau for issuing the CID is its investigatory authority under Section 1052 of the CFPA.⁴ The Bureau explicitly framed the CID as part of an investigation concerning whether “lenders and mortgage insurance providers” had engaged in “unlawful acts and practices . . . in violation of Section 1036” of the CFPA, 12 U.S.C. § 5536. CID at 1, “Notification of Purpose Pursuant to 12 C.F.R. § 1080.5.”

Section 1036 states that “[i]t shall be unlawful for . . . any *covered person* or *service provider*,” as defined in the CFPA, to “commit any act or omission in violation of a Federal consumer financial law” or “to engage in any unfair, deceptive, or abusive act or practice.” CFPA § 1036(a)(1)(A) & (B), 12 U.S.C. § 5536(a)(1)(A) & (B). As explained below, Radian is neither a “covered person” nor a “service provider” under the CFPA. By definition, the Bureau cannot have authority to investigate whether Radian has allegedly violated a provision that does

³ 40 P.S. § 442.1(b).

⁴ Although RESPA gives the Bureau authority to conduct investigations and issue subpoenas, 12 U.S.C. § 2617, the Bureau did not issue the CID pursuant to that authority.

not even apply to it. Therefore, the CID, as it is currently framed, exceeds the Bureau's authority and should be set aside.

While Section 1052 would authorize the Bureau to issue a CID to Radian as a third party it believed had information relevant to an alleged violation committed by someone who *is* subject to Section 1036, the CID here is explicitly *not* framed as a demand for information directed to a third party.⁵ Instead, the express purpose of the CID is, in part, to determine whether “mortgage insurance providers,” of which Radian Guaranty is one, have violated Section 1036 of the CFPA. The CID therefore explicitly purports to make Radian Guaranty and other mortgage insurers the target of an investigation under Section 1036, and thus exceeds the Bureau's authority.

If not set aside, the CID should be modified

In the alternative, the CID should be modified because it is indefinite, overbroad and unduly burdensome in the following ways:

Time period: The statute of limitations for a claim by the Bureau under Section 8 of RESPA is 3 years. 12 U.S.C. § 2614. The CID states that “[u]nless otherwise directed,” the time period of the requests dates back almost twelve years, to January 1, 2001. CID Instructions ¶ C. A twelve-year time period, in relation to a three-year limitations period, is plainly unreasonable. But, in reality, the time period is even more unreasonable than this, because the CID seeks information dating back to the “inception” of every captive reinsurance arrangement, in some instances fifteen or more years ago. Indeed, some requests in the CID date back almost eighteen

⁵ Section 1052 of the CFPA says that the Bureau may issue a CID whenever it has “reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation” of a Federal consumer financial law. CFPA § 1052(c)(1), 12 U.S.C. § 5561(c)(1).

years, to January 1, 1995. If not set aside, the CID should be modified so that it is limited to information after June 20, 2009, three years prior to the service date of the CID. Radian would be willing to negotiate a production of documents outside that time frame to the extent they have continuing relevance within the limitations period, such as the captive reinsurance agreements and associated trust account agreements.

The definition of “mortgage insurance”: The CID lacks definiteness because it does not define “mortgage insurance.” Radian proposes that “mortgage insurance” be defined as primary “flow” coverage on first-liens under Radian Guaranty’s Master Policy. This is the type of coverage most relevant to the arrangements the Bureau seeks to investigate.

The definition of “the Company”: The CID defines “the Company” as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” This is far too broad and would require Radian to search for and produce information relating to entities that have nothing whatsoever to do with mortgage insurance. Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.”

Number of reinsurance agreements and custodians: The CID unreasonably seeks information regarding all of the captive reinsurance agreements to which Radian Guaranty ever was a party. In responding to the requests for information in the Bureau’s January 3, 2012 letter, Radian and the Bureau agreed to limit the requests to eighteen reinsurance arrangements. The CID should be similarly narrowed, although given the far greater burdens of responding to the CID, Radian proposes that the CID be limited to a manageable number of reinsurance arrangements agreed upon by Radian and the Bureau. In addition, Radian and the Bureau should agree to limit any production to materials from a manageable number of custodians.

Creating documents: Several of the requests would require Radian to provide date-by-date and transaction-by-transaction histories with respect to certain captive agreements. These documents do not exist, and could only be created by combing through thousands of pages of paper files, covering fifteen or more years, to identify each and every transaction relating to these captive agreements and the associated trust accounts. In the current challenging economic environment, Radian is leanly staffed and would suffer a serious disruption of its business operations if it had to devote employees to such a time-intensive task. The CID should be modified so that it does not require Radian to create or compile such new documents.

“Actual” versus “potential” captives: Numerous requests seek information relating to “potential” arrangements. It is difficult if not impossible to interpret what “potential” means. In all such cases the request should be restricted to *actual* arrangements.

Production format: The document submission standards are extremely onerous. The standards mandate that the production (1) be organized by request and by custodian, (2) be encrypted using Microsoft Bitblocker, (3) be bates-labeled in a particular format, (4) maintain the original native source of *each* document and preserve *all* metadata, (5) contain certain specified fields of metadata in a particular order, (5) be searchable, and numerous other conditions and requirements. Radian requests that the Bureau agree that document productions can be made in PDF or TIF format, or in their native format (*i.e.* Excel files). In addition, Radian proposes to eliminate the requirement that it identify, for each document produced, the document request to which that document is responsive.

Electronically stored information (“ESI”): Radian has severe limitations on its ability to provide ESI. Radian simply cannot provide such information going back to the inception of the mortgage reinsurance arrangements, which in most cases date from the mid-to-late 1990s.

Prior to the mid-2000s, ESI either does not exist, or, if it does exist, would be extremely expensive and difficult to recover. Radian proposes that the Bureau agree to withdraw its request for ESI at this time, subject to re-visiting the issue after an initial document production.

Attorney-client privilege: The CID seeks information and documents subject to attorney-client privilege. Radian will not produce any privileged materials. Moreover, the CID's requirements for a privilege log are unduly burdensome. Radian proposes that the privilege log requirements be modified to exclude the requirement of a log for communications with outside counsel and work product drafts, pleadings and memos relating to private actions and government investigations (including this investigation).

Confidentiality: The Bureau's regulations on confidentiality do not preclude the Bureau from sharing confidential investigative information with private plaintiffs, or other third parties. Radian should not be expected to provide information in response to the CID without written assurances that any information produced will not be shared with third parties without Radian's permission.

In addition to these global modifications to the CID as a whole, individual requests require additional, more specific modifications. These are set forth in Attachment A, incorporated herein by reference.

ARGUMENT

The Bureau should set aside the CID because, as currently framed, it exceeds the Bureau's authority. The practice the Bureau seeks to investigate has ceased to exist, so there is nothing for the Bureau to regulate. Moreover, the Bureau lacks authority to investigate Radian as an alleged violator of Section 1036 because Radian is neither a "covered person" nor a "service provider" under the CFPA. While the Bureau could issue a CID to Radian as a third party believed to be in possession of information relevant to an alleged violation of Section 1036

committed by someone who *is* subject to that provision, the Bureau has not attempted to serve such a third-party CID here. Moreover, with respect to such a third-party CID, Radian would be entitled to even greater protections against unreasonableness and overbreadth.

In the alternative, if not set aside, the CID should be substantially modified. As explained below, the CID is indefinite, overly broad and unduly burdensome because: (a) the time period has no reasonable relationship to RESPA's statute of limitations; (b) the CID fails to define "mortgage insurance"; (c) the CID improperly defines "the Company" as Radian Group Inc., and its affiliates, rather than Radian Guaranty Inc.; (d) the CID unreasonably seeks information regarding each and every captive reinsurance arrangement to which Radian Guaranty ever was a party, and is not limited to particular document custodians; (e) the CID requires Radian to create documents that do not exist by combing through paper files dating back fifteen years to reconstruct individual transactions of minimal, if any, relevance; (f) the CID seeks information on undefined "potential" agreements; (g) the CID's document submission standards are extremely onerous; (h) the CID unreasonably requires Radian to produce electronically stored information that no longer exists or would be extremely difficult to recover; (i) the CID improperly seeks information subject to attorney-client privilege; and (j) the Bureau's regulations governing confidentiality provide insufficient assurances that materials will not be disclosed to third parties.

I. The CID Should Be Set Aside Because, as Currently Framed, it Exceeds the Bureau's Authority.

It is axiomatic that an administrative agency's investigations must be within its legal authority. *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950). Thus, a CID or other subpoena should be set aside when the respondent "can show it is not subject to the regulatory regime in aid of which the subpoena was issued." *Great Lakes*, 4 F.3d at 492; *cf.*, *e.g.*,

Burlington N. R.R. Co. v. Office of Inspector Gen., 983 F.2d 631, 633 (5th Cir. 1993) (affirming district court’s refusal to enforce Inspector General’s subpoena where it was issued “in aid of an ultra vires” investigation the Inspector General lacked authority to conduct).

Radian is “not subject to the regulatory regime in aid of which the [CID] was issued,” *Great Lakes*, 4 F.3d at 492, for many reasons. To begin with, the practice the Bureau seeks to investigate has ceased to exist, and there simply is nothing to regulate.

Furthermore, Radian is not subject to the statutory prohibition on which the Bureau has predicated this investigation, namely, Section 1036 of the CFPA. Section 1036 provides that “[i]t shall be unlawful for — (1) any *covered person* or *service provider* [to a covered person] — (A) to offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise to commit any act or omission in violation of a Federal consumer financial law; or (B) to engage in any unfair, deceptive or abusive act or practice.” CFPA § 1036(a)(1), 12 U.S.C. § 5536(a)(1). Radian cannot violate this prohibition because it is not a “covered person,” and is not a “service provider” to any covered person. Accordingly, the Bureau has no authority to investigate Radian as an alleged violator of this prohibition. While the Bureau could issue a CID to Radian as a third party, the CID on its face does not purport to be directed to a third party. Moreover, the CID vastly exceeds demands that could appropriately be directed to a third party.

A. Radian is Not a “Covered Person” under the CFPA.

Under the CFPA, a “person that engages in offering or providing a consumer financial product or service” is a “covered person.” CFPA § 1002(6), 12 U.S.C. § 5481(6). Radian does not satisfy this definition because “[t]he term ‘financial product or service’ does not include . . . *the business of insurance . . .*” CFPA § 1002(15)(C), 12 U.S.C. § 5481(15)(C) (emphasis

added); *see also* CFPA § 1027(m), 12 U.S.C. § 5517(m) (“The Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.”). Radian is in the business of providing insurance and the conduct at which the CID is targeted is exclusively “the business of insurance.” Thus, Radian is not a “covered person” subject to Section 1036.

B. Radian is Not a “Service Provider” to a Covered Person.

Nor is Radian subject to Section 1036 as a “service provider.” First, Radian does not satisfy the definition of “service provider” in the CFPA’s definitional provisions. Second, the CFPA’s substantive provisions make clear that a “service provider” is equivalent to a “bank service company” under the Bank Service Company Act, 12 U.S.C. §§ 1861 *et seq.*, and Radian is not a bank service company.

1. Radian Does Not Satisfy the Definition of “Service Provider” in the CFPA’s Definitional Provisions.

“The term ‘service provider’ means any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that — (i) participates in designing, operating, or maintaining the consumer financial product or service; or (ii) processes transactions relating to the consumer financial product or service” CFPA § 1002(26)(A), 12 U.S.C. § 5481(26)(A). The phrase “in connection with *the offering or provision* by such covered person of a consumer financial product or service” is a significant limitation on the definition of “service provider.” Its inclusion in the definition means that the term “service provider” does not cover any and all companies providing any and all services to a covered person. Indeed, such an interpretation would encompass untold numbers and categories of vendors with only a tenuous relationship to the consumer financial product industry. Rather, a “service provider” performs a

function that is itself a part of the offering or provision of financial products or services by the covered person to the covered person's own customers.

This is clear from the illustrations provided in the definition: a service provider "participates in designing, operating, or maintaining the consumer financial product or service," or "processes transactions relating to the consumer financial product or service." Clearly, Radian does not participate in "designing, operating, or maintaining" loans provided to consumers by the lenders to which Radian provides insurance. Nor does Radian "process transactions" relating to the consumer financial products or services of covered persons.

The definition of "service provider" must be construed in the context of these illustrations. *See McCavitt v. Swiss Reinsurance Am. Corp.*, 89 F. Supp. 2d 495, 497-98 (S.D.N.Y. 2000) (where a statute defined "recreational activities" as "including but not limited to sports, games, hobbies, exercise, reading and the viewing of television, movies, and similar material" court construed the definition to exclude items unrelated to these illustrations), *aff'd*, 237 F.3d 166 (2d Cir. 2001); *City of New York v. Beretta U.S.A. Corp.*, 524 F.3d 384, 400-02 (2d Cir. 2008) (interpreting statutory provision in context of two illustrations "include[d]" in the provision).

Thus, service providers are plainly limited to those entities that design, operate, maintain, or process transactions related to consumer financial products or services. Radian does none of these things.

2. Radian is Not a Bank Service Company.

In addition to not meeting the definition of "service provider" set forth in the CFPA's definitional provisions, the substantive provisions of the CFPA make equally clear that Radian cannot be a "service provider."

Sections 1024, 1025, and 1026 of the CFPA state that, in addition to having authority over “nondepository covered persons,” very large banks, and smaller banks, the Bureau’s supervisory authority extends to “service providers” to these institutions. Specifically, Section 1024 states: “A service provider . . . shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 1867(c) of this title.” CFPA § 1024(e), 12 U.S.C. § 5514(e).⁶

The reference to “section 1867(c) of this title” is to a provision of the Bank Service Company Act, 12 U.S.C. §§ 1861 *et seq.* That act permits national banks to delegate some functions or services to an affiliated entity or an independent contractor, designated as a “bank service company.” Such a bank service company is permitted to perform only a narrow range of functions, namely “check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.” 12 U.S.C. § 1863. Thus, a “bank service company” does not encompass any and all companies providing any and all services to a bank, but rather a company providing a narrow range of services that are directly involved in the bank’s provision of its own financial services to its customers.

⁶ Sections 1025 and 1026 similarly state: “A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under 1867(c) of this title.” CFPA § 1025(d), 12 U.S.C. § 5515(d). Section 1026 provides: “A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 of this title to the same extent as if the Bureau were an appropriate Federal bank agency under section 1867(c) of this title.” CFPA § 1026(e), 12 U.S.C. § 5516(e).

Because the Bureau has authority over “service providers” to “the same extent” as the “appropriate Federal banking agencies” under the Bank Service Company Act, it follows that a “service provider” to a bank under the CFPA is the equivalent of a “bank service company” under the Bank Service Company Act, 12 U.S.C. §§ 1861 *et seq.* Radian is not a bank service company under the Bank Service Company Act, or remotely similar to a bank service company. Therefore, for this reason as well, Radian is not a “service provider” to banks under the CFPA.

C. The CID Vastly Exceeds the Burdens that Could Appropriately be Imposed on a Third Party.

As just explained, the Bureau has no authority to investigate Radian as an alleged violator of Section 1036. While the Bureau could issue a CID to Radian as a third party, the CID here is not directed to Radian as a third party. Moreover, it is well settled that “the imposition of a heavy burden upon a witness not a party to [a] proceeding should be avoided.” *Federal Trade Commission v. Bowman*, 149 F. Supp. 624, 629-630 (N.D. Ill. 1957), *aff’d*, 248 F.2d 456 (7th Cir. 1957); *cf. Dow Chemical Co. v. Allen*, 672 F.2d 1262 (7th Cir. 1982) (“[A] court may properly give account to the third-party status of those from whom production is sought in determining whether compliance would constitute an undue burden.”). If the Bureau were to issue a third-party CID to Radian, the CID would have to be dramatically reduced in scope and burdensomeness — at a minimum, consistent with the modifications discussed in Part II below — in order to comply with these principles.

Alternatively, the Bureau could issue a subpoena to Radian pursuant to its authority under RESPA, 12 U.S.C. § 2617. However, the CID, on its face, does not invoke the Bureau’s investigatory powers under RESPA. Moreover, subpoenas under RESPA are subject to a different set of procedural rules and protections than CIDs under the CFPA. For example, Radian could move to quash a subpoena in a district court, rather than petitioning the Bureau to

set aside or modify the demand, as it has done here. *Cf. Greene v. Philadelphia Housing Authority*, 789 F. Supp. 2d 582, 586 (E.D. Pa. 2011) (district court had jurisdiction to quash a HUD subpoena, because jurisdiction to quash necessarily was included in the district court's jurisdiction to enforce the subpoena), *aff'd*, *Greene v. Philadelphia Housing Authority*, 2012 U.S. App. LEXIS 11502 (3d Cir. June 7, 2012). Thus, having issued the CID pursuant to its investigatory authority under Section 1052, the Bureau cannot now invoke its RESPA investigatory powers in an attempt to legitimate the CID after the fact.

II. If Not Set Aside, the CID Should be Modified Because it is Indefinite, Overly Broad and Unduly Burdensome.

A CID must be “no broader than necessary to achieve its purpose.” *Peters v. United States*, 853 F.2d 692, 700 (9th Cir. 1988). It must not “disrupt or seriously hinder [the respondent's] normal operations.” *FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1090 (D.C. Cir. 1992) (citing *FTC v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977)). And it must “describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified.” CFPA § 1052(c)(3)(A), 12 U.S.C. § 5562(c)(3)(A). The CID here fails on all of these fronts: (a) the time period has no reasonable relationship to RESPA's statute of limitations; (b) the CID fails to define “mortgage insurance”; (c) the CID improperly defines “the Company” as Radian Group Inc., and its affiliates, rather than Radian Guaranty Inc.; (d) the CID unreasonably seeks information regarding each and every captive reinsurance arrangement to which Radian Guaranty ever was a party, and is not limited to particular document custodians; (e) the CID requires Radian to create documents that do not exist by combing through paper files dating back fifteen years to reconstruct individual transactions of minimal, if any, relevance; (f) the CID seeks information on undefined “potential” agreements; (g) the CID's document submission

standards are extremely onerous; (h) the CID unreasonably requires Radian to produce electronically stored information that no longer exists or would be extremely difficult to recover; (i) the CID improperly seeks information subject to attorney-client privilege; and (j) the Bureau's regulations governing confidentiality provide insufficient assurances that materials will not be disclosed to third parties.

A. The Time Period of the CID is Unreasonable.

The CID states that “[u]nless otherwise directed,” the time period of the requests dates back to January 1, 2001, almost twelve years ago. But the time period is even more burdensome than this, because the CID seeks information dating from the “inception” of every captive reinsurance arrangement, in some instances fifteen or more years ago. Some requests in the CID date back almost eighteen years, to January 1, 1995.

In contrast to the extremely broad time frame of the CID, the statute of limitations applicable to the Bureau under RESPA is three years from “the date of the occurrence of the violation.” 12 U.S.C. § 2614. Most of the excess-of-loss captive reinsurance arrangements have been terminated, either by commutation or by being put into run-off. In most instances, this occurred in 2008 or 2009. No allegedly illegal referrals could be said to have occurred after the agreements were terminated.

In a letter dated August 14, 2012, the Bureau took the position that, notwithstanding the termination of most of these agreements in 2008 and 2009, any premium payments ceded to a captive reinsurer since then constitute new and independent RESPA violations that restart the three-year limitations period. Radian explained in a letter to the Bureau on September 5, 2012, incorporated herein by reference, why the Bureau's arguments on this issue are meritless.

However, even assuming the Bureau's position were correct, the three-year limitations period would cover only payments after June 20, 2009, at the earliest.

It is well-settled that a CID must cover a reasonable time period. *Gen'l Ins. Co. of Am. v. EEOC*, 491 F.2d 133, 136 (9th 1974) (affirming determination that subpoena was overbroad when it "reached back in time nearly eight years"); *In re Grand Jury Proceedings*, 707 F. Supp. 1207, 1217 (D. Hawaii 1989) (subpoena was overbroad where statute of limitations was five years but subpoena sought information dating back eleven years). The CID here, if not set aside, should be limited to the three-year period preceding June 20, 2012. Even with this limitation, Radian would be prepared to produce older documents, such as the captive reinsurance agreements, that have continuing relevance within the three-year limitations period.

B. The CID is Improperly Indefinite Because it Lacks a Definition of "Mortgage Insurance."

A CID must "describe [the] class of documentary material" with sufficient "definiteness and certainty to permit such material to be fairly identified." CFPA § 1052(c)(3)(A), 12 U.S.C. § 5562(c)(3)(A). The CID here fails to do that because, among other reasons, it fails to include any definition of "mortgage insurance." Radian proposes that "mortgage insurance" be defined as primary "flow" coverage on first-liens under Radian's Master Policy. This is the type of coverage most relevant to the arrangements the Bureau seeks to investigate.

C. The CID Improperly Defines "the Company."

The CID defines "the Company" as "Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates" This is far too broad and would require Radian to search for and produce information relating to entities that have nothing whatsoever to do with mortgage insurance. Radian proposes that "the Company" should be defined as "Radian Guaranty Inc."

D. The Number of Reinsurance Agreements Covered is Unreasonable.

The CID seeks information on literally every captive reinsurance agreement to which Radian Guaranty has ever been a party. This is far “broader than necessary to achieve [the CID’s] purpose.” *Peters*, 853 F.2d at 700. If not set aside, Radian proposes that the CID be limited to a manageable number of reinsurance agreements agreed upon by Radian and the Bureau. In addition, Radian and the Bureau should agree to limit any production to materials from a manageable number of custodians.

E. The CID Requires Radian to Create Documents that do Not Exist.

Several requests (such as interrogatories 10 through 17) ask Radian to reconstruct date-by-date and transaction-by-transaction histories relating to certain reinsurance agreements. These documents could only be created by reconstructing transaction histories from individual paper documents dating back to the late 1990s. Radian should not be required to undertake this burden. *EEOC v. Bashas’, Inc.*, 828 F. Supp. 2d 1056, 1076 (D. Arizona 2011) (subpoena was unduly burdensome when it required respondent to create records that did not exist).

F. Requests Regarding “Potential” Agreements are too Indefinite.

Numerous requests seek information relating to “potential” arrangements. It is difficult, if not impossible, to interpret what “potential” means. Again, this simply does not “describe [the] class of documentary material” with sufficient “definiteness and certainty to permit such material to be fairly identified.” CFPA § 1052(c)(3)(A), 12 U.S.C. § 5562(c)(3)(A). In all such cases the request should be restricted to *actual* agreements.

G. The Document Submission Standards are Extremely Onerous.

The CID’s submission standards mandate that the production (1) be organized by request and by custodian, (2) be encrypted using Microsoft Bitblocker, (3) be bates-labeled in a

particular format, (4) maintain the original native source of *each* document and preserve *all* metadata, (5) contain certain specified fields of metadata in a particular order, (5) be searchable, and numerous other conditions and requirements. Radian requests that the Bureau agree that document productions can be made in PDF or TIF format, or in their native format (*i.e.* Excel files). In addition, Radian proposes to eliminate the requirement that it identify, for each document produced, the document request number to which that document is responsive.

H. The Request for ESI Should be Eliminated.

Radian has severe limitations on its ability to provide ESI. Radian simply cannot provide such information going back to the inception of the mortgage reinsurance arrangements, which in most cases date from the mid-to-late 1990s, because it does not exist. *Bashas'*, 828 F. Supp. 2d at 1089 (“Obviously, *Bashas'* cannot produce data which it does not have.”). ESI earlier than the mid-2000s, to the extent it exists, would be stored on archive systems and would be difficult and expensive, if not impossible, to recover. Such burdensome requests for ESI are routinely rejected in civil litigation absent significant need. *See, e.g., Zubulake v. UBS Warburg LLC*, 217 F.R.D. 309 (S.D.N.Y. 2003). Here, the Bureau has not articulated any special need to justify its request for ESI. Radian proposes that the Bureau agree to withdraw its request for ESI at this time, subject to re-visiting the issue after an initial document production.

I. The CID Improperly Seeks Production of Attorney-Client Privileged Documents.

The CID seeks information and documents subject to attorney-client privilege. Radian will not produce such privileged materials. Moreover, the CID’s requirement to produce a privilege log by the date of production is unduly burdensome. Radian proposes that the privilege log requirements be modified to exclude the requirement of a log for communications with

outside counsel and work product drafts, pleadings and memos relating to private actions and government investigations (including this investigation).

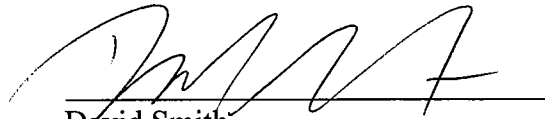
J. The Bureau Should Provide Adequate Assurances of Confidentiality.

The Bureau's regulations on confidentiality do not preclude the Bureau from sharing confidential investigative information with private plaintiffs, or other third parties. Radian should not be expected to provide information in response to the CID without written assurances that any information produced will not be shared with third parties without Radian's permission.

CONCLUSION

Because the Bureau does not have authority under the CFPB to investigate Radian as an alleged violation of Section 1036, the CID should be set aside. In the alternative, the CID should be modified as set forth above.

Respectfully submitted,



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Dated: December 7, 2012

**UNITED STATES OF AMERICA
BEFORE THE CONSUMER FINANCIAL PROTECTION BUREAU**

**IN THE MATTER OF
RADIAN GROUP INC.**

:
:
: No.
:
:

STATEMENT OF GOOD FAITH

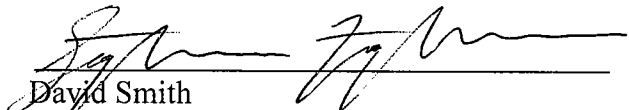
Radian Group Inc., by and through the undersigned counsel, hereby states that its counsel conferred with counsel for the Consumer Financial Protection Bureau and made a good faith effort to resolve the issues raised by this Petition, but was unable to reach a resolution.

Radian first raised the issues set forth in this Petition in a letter from Erika Brown Lee to Donald Gordon on July 17, 2012. Issues addressed in the Petition were discussed in meetings with Donald Gordon and other Bureau personnel on July 19, 2012 and August 3, 2012.

Participants in these meetings included, for Radian, Stephen Fogdall and Erika Brown Lee.

Erika Brown Lee sent a further letter to Donald Gordon discussing an issue raised in the Petition on September 5, 2012. The parties also held a telephonic meeting addressing the issues raised in the Petition on December 6, 2012, from approximately 2:00 pm to 3:30 pm. Stephen Fogdall, Stephanie Yeung and Erika Brown Lee participated in the meeting for Radian. Navid Vazire, Crystal Sumner and Eric Derk participated in the meeting for the Bureau.

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Dated: December 7, 2012

ATTACHMENT A

Radian incorporates all of the general objections in its Petition to Set Aside or Modify the CID into its objections to each specific interrogatory and document request set forth below.

Any proposal by Radian to modify an interrogatory or document request discussed below is made subject to Radian's general objections to the CID in the Petition. These general objections apply to each and every interrogatory and document request in the CID. Pursuant to Section 1052(f)(2) of the CFPA, 12 U.S.C. § 5562(f)(2), and 12 C.F.R. § 1080.6(e), compliance with the CID, and each of the interrogatories and documents contained in it, is stayed as long as Radian's general objections in the Petition, and the specific objections set forth below, remain unresolved.

OBJECTIONS TO SPECIFIC INTERROGATORIES

Interrogatory No. 1: Identify all persons who participated in responding to this CID and the specific tasks performed by each person.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory seeks information that is subject to attorney-client privilege and work product protection.

Interrogatory No. 2: State the Company's correct legal name and principal place of business; the date and state of incorporation; all trade names under which the Company has done business; and the names, titles, and dates of employment of all officers, directors, and principal stockholders or owners.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that "the Company" is defined in the CID as "Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates" The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that "the Company" should be defined as

“Radian Guaranty Inc.” Radian also objects to providing “the names, titles, and dates of employment of all officers, directors, and principal stockholders or owners.” Radian proposes to provide the names and titles of Radian Guaranty Inc.’s current officers and directors.

Interrogatory No. 3: List each state in which the Company has done business and the period during which the Company has done business in each state.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that “the Company” is defined in the CID as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.”

Interrogatory No. 4: Describe the complete management structure of any component of the Company involved in offering, providing, operating or monitoring private mortgage insurance or mortgage insurance reinsurance, identifying all current and former management and supervisory employees, officers and directors (including contractors, if applicable), and any changes in the applicable time period. Information regarding mortgage insurance reinsurance shall be provided since Inception.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that “the Company” is defined in the CID as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.” In addition, Radian proposes to provide the names and titles of current management and supervisory employees whose responsibilities include mortgage insurance reinsurance.

Interrogatory No. 5: Identify all current and former management and supervisory employees employed by the Company (including contractors, if applicable) with responsibilities relating to any Captive Mortgage Reinsurance Arrangement since January 1, 1995. For each employee, state all current and former titles or positions and the dates each such current and former title or position was held.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that “the Company” is defined in the CID as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.” In addition, Radian proposes to provide the names and titles of current management and supervisory employees whose responsibilities include Captive Mortgage Reinsurance Arrangements.

Interrogatory No. 6: Describe each instance in which the Company has been investigated, sued, prosecuted, or had action taken against it for alleged violations of Section 8 of the Real Estate Settlement Procedures Act (“RESPA”), for allegedly unfair or deceptive acts or practices, or for any other alleged violation of state or federal law, relating to any Captive Mortgage Reinsurance Arrangement, including, where applicable, the names of all parties, the jurisdiction involved, the case number, the claims asserted, and the current status or final resolution of the matter.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory seeks information that is irrelevant and is sought for no legitimate purpose. Moreover, to the extent any responsive information is in the public domain, the Bureau is capable of obtaining such information on its own.

Interrogatory No. 7: With respect to any instance identified in response to Interrogatory 6, describe every document preservation request or obligation directed to or imposed upon the Company, including the specific nature and extent of the documents sought to be preserved, the exact date that such request or obligation was transmitted to the Company, and the exact date when such request or obligation expired, or will expire.

Objections: In addition to the general objections set forth in the Petition, Radian objects that it has complied with the CID's instruction to suspend any procedures that may result in the destruction of documentary material or tangible things "that are in any way potentially relevant to this investigation." Other preservation demands relating to other matters are irrelevant.

Interrogatory No. 8: For each Enumerated Captive Mortgage Reinsurance Arrangement to which the Company became a party after January 1, 1995:

- a. identify the Enumerated Reinsurance Entity with which the Company partnered in the Enumerated Captive Mortgage Reinsurance Arrangement;
- b. state the date on which the Enumerated Captive Mortgage Reinsurance Arrangement began;
- c. state the date on which the Enumerated Captive Trust related to the Enumerated Captive Mortgage Reinsurance Arrangement terminated, and if so, whether on a runoff or cut-off basis, and if it has not terminated, state "Active;"
- d. identify all agreements and amendments to agreements governing any aspect of the Enumerated Captive Mortgage Reinsurance Arrangement or related Enumerated Captive Trust, including, without limitation, reinsurance agreements, trust agreements, and agreements to end the Enumerated Captive Mortgage Reinsurance Arrangement; and
- e. if the Enumerated Captive Mortgage Reinsurance Arrangement has terminated, identify the provisions of any operative agreement that authorized or permitted the termination, and all documents relating to the termination.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overly broad and unduly burdensome. Radian proposes to provide, where applicable, reinsurance agreements, trust agreements and termination agreements for the Enumerated Captive Mortgage Reinsurance Arrangements as defined in the CID.

Interrogatory No. 9: Identify each entity that was not a Reinsurance Entity from which the company obtained mortgage insurance reinsurance after January 1, 1995, and as to each such entity:

- a. state the dates on which each business arrangement to obtain such mortgage insurance reinsurance began and ended; and
- b. identify all agreements and amendments to agreements governing any aspect of any such business arrangement.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and proposes that it be limited to reinsurance purchased by Radian from third-parties not affiliated with a mortgage lender.

Interrogatory No. 10: For each payment into any Enumerated Captive Trust since Inception, state:

- a. the date of the payment;
- b. the amount of the payment;
- c. the payor;
- d. the original source of the payment, if not the payor;
- e. the classification of the payment (e.g., ceded premiums, capital contributions, or interest income);
- f. the provision of the operative agreement permitting or requiring the payment; and
- g. the balance of the Enumerated Captive Trust after the payment.

Provide your response in a separate Excel spreadsheet for each Enumerated Captive Trust, listing each response as a separate row and each category (a through g) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 11: For each withdrawal or payment from any Enumerated Captive Trust since Inception, state:

- a. the date of withdrawal or payment;
- b. the amount of withdrawal or payment;
- c. the payee;
- d. the classification of the withdrawal (e.g. payments on claims, expenses, taxes, or dividends);
- e. the provision of the operative agreement permitting or requiring the withdrawal; and
- f. the balance of the Enumerated Captive Trust after payment.

Provide your response in a separate Excel spreadsheet for each Enumerated Captive

Trust, listing each response as a separate row and each category (a through f) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 12: For all Investment Income relating to an Enumerated Captive Trust since Inception, state:

- a. the date of payment;
- b. the amount of payment;
- c. the payor;
- d. the payee (e.g. the Enumerated Captive Trust or the Enumerated Reinsurance Entity);
- e. the provision of the operative agreement permitting or requiring the payment.

Provide your response in a separate Excel spreadsheet for each Enumerated Captive Trust with which the Investment Income is associated, regardless of whether the Investment Income was in such Enumerated Captive Trust. List each response as a separate row and each category (a through e) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 13: For any amount in any Enumerated Captive Trust that was Reclassified since Inception, state:

- a. the date of the reclassification;
- b. the amount reclassified;
- c. the original classification;
- d. the new classification; and
- e. the reason for the reclassification.

Provide your response in a separate Excel spreadsheet for each Enumerated Captive Trust, listing each response as a separate row and each category (a through e) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 14: For any amount not in an Enumerated Captive Trust that was transferred from any Enumerated Reinsurance Entity since Inception, state:

- a. the date of the transfer;
- b. the amount transferred;
- c. the transferor (i.e., the Enumerated Reinsurance Entity);
- d. the transferee (e.g., the specific entity within the affiliated Enumerated Mortgage Lender);
- e. the classification of the transfer; and
- f. the reason for the transfer.

Provide your response in a separate Excel spreadsheet for each Enumerated Reinsurance Entity, listing each response as a separate row and each category (a through f) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 15: For all monetary payments and all other transfers of any thing of value between the Company and any Enumerated Reinsurance Entity since Inception not identified in response to Interrogatories 9 through 13, state:

- g. the date of the transfer;
- h. the amount or value of the transfer;
- i. the transferor;

- j. the transferee;
- k. the reason for the transfer; and
- l. the provision of the operative agreement, if any, permitting or requiring the transfer.

Provide your response in an Excel spreadsheet, listing each response as a separate row and each category (a through f) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 16: For each Captive Trust, state:

- a. the current balance (or if the trust has been closed, so state);
- b. the total value of all reinsurance claims paid since Inception;
- c. the total amount of capital contributions paid into the Captive Trust since Inception;
- d. the total of all ceded premiums paid into the Captive Trust since Inception; and
- e. the total amount projected to be paid from the Captive Trust on future reinsurance claims and the basis for the projection.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 17: For each Reinsurance Policy Year relating to any Enumerated Captive Mortgage Reinsurance Arrangement since Inception, state the following as of December 31 of each calendar year:

- a. the number of insured loans subject to reinsurance;
- b. the outstanding principal of the loans identified in response to Subpart a. of this Interrogatory;
- c. the Company's risk in force;
- d. the Enumerated Reinsurance Entity's Risk in Force; and

e. the number of loans in default.

Provide your response in a separate Excel spreadsheet for each Enumerated Captive Trust, listing each response as a separate row and each category (a through e) as a separate column.

Objections: In addition to the general objections set forth in the petition, Radian objects that this interrogatory requires it to create documents not already in existence by manually reviewing individual transaction data from paper files dating back fifteen years or more. Rather than creating documents that do not exist and cannot be created without great effort, Radian proposes to produce available documents demonstrating this information on an aggregate level.

Interrogatory No. 18: Identify any third party that has provided management, actuarial, accounting, trustee, or financial services to the Company relating to any Captive Mortgage Reinsurance Arrangement, the nature of the services provided, and the year(s) when they were provided.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is over broad and unduly burdensome, vague, indefinite, and not reasonably calculated to lead to relevant evidence.

Interrogatory No. 19: Identify the state(s) in which the Company has its primary domicile or is registered, and any state regulatory agencies to which the Company must report.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that “the Company” is defined in the CID as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.”

Interrogatory No. 20: If there are documents that would have been responsive to any of the requests for documents set forth below, which were destroyed, misplaced, transferred, deleted, altered, or over-written, identify the documents and explain why they cannot be produced.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this interrogatory is over broad and unduly burdensome, vague, indefinite, and seeks information that is irrelevant and serves no legitimate purpose.

OBJECTIONS TO SPECIFIC DOCUMENT REQUESTS

Document Request No. 1: All documents relied upon to complete any of the Interrogatories set forth above.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 2: Organization charts of the Company sufficient to show each entity involved in Captive Mortgage Reinsurance Arrangements, and describe each such entity's role in such practices. To the extent that the identity of such entity or its direct or indirect ownership has changed during the applicable time period, submit organization charts sufficient to reflect and explain such change. If such documents were completely and accurately provided in response to the Bureau's letter dated January 3, 2012, certify their completeness and accuracy.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overbroad and not reasonably calculated to lead to relevant evidence. Radian objects that "the Company" is defined in the CID as "Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates" The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that "the Company" should be defined as "Radian Guaranty Inc."

Document Request No. 3: Organization charts showing the complete management structure of any component of the Company involved in offering, providing, operating or monitoring private mortgage insurance or mortgage insurance reinsurance, identifying all current and former management and supervisory employees, officers, directors, or contractors, and any changes during the Applicable Time Period.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overbroad and not reasonably calculated to lead to relevant evidence. Radian

objects that “the Company” is defined in the CID as “Radian Group Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names and affiliates” The mortgage insurer within the Radian group of companies is Radian Guaranty Inc. Therefore, Radian proposes that “the Company” should be defined as “Radian Guaranty Inc.”

Document Request No. 4: All documents reflecting or embodying communications relating to actual or potential Captive Mortgage Reinsurance Arrangements, between the Company and any of the following:

- a. any prospective or actual Enumerated Reinsurance Entity;
- b. any third party identified in response to Interrogatory No. 18; and
- c. any federal, state, or local government agency or regulator.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is too indefinite to enable Radian to prepare a response because it is unclear what is meant by “potential” arrangements. Radian further objects that this request is not reasonably calculated to lead to relevant evidence. Radian objects that the request for “all” communications between Radian and its state regulators, accountants, and actuaries would require production of a large volume of documents not relevant to the investigation. Radian further objects to this request on the grounds that it is overly broad, unduly burdensome, vague, unreasonable as to time, and seeks confidential information. Radian further objects that this request seeks information covering more than a decade, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 5: All reports, summaries or presentations, or drafts of the same relating to Captive Mortgage Reinsurance Arrangements since the Inception of any Reinsurance Entity to which the document(s) relate(s).

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time,

seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 6: All documents since the Inception of each Reinsurance Entity relating to the creation, promotion, or marketing of actual or potential Captive Mortgage Reinsurance Arrangements, including but not limited to presentations, requests for proposals, negotiations and responses.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 7: All documents since the Inception of each Reinsurance Entity relating to the legality, profitability, costs, risks, finances, conditions, or structure of Captive Mortgage Reinsurance Arrangements.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 8: All documents since the Inception of each Reinsurance Entity relating to the purpose of Captive Mortgage Reinsurance Arrangements, including, but not limited to, decisions to seek, maintain, develop, or cancel Captive Mortgage Reinsurance Arrangements.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 9: All documents relating to any proposed, contemplated, or actual contract or agreement or any modifications of such agreements between you and any Mortgage Lender. This request includes, but is not limited to, any notes or records of any oral, written, or implied contract or agreement for the purchase of mortgage insurance or reinsurance, trust agreement, commutation agreement, retrocession agreement, indemnification agreement, security agreement, participation agreement, and any related amendment.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 10: All documents identified in response to Interrogatory 9.b., and all documents relating to such documents.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering more than a decade, much of

which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 11: All documents relating to any accounting of any Enumerated Captive Mortgage Reinsurance Arrangement or Enumerated Captive Trust, including but not limited to any settlement report, summary report, captive report, valuation notice, trust account summary, cession statement, accounting statement, capital deposit or capital deficiency notice, or trust disbursement request.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 12: All documents relating to projections of costs, losses, assets, liabilities, income or profits pertaining to the provision of mortgage insurance reinsurance, including but not limited to business plans, pro forma projections, and documents embodying performance objectives, goals, or expectations for any Enumerated Reinsurance Entity.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 13: All invoices, bills, receipts, and records of payments relating to any transaction into or from any Enumerated Captive Trust, including but not limited

to capital contributions, ceded premiums, Investment Income, payment of reinsurance claims, dividends, income taxes, and expenses.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 14: One in-force mortgage insurance agreement entered into by the Company for which mortgage insurance reinsurance was obtained from each calendar year for which at least one such policy remains in force.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is too indefinite to enable it to identify responsive documents.

Document Request No. 15: All documents relating to the 1997 HUD Retsinas Letter.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 16: All actuarial studies, reports, opinions, memoranda internal reviews, or statements, and all related documents and underlying work papers, concerning risk transfer in any Captive Mortgage Reinsurance Arrangement, including but not limited to risk transfer requirements under the Financial Accounting Standards Board (FASB), Statutory Accounting Principles (SAP), Emerging Issues Task Force (EITF), Generally Accepted Accounting Principles (GAAP), or National Association of Insurance Commissioners (NAIC).

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 17: All documents provided to or received from any actuary, financial analyst, auditor, outside consultant or any other person outside the Company, relating to the preparation of any document, including any draft, outline, or other preliminary document, produced in response to Document Requests No. 14 and 15 of this CID.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 18: All agreements between the Company and any party identified in response to Interrogatory No. 18.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 19: All documents relating to any financial, business, or investment assessment or analysis of any aspect of any Captive Mortgage Reinsurance Arrangement, including but not limited to, rating agency reports or other analyst reports.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 20: All reports or financial statements relating to an Enumerated Reinsurance Entity filed with any state regulatory agency identified in response to Interrogatory No. 19 since the Inception of the relevant Reinsurance Entity, including but not limited to, Vermont Captive Insurance Annual Reports and Audited Statutory Financial Statements.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 21: All rate filings for mortgage insurance filed with any state regulatory agency.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence. Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all.

Document Request No. 22: All documents prepared by or provided to the Company's Board of Directors or any committee of the Board of Directors relating to any Captive Mortgage Reinsurance Arrangement, including but not limited to all reports, summaries, presentations, emails, meeting minutes, or meetings agendas.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this Request seeks information covering fifteen or more years, much of which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 23: All documents relating to the announcement by Freddie Mac in 2008 of guidelines capping acceptable gross ceded premiums on newly ceded risk at 25 percent effective June 1, 2008.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this request seeks information which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 24: All documents relating to the stated intention of Mortgage Guaranty Insurance Company ("MGIC") that it would not participate in excess-of-loss Captive Mortgage Reinsurance Arrangements with premium cessions in excess of 25% after March 31, 2003, including, but not limited to, MGIC's subsequent reversal of this stated intention.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

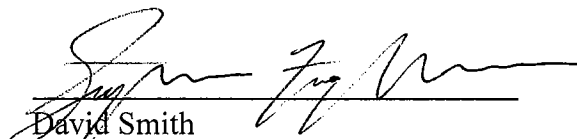
Radian further objects that this request seeks information which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

Document Request No. 25: Documents sufficient to describe the Company's document retention and destruction policies, including, but not limited to, any documents changing, altering, or suspending those policies and procedures.

Objections: In addition to the general objections set forth in the Petition, Radian objects that this request is overly broad, unduly burdensome, indefinite, vague, unreasonable as to time, seeks confidential information, and is not reasonably calculated to lead to relevant evidence.

Radian further objects that this request seeks information which no longer exists or, if it does exist, is stored on archive systems and cannot be retrieved without considerable expense, if it can be retrieved at all. In addition, Radian objects that this request seeks information that is subject to attorney-client privilege and work product protection.

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