

Privacy Threshold Analysis (PTA)  
and/or Privacy Impact Assessment (PIA)

for

Financial Advisory Services for Mortgage Servicing Rights

Ferncliff Investments

(RECVR-17-G-0366)



**Date Approved by Chief Privacy Officer (CPO)/Designee: 9/21/2018**

**PTA/PIA TEMPLATE VERSION 1.9 – August 2017**

## SECTION I – OUTSOURCED INFORMATION SERVICE DESCRIPTION

### 1. Describe the outsourced service and its purpose.

The Federal Deposit Insurance Corporation (FDIC) is an independent agency created by Congress that maintains stability and public confidence in the nation's financial system by insuring deposits, examining and supervising financial institutions (FIs), and managing receiverships. The primary objective of the FDIC as receiver has been to maximize the value of failing and/or failed insured depository institutions and their assets. As such, the FDIC has an important role in disposing these assets in the most cost-effective manner possible. The FDIC's Division of Resolutions and Receiverships (DRR) is responsible for, among other important responsibilities, effectively and efficiently managing and disposing assets held by failing and/or failed FDIC-insured depository FIs.

DRR engaged Ferncliff Investments (Ferncliff) to advise and assist with the financial analysis, valuation, management, sales, and disposition of mortgage servicing rights (MSRs). An MSR is a contractual agreement where the rights to service an existing mortgage are sold by the original lender to another party who specializes in the various functions of servicing mortgages. Common rights include the right to collect mortgage payments monthly, set aside taxes and insurance premiums in escrow, and forward interest and principal to the mortgage lenders.

Task areas that may be required of Ferncliff include, but are not limited to: assisting to review information about the inventory of MSRs, analyzing/performing asset valuations of MSRs, recommending a plan of disposition, structuring the transactions, executing marketing and sales campaigns, and administering other types of advisory and post-closing services for the management, disposition, and settlement (including post-closing reconciliation) of MSRs.

Ferncliff does not maintain or store PII. PII is only viewable, in a read-only format without the ability to print or download the data, from the Virtual Data Room (VDR)<sup>1</sup>. Ferncliff uses the data in order to provide valuations and recommendations to the FDIC.

## SECTION II – DATA TYPE, SOURCES, AND USE

### 2. Describe all information/data that will be collected, used, maintained or generated by the Outsourced Provider (Vendor) as part of the services provided under the contract. If no information/data is involved, select Not Applicable.

Ferncliff personnel review the assigned asset data provided by the FDIC via the VDR, which may include PII about borrowers/customers of a failing or failed FI. FDIC/DRR personnel upload loan files that originate from failed FIs to the secure VDR and provide access to authorized Ferncliff personnel for review. Ferncliff personnel are not granted downloading or printing capabilities. Examples of data viewable in the VDR may contain sensitive information and PII that includes, but is not limited to: the borrower's/customer's full name, date of birth, social security number (SSN), employment status, home address, personal phone number, personal email address, financial information, vehicle identifiers, military records and legal documents. This data is utilized by authorized Ferncliff personnel to provide the FDIC with loan summary reports, loan summary relationship reports, and asset valuation and disposition reports.

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<sup>1</sup> The VDR service is used by and for DRR to create workspaces for failing or failed institution projects, where confidential documents and information can be rapidly exchanged with specific groups of authorized internal and external users. For additional information, refer to the FDIC's VDR Privacy Impact Assessment.

**3. Describe the intended purpose and use of the above information/data. If no information/data is involved, select Not Applicable.**

Ferncliff personnel utilize the assigned asset data described above in order to provide the FDIC with financial valuation reports and advice concerning a failing or failed FI's loan assets. Ferncliff assesses current market conditions regarding loan assets and provides a range of values and disposition strategies for each class of loans in its valuation reports. These assessments are utilized by the FDIC to resolve loan assets in a manner that is the most cost-effective.

Authorized Ferncliff personnel send their opinions and provide FDIC with reports on the valuation of the loan files via VDR. Data includes valuation opinions and reports that contain value or disposition strategy (buy, sell, or hold) as well as general information about bidders and the marketplace, but there are no PII data elements kept on the reports.

**4. What types of personally identifiable information (PII) are (or may be) included in the information specified above? *(This is not intended to be an all-inclusive list. Specify other categories of PII, as needed.)*:**

PII Element	Yes	No
Full Name	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Date of Birth	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Place of Birth	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Social Security Number	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Employment Status, History or Information	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mother's Maiden Name	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Certificates (e.g., birth, death, naturalization, marriage, etc.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Medical Information (Medical Records Numbers, Medical Notes, or X-rays)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Home Address	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Phone Number(s) (non-work)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Email Address (non-work)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Employee Identification Number (EIN)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial Information (e.g., checking account #/PINs/passwords, credit report, etc.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Driver's License/State Identification Number	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vehicle Identifiers (e.g., license plates)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Legal Documents, Records, or Notes (e.g., divorce decree, criminal records, etc.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Education Records	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Criminal Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Military Status and/or Records	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Investigation Report or Database	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Biometric Identifiers (e.g., fingerprint, voiceprint)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Photographic Identifiers (e.g., image, x-ray, video)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other (Specify: _____)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**5. If Social Security Number (SSN) is checked in question 4, please answer the following:  
a) Explain the business purpose requiring the collection of SSNs:**

Ferncliff does not collect, process or store SSN's. SSN's are only viewable on loan files, in a read-only format and are not required for the scope of work being conducted. SSN's are not utilized on any deliverables provided.

**b) Provide the legal authority which permits the collection of SSNs.**

Sections 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable State laws provide the legal authority governing the liquidation of assets and wind-up of the affairs of failed financial institutions. -

**c) Identify whether the SSN is masked or otherwise truncated within the system:**

SSN's may or may not be masked or truncated. -

**6a. Please provide an estimate of the number of records maintained by the vendor for this contract that contain PII:**

Estimated Number of Records Containing PII				
0 <input checked="" type="checkbox"/>	1-500 <input type="checkbox"/>	501-1,000 <input type="checkbox"/>	1,001 - 2,500 <input type="checkbox"/>	2,501 - 5,000 <input type="checkbox"/>
5,001 - 7,500 <input type="checkbox"/>	7,501 - 10,000 <input type="checkbox"/>	10,001 - 50,000 <input type="checkbox"/>	50,001 - 100,000 <input type="checkbox"/>	over 100,000 <input type="checkbox"/>

**6b. If "0" was answered for 6a, please explain<sup>2</sup>:**

The contract's Oversight Manager has confirmed that Ferncliff has not been issued any active task orders as of 3/22/2018, and does not anticipate any task orders will be awarded until assets are assigned for marketing and sales purposes. An estimate of the number of records that could potentially be maintained if the vendor were assigned work in the future estimating large bank failures is over 500-100,000.

**7. What are the sources of data (both PII and non-PII) for the outsourced service/project? How is the data derived?**

Data Source <sup>3</sup> (List all sources that the Outsourced Provider collects, obtains or receives data from, as part of the services provided under the contract.)	Type of Data Provided by Source & How It is Derived (Describe the type of PII and non-PII data provided by each source. If PII is included in the data, list the specific PII elements, and explain how the PII is derived.)	Does Data Include PII? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Virtual Data Room (VDR)	FDIC/DRR personnel upload loan files that originate from failed FIs to the secure VDR and provide access to authorized Ferncliff personnel for review. Ferncliff personnel are not granted downloading or printing capabilities. Examples of data viewable in the VDR may contain sensitive information and PII that includes, but is not limited to: borrower's/customer's full name, date of birth, SSN, employment status, home address, personal phone number, personal email address, financial information, vehicle identifiers, military records and legal documents.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<sup>2</sup> If the vendor has not received work to date for this contract and "0" is checked in 6a, please explain approximately how many records may be maintained by the vendor if they are awarded work under this contract in the future. Additionally, the Division responsible for this vendor must update this PIA to reflect the accurate number of records containing PII that the vendor maintains if this changes in the future.

<sup>3</sup> Examples of potential data sources include, but are not limited to: internal (FDIC) or external (non-FDIC) systems, websites, individual members of the public (e.g., customers, borrowers, etc.), FDIC employees, FDIC contractors, credit bureaus, commercial entities, public records, government agencies, etc.

**8. How will FDIC and/or the Outsourced Service Provider retrieve data or records as part of the outsourced service or project? Can data be retrieved using a personal identifier (e.g., name, address, SSN, EIN, or other unique identifier)?**

The FDIC provides Ferncliff with their own data room within the VDR system. A subfolder is created for the FDIC to post data for due diligence purposes. Ferncliff will receive an e-mail notification that documents have been posted to VDR. Posted data is highlighted as an indication of what has been posted. Fercliff then accesses the subfolder within VDR and clicks on the highlighted tabs to view the documents..

**9. In the Federal Register, under which Privacy Act Systems of Record Notice (SORN) does this system operate? Provide number and name.**

30-64-0013, *Insured Financial Institution Liquidation Records.*



**This completes the PTA.**

- Do not complete the rest of the form, if the service provider is not processing or maintaining sensitive PII. This is the case, if you checked:
  - NOT APPLICABLE for question 3 and NO for all items in question 4; OR
  - Only Full Name in question 4.
  
- Continue completing the remainder of the form, i.e., Sections III thru VI in their entirety (questions 10 through 18), if the service provider is processing or maintaining sensitive PII. This is the case, if you checked:
  - YES for Social Security Number (SSN) in question 4; OR
  - YES for SSN or for Full Name in addition to one or more boxes in question 4.
  
- If you have questions or are unsure about whether or not you should complete the remainder of this form, please contact your Division ISM or the Privacy Program Office ([privacy@fdic.gov](mailto:privacy@fdic.gov)).

## SECTION III – DATA ACCESS AND SHARING

**10. In the table below, specify the systems/applications and parties (FDIC and non-FDIC) that will access or receive PII data as part of the outsourced service/project. (Check “No” or “Yes” for each category. For each category checked “Yes,” specify who will have access to, be provided with, or maintain the PII, what PII elements will be accessed/shared/maintained by them, how the access or sharing will occur, and the purpose and use of this PII.)**

PII Will Be Accessed By and/or Provided To:	Yes	No	If Yes, Explain How and Why the PII Will Be Accessed/Shared
<b>10a. FDIC Outsourced Service Provider (OSP) Staff; OSP Subcontractors; and/or OSP Systems</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fernclyff reviews information provided by the FDIC via the VDR and provides its analysis of the data in order to advise and assist DRR with the financial analysis, valuation, management, sales, and disposition of MSRs. Authorized Fernclyff personnel sends its opinions and provides FDIC with reports on the valuation of the loan files via VDR. Data includes valuation opinions and reports (no PII) that contain value or disposition strategy (buy, sell, or hold) as well as general information about bidders and marketplace.
<b>10b. FDIC Personnel and/or FDIC Systems/Applications</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
<b>10c. Individual Members of the Public (e.g., bidders, investors, borrowers, customers, etc.)</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
<b>10d. Other Non-FDIC Entities/ Parties and/or Non-FDIC Systems/Applications</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FDIC/DRR personnel upload loan files that originate from failed FIs to the secure VDR and provide access to authorized Fernclyff personnel for review. Fernclyff personnel are not granted downloading or printing capabilities. Examples of data viewable in the VDR may contain sensitive information and PII that includes, but is not limited to: borrower’s/customer’s full name, date of birth, SSN, employment status, home address, personal phone number, personal email address, financial information, vehicle identifiers, and legal documents.
<b>10e. Federal, State, and/or Local Agencies</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
<b>10f. Other</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

**11. If data will be provided to, shared with, or maintained by non-FDIC entities (such as government agencies, contractors, or Outsourced Information Service Providers), have any of the following agreements been issued?**

Data Protection and/or Sharing Agreements	Yes	No
FDIC Confidentiality Agreement (Corporation)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FDIC Confidentiality Agreement (Individual)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Non-Disclosure Agreement (NDA)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Memoranda of Understanding (MOU)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information Sharing Agreements (ISA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Authentication Risk Assessment	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Other Applicable Agreement(s)  
(Specify: \_\_\_\_\_)

If you answered NO to any item above, please provide additional information if available:

Ferncliff Investments is an Outsourced Information Service Provider and therefore is not subject to MOUs or ISAs.

## SECTION IV – NOTICE AND CONSENT

**12. Do individuals have the opportunity to decline to provide information or to consent to particular uses of their information (other than required or authorized uses)?**

No. Individuals do not have the opportunity to “opt out” of providing their data and/or consenting to particular uses of their information.

FDIC/DRR has a primary responsibility for resolving failed FDIC insured depository institutions, including the liquidation of assets in receivership. As the sensitive PII from borrowers/customers of failed or failing FIs is derived from bank records in FDIC receivership, individuals do not have an opportunity to opt out or provide consent for the use of the data. The data derived from bank records in FDIC receivership is necessary to help make underwriting decisions, such as whether an applicant is creditworthy and should receive a loan, as well as resolving assets in a manner that is most cost-effective for the Deposit Insurance Fund (DIF) Reserve and determining the consideration offered to the potential investor, as applicable.

Yes. Individuals have the opportunity to decline to provide their personal data or to consent to particular uses of their information. ***(Explain how individuals may decline or consent to the use of their information.)***

Not applicable. Information is not collected directly from individuals.

**13. If PII is being collected via a public-facing website and/or application as part of this outsourced service, has the Outsourced Information Service Provider posted any of the following types of privacy policies or Privacy Act notices?**

No

Yes *(If yes, check applicable box(es) below.)*

Link to FDIC Privacy Policy

FDIC Privacy Act Statement

Contractor Privacy Policy or Statement

No Privacy Policy has been posted

Not applicable

## SECTION V – DATA SECURITY AND ACCURACY

**14. Please assert what administrative procedures and technical safeguards are in place to protect sensitive PII data in the Outsourced Information Service Provider's care. [Provide the name of the Outsourced Service Provider and check all applicable box(es).]**

Ferncliff Investments has gone through the security review required by the FDIC's Outsourced Information Service Provider Assessment Methodology to determine and/or verify their having appropriate physical, technical and administrative security measures to safeguard FDIC-provided PII and other sensitive data. If it has gone through the Methodology, has it been approved?  NO  YES

The FDIC conducts background investigations (BIs) on key Ferncliff Investments personnel and other applicable personnel prior to their beginning work on the contract.

The Ferncliff Investments is subject to periodic compliance reviews by FDIC. Per the contract, scheduled and unannounced inspections and assessments of the Outsourced Service Provider's facilities, personnel, hardware, software and its security and privacy practices by either the FDIC information technology staff, the FDIC Inspector General, or the U.S. General Accountability Office (GAO). These inspections may be conducted either by phone, electronically or in-person, on both a pre-award basis and throughout the term of the contract or task order, to ensure and verify compliance with FDIC IT security and privacy requirements.

Other (Explain any other administrative and/or technical safeguards in place to protect PII data in the Outsourced Information Service Provider's care.) **Attach the Contract Clause Verification Checklist to the back of this form.**

**15. What are the procedure(s) for ensuring that the information maintained is accurate, complete and up-to-date? [Check all applicable box(es) and insert the appropriate response and System/Project name.]**

Data is collected directly from individuals and/or from the failed financial institutions. As such, the FDIC and its vendors rely on the individuals and/or financial institutions to provide accurate data.

The vendor/contractor works with FDIC to verify the integrity of the data in conjunction with inputting it into the system or using it to support the project.

As necessary, an administrator of the Ferncliff Investments checks the data for completeness by reviewing the information, verifying whether or not certain documents or data is missing, and as feasible, updating this data when required.

Other (Please explain.)



**16. In terms of assuring proper use of the data, please assert whether the following statements are true for the Outsourced Information Service Provider. (Check all applicable box(es) and insert the name of the Outsourced Information Service Provider and title of the firm's senior management official.)**

Within FDIC, the Ferncliff Investments Program Manager/Data Owner, Technical Monitors, Oversight Manager, and Information Security Manager (ISM) are collectively responsible for assuring proper use of the data. In addition, it is every FDIC user's responsibility to abide by FDIC data protection rules which are outlined in the FDIC's Information Security and Privacy Awareness training course which all employees take annually and certify that they will abide by the corporation's Rules of Behavior for data protection.

Additionally, the Outsourced Information Service Provider is responsible for assuring proper use of the data. Policies and procedures have been established to delineate this responsibility, and the vendor has designated Information Security Manager and Systems Administrator to have overall accountability for ensuring the proper handling of data by vendor personnel who have access to the data. All vendor personnel with access to the data are responsible for protecting privacy and abiding by the terms of their FDIC Confidentiality and Non-Disclosure Agreements, as well as the vendor's corporate policies for data protection. Access to certain data may be limited, depending on the nature and type of data. (Refer to Section III of this Privacy Impact Assessment for more information on data access criteria.)

The Outsourced Provider must comply with the Incident Response and Incident Monitoring contractual requirement.

None of the above. (Explain why no FDIC staff or Outsourced Information Service Provider personnel have been designated responsibility for assuring proper use of the data.)

## SECTION VI – DATA RETENTION AND DISPOSAL

**17. Where will the Outsourced Service Provider store or maintain the PII data identified in question 4? Describe both electronic and physical storage repositories, as applicable.**

Ferncliff does not maintain or store PII. PII is only viewable, in a read-only format without the ability to print or download the data, from the Virtual Data Room (VDR). Ferncliff uses the data in order to provide valuations and recommendations to the FDIC.

**18. Specify the period of time that data is retained by the Outsourced Service Provider and the specific procedures for disposing of or returning the data at the end of the retention period or contract, whichever is first.**

Ferncliff's data retention policy for all FDIC Asset Valuation Review (AVR) data is three years. At that time, all data will get wiped from Ferncliff's file server and all documents are destroyed via shredder. For non-AVR data, Ferncliff will modify its data retention policy based on the terms of the contract or as requested by the FDIC.