



Comptroller of the Currency
Administrator of National Banks

US Department of the Treasury

Interim Status Report: Foreclosure-Related Consent Orders

June 2012

Office of the Comptroller of the Currency
Washington, D.C.

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Executive Summary

This interim report summarizes the status of actions taken by national banks and federal savings associations to correct deficiencies in mortgage servicing and foreclosure processing identified in consent orders issued on April 13, 2011, by the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) against 12 mortgage servicers.¹ This report updates the previous interim report published in November 2011.

Independent Foreclosure Review

The OCC consent orders required servicers to retain independent consultants to conduct a comprehensive review of their foreclosure activity in 2009 or 2010, to identify financial injury that resulted from deficient foreclosure practices, and provide compensation or other remedy for that injury. That review includes a process for people to request a review of their loan files, as well as a process where the consultants select samples of files from the servicers' portfolios. Through these complementary processes, 338,447 files are currently slated for review. Through May 2012, nearly 4.4 million people were sent letters explaining how to request a free review of their loan files if they believe they suffered financial harm as a result of errors, misrepresentations, or deficiencies during the foreclosure process on their primary residences in 2009 or 2010. Only 5.3 percent of those letters were returned as undeliverable. Through May 31, 2012, 193,630 people have requested a review through this process. At the same time, independent consultants have selected 144,817 files from the servicers' portfolios to review. The reviews will take several additional months to complete in order to determine whether errors occurred, whether those errors resulted in financial harm, and what the remediation should be. Mailings and requests for review by state are provided in appendix A.

Table 1. Summary of Independent Foreclosure Review Activity	
May 31, 2012	
Number of Letters and Forms Mailed	4,389,008
Number of Undeliverable Letters	232,298
Percent Undeliverable	5.3%
Requests for Reviews Received	193,630
Forms Requested	25,752
Web Site Visits Since November 1, 2011	600,386
Calls Received Since November 1, 2011	241,048
Other Files Selected for Review (Base Sample)	144,817
Total Number of Files Slated for Review	338,447
Files Currently Under Review	156,826
File Reviews Completed	11,939

On June 21, 2012, the OCC and the Board of Governors of the Federal Reserve System (FRB) announced the release of a financial remediation framework that consultants will use in developing recommendations for remediation of financial harm that they find. The agencies also

¹ On July 21, 2011, regulatory responsibility for federal savings associations transferred from the OTS to the OCC under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Consent orders taken by the OTS prior to the transfer remain in effect and enforceable by the OCC.

announced that they had extended the deadline for requesting a free review through the Independent Foreclosure Review from July 31, 2012, to September 30, 2012.

Corrective Actions Required by OCC Consent Orders

In addition to the comprehensive review of foreclosure activity during 2009 or 2010, the OCC consent orders required extensive changes in mortgage servicing and foreclosure processes to correct unsafe and unsound practices documented in the consent orders issued in April 2011. Servicers continue to work to implement detailed action plans describing activities to correct deficiencies in mortgage servicing activities, oversight and management of third-party service providers, activities related to the Mortgage Electronic Registration System (MERS), management information systems, risk assessment and management, and compliance oversight.

The action plans and programs called for by the OCC consent orders must address numerous specific requirements. Through May 24, 2012, the servicers reported completing 93 percent of these specific requirements. These percentages of completion reflect the status of the individual requirements and not the level of work or time required to fully implement the actions or to validate and test that implementation. While the percentages of completion to date represent a significant amount of progress, much work remains to be done to fully implement, validate, and ensure sustainability of the corrective actions.

Implementation of the plans is a multi-step process, first requiring development of new or revised policies and operating procedures, addition and training of staff, and development or modification of existing work-streams and processing systems as applicable. As the action plans are implemented, the servicers' internal oversight functions such as internal audit, compliance, and risk management will provide ongoing review and control, including testing and validation. Following implementation, the OCC will review, test, and validate corrective actions as necessary to determine that they are effective and sustainable. The OCC is closely overseeing the work of the servicers in this regard, and servicers are in various stages of implementing their action plans in accordance with the complexity of the process changes required.

Table 2. Status of Required Action Items by Category	
Data as of May 24, 2012	
Category of Actions	Individual Requirements Reported Complete by Servicers
Action Plan	100%
Mortgage Servicing	94%
Third-Party Management	97%
MERS	91%
Management Information Systems	93%
Risk Assessment and Management	91%
Compliance Committee	100%
Compliance Program	86%
Overall	93%

Background

The OCC took action against eight national bank servicers: Bank of America, Citibank, HSBC, JPMorgan Chase, MetLife Bank, PNC, U.S. Bank, and Wells Fargo. The OTS took action against four federal savings association servicers and two holding companies: Aurora Bank, FSB; EverBank (and the thrift holding company, EverBank Financial Corp.); OneWest Bank, FSB (and its holding company IMB HoldCo LLC); and Sovereign Bank.

The enforcement orders were based on examiner findings during an interagency review of major residential mortgage servicers conducted in the fourth quarter of 2010. A summary of the findings of the interagency review is available in the “Interagency Review of Foreclosure Policies and Practices,” produced by the OCC, the FRB, and the OTS.²

As required by the consent orders, servicers submitted independent consultant engagement letters describing how the consultants would implement the Independent Foreclosure Review process at each servicer.³ The OCC has reviewed and accepted these engagement letters.⁴ Implementation may differ from some details presented in the engagement letters because of subsequent direction from the OCC to ensure a consistent process among the servicers. The OCC released the engagement letters on November 22, 2011.⁵ The independence of the consultants has been a priority for the agency. On May 11, 2012, the OCC announced that it had directed one firm to cease reviewing files as a primary independent consultant or subcontracted consultant. The OCC took this action after the consultant reported work for third parties that the OCC determined to be inconsistent with the independence requirements for independent consultants, prescribed by the OCC.⁶

Servicers also submitted action plans as required by the consent orders, which describe actions required to fix other mortgage servicing and foreclosure process deficiencies. Action plans are not being released by the OCC because they contain extensive information that is proprietary, but the actions being taken are summarized in this report.

In February, the federal government and state attorneys general announced the National Mortgage Settlement with Ally, Bank of America, Citibank, JPMorgan Chase, and Wells Fargo.⁷ The National Mortgage Settlement with five large mortgage servicers and the OCC consent orders against 12 large mortgage servicers are separate but complementary. At the same time that the National Mortgage Settlement was announced, the OCC separately announced that it had

² See <http://www.occ.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf>.

³ The original submission date was June 12, 2011; however, the OCC extended the submission date by 30 days at the request of the U.S. Department of Justice.

⁴ See <http://occ.gov/topics/consumer-protection/foreclosure-prevention/independent-review-foreclosure-letters.html>.

⁵ See <http://www.occ.gov/topics/consumer-protection/foreclosure-prevention/independent-review-foreclosure-letters.html>.

⁶ See <http://www.occ.gov/news-issuances/news-releases/2012/nr-occ-2012-74.html>.

⁷ See <http://www.nationalmortgagesettlement.com>.

settled \$394 million in civil money penalties with Bank of America, Citibank, JPMorgan Chase, and Wells Fargo.⁸

In the agreements struck by the OCC with these mortgage servicers, the servicers do not contest the OCC's ability to impose penalties aggregating to \$394 million, and the OCC agrees to hold those penalties in abeyance provided the servicers make certain payments and take other actions under the National Mortgage Settlement with a value equal to at least the penalty amounts that the OCC would otherwise assess.

The civil money penalties are separate from remediation provided to borrowers for financial injury identified through the Independent Foreclosure Review process. Borrowers who incurred financial injury as a result of servicer errors, misrepresentation, or other deficiencies during foreclosures on their primary residences during 2009 or 2010 will be remediated for the injury incurred. The OCC has not capped the amount that may be paid out as remediation to borrowers, individually or collectively, who suffered financial injury. In addition, the OCC will not permit servicers to require borrowers to sign a waiver of their ability to pursue claims against the servicer in order to receive compensation under the Independent Foreclosure Review.

⁸ See <http://www.occ.gov/news-issuances/news-releases/2012/nr-occ-2012-20.html>.

Part 1: Independent Foreclosure Review

The orders required the servicers to retain independent consultants to conduct comprehensive, multi-faceted, independent reviews of borrowers who were in any stage of foreclosure in 2009 or 2010. That review includes a process to allow people to request a free review of their loan files, as well as a requirement for independent consultants to select samples of files from servicer portfolios for review. The objective of these two complementary processes is to identify and provide appropriate remediation to borrowers who suffered financial injury because of servicer errors. Through these two complementary processes, 338,447 files are slated for review as of May 31, 2012. Where errors and deficiencies are found, independent consultants will expand their review to identify other similarly affected borrowers.

Generally, the reviews follow a five-step process. Independent consultants will review loan files to identify errors, misrepresentations, or other deficiencies in the foreclosure process; determine whether those errors resulted in financial injury to the borrower; and recommend remediation for that injury based on guidance provided by the OCC. Servicers will then be required to submit remediation plans to the OCC for approval; after which they will provide appropriate remediation to all affected borrowers.

Eligibility

To be considered in scope and eligible to request a review, a borrower must meet three criteria: 1) the loan was active in the foreclosure process between January 1, 2009 and December 31, 2010; 2) the property securing the loan was the borrower's primary residence; and 3) the loan was serviced by one of the following servicers:

- America's Servicing Co.
- Aurora Loan Services
- BAC Home Loans Servicing
- Bank of America
- Beneficial
- Chase
- Citibank
- CitiFinancial
- CitiMortgage
- Countrywide
- EMC
- EverBank/Everhome Mortgage Company
- Financial Freedom
- GMAC Mortgage
- HFC
- HSBC
- IndyMac Mortgage Services
- MetLife Bank
- National City Mortgage
- PNC Mortgage
- Sovereign Bank
- SunTrust Mortgage
- U.S. Bank
- Wachovia
- Washington Mutual
- Wells Fargo
- Wilshire Credit Corporation

A loan is considered to have been active in the foreclosure process if any of the following actions were in effect on the borrower's primary residence at any time during 2009 or 2010:

- The property was sold due to a foreclosure judgment.
- The mortgage loan had been referred into the foreclosure process, in which case the borrower may have been notified in writing, but was removed from the process because payments were brought up-to-date or the borrower entered a payment plan or modification program.
- The mortgage loan had been referred into the foreclosure process, in which case the borrower may have been notified in writing, but the home was sold or the borrower participated in a short sale or chose a deed-in-lieu of foreclosure.
- The mortgage loan had been referred into the foreclosure process, in which case the borrower may have been notified in writing, and remains delinquent today, but a foreclosure sale has not taken place.

Outreach to Borrowers

The consent orders required servicers to conduct significant outreach to make eligible borrowers aware of the Independent Foreclosure Review. That outreach included mailings, advertising, a Web site, a toll-free number, and work with housing counselors and community and housing advocate groups to reach the broadest audience possible.

Letters and Forms

Nearly 4.4 million letters have been sent to borrowers who may be eligible for a free independent review of their foreclosure loan files. The letter included a request for review form and instructions for completing that form to request a review. The form provides the opportunity for borrowers to describe the error and financial harm that they believe occurred. Using standard techniques to validate addresses and identify valid secondary addresses, only 5.3 percent of those letters were returned as undeliverable. A second mailing to borrowers who have not yet submitted requests for review will be completed by June 30.

Paid Advertising

The OCC required servicers to purchase advertising in prominent national publications, including publications that serve minority audiences and Spanish-language publications. The first round of advertising ran in January and February 2012. Advertising has run in more than 1,400 publications nationwide that cover a wide range of demographics, including major publications like *Parade*, *People* magazine, and *USA Weekend*, as well as Hispanic and African-American publications. Circulation covers all 50 states, with higher concentration in states with heavy foreclosure volume, including California, Florida, Illinois, Michigan, and New York. Total impressions from the advertising to date are estimated at more than 341,000,000. A second round of advertising was conducted in April 2012, and a third round is planned before the September 30 deadline.

Web Site and Toll-Free Phone Number

A Web site—www.IndependentForeclosureReview.com—and a toll-free phone number—**1-888-952-9105**—were launched on November 1, 2011, to provide information about the reviews and the integrated claims process. As of March 2012, the Web site was enhanced to allow borrowers to submit requests for review and provide supporting documentation online, which borrowers can use 24 hours a day, seven days a week. Assistance is available from the toll-free number Monday through Friday from 8 a.m. to 10 p.m., and Saturday from 8 a.m. to 5 p.m. (Eastern). The toll-free call center has translation services available in over 240 languages, and the operators can translate documents for borrowers over the phone.

Through May 31, 2012, the Web site has been visited 600,386 times and 7,948 borrowers have submitted requests for review online. Through May 31, 2012, the toll-free number has received 241,048 calls, and 25,752 people have requested forms.

Public Service Advertising

To supplement servicers' outreach efforts, the OCC released a series of public service advertisements (PSAs). The PSAs included a print article and two 30-second radio spots released in English and Spanish. The print items were distributed to more than 10,000 local newspapers and publications, and the radio spots were distributed to more than 6,500 small radio

stations throughout the country. Spanish items were distributed to more than 700 Spanish-language newspapers and 500 Spanish-language radio stations. The PSAs highlight the Web site, toll-free number, eligibility criteria, and the deadline for submitting requests for review. Through June 11, 2012, the PSAs have run 1,887 times in 38 states with a total potential audience of nearly 162 million people. Spanish-language items have run 334 times in six states with a total potential audience of nearly 47 million people. Approximately 75 percent of the coverage generated by the PSAs has occurred in the top 100 markets. A second round of public service advertising began May 1, 2012.

In addition to the distribution described above, the OCC reached out to radio stations and media outlets serving audiences who speak languages other than English and Spanish to promote awareness of the Independent Foreclosure Review among these communities.

Table 3. PSA Results	
Data as of June 11, 2012	
Number of Times English Print Item Has Run	888
Number of Times English Radio Item Has Run	665
Subtotal for English PSA Items	1,553
Number of Times Spanish Print Item Has Run	132
Number of Times Spanish Radio Item Has Run	202
Subtotal for Spanish PSA Items	334
Total Number of Times PSA Items Have Run	1,887
Combined Value of Equivalent Paid Advertising	\$872,127
Total Potential Audience	162,000,000
Number of States Where PSAs Have Appeared	38
Percent of Coverage in Top 100 Markets	75%

Outreach to Community and Housing Advocates

Outreach efforts have also included work with community and housing advocates. Beginning last November, the OCC began meeting and talking regularly with a cross-section of such advocacy organizations to get the benefit of their experiences, as well as their input on specific issues as the Independent Foreclosure Review process continues.⁹ These discussions have informed decision making in numerous areas, including marketing and outreach, providing additional resources for non-English speakers, describing types of financial harm, and improving transparency.

In December, the OCC worked with the FRB to provide training at a national conference, and in February and March, to produce two nationwide webinars to help educate housing counselors and increase awareness of the Independent Foreclosure Review process. The training and webinars familiarized counselors and advocates with the process and form for requesting a review to help them provide assistance to their constituents.

In addition, the OCC has worked with independent consultants and servicers to identify ways of providing resources and additional support to advocates to expand their capabilities for

⁹ The OCC has been having discussions with a range of community groups, including the National Consumer Law Center, National Fair Housing Alliance, Center for Responsible Lending, National Association of Consumer Advocates, National Council of La Raza, National Asian American Coalition, Consumer Action, and several others.

promoting participation in the Independent Foreclosure Review. Independent consultants have participated in meetings and training conferences with community and housing advocates to explain the Independent Foreclosure Review process, and at least one independent consultant hosted an onsite meeting to demonstrate its review program. To date, three servicers have provided support to approximately 15 housing counseling intermediary organizations, which in turn have over 100 member organizations serving communities across the country. These organizations have taken out local advertising, incorporated information about the Independent Foreclosure Review into their existing educational outreach activities, conducted workshops, one-on-one counseling sessions, group counseling and educational forums, collaborations with community organizations, and leveraged faith-based partnerships to expand awareness of the Independent Foreclosure Review. Additionally, servicers have developed themselves or worked with groups to develop and distribute Independent Foreclosure Review informational materials in multiple Asian languages to serve the needs of Asian-American and Pacific Islander populations.

Requests Received Through May 31, 2012

Through May 31, 2012, 193,630 people have submitted the request for review form. Of the requests received, 87 percent claim errors associated with loan modifications, 63 percent claim incorrect mortgage balances, 48 percent claim improper fees, 46 percent claim payment processing errors, and 80 percent provided additional information or claimed other types of errors and injury. Borrower responses and narrative comments on the request for review form will help the independent consultants focus their review to address the borrowers' specific areas of concern. When the borrowers' request for review addresses multiple concerns, the independent consultant will review each of those concerns.

Table 4. Issues Identified in Submitted Requests for Review	
Data as of May 31, 2012	
Errors in Loan Modifications	87%
Mortgage Balance Disagreements	63%
Improper Fees	48%
Payment Processing Errors	46%
Other	80%

Deadline for Submitting Requests Is September 30, 2012

The OCC and FRB extended the deadline for receiving requests for review to September 30, 2012, to allow for greater awareness and the broadest possible participation.

“Look-Back” Reviews—Sampling

In addition to the file reviews requested by eligible borrowers, independent consultants have selected 142,817 files from the servicers' portfolios for review, as of May 31, 2012. These files were selected according to guidance provided by the OCC and sampling methods detailed in OCC-approved engagement letters.¹⁰ This number of files represents the base sample of files to

¹⁰ Engagement letters are available at <http://www.occ.gov/topics/consumer-protection/foreclosure-prevention/independent-review-foreclosure-letters.html>.

be reviewed and may be expanded as independent consultants identify issues that require additional investigation.

This initial selection of files includes some segments of foreclosure cases that require every file in the category be reviewed. Categories requiring 100 percent review include certain bankruptcy cases facing foreclosure in 2009 or 2010, foreclosure cases involving borrowers subject to the Servicemembers Civil Relief Act (SCRA), foreclosure cases referred by state or federal agencies, and requests for review submitted through the outreach process.

Where sampling is used in other categories of files, the OCC expects the consultants to assess the results of the ongoing reviews continuously to identify potential patterns or “pockets” of financial harm, and adapt the review plan accordingly. The tolerance for error is low in selecting samples of foreclosure files for review—reliability, or confidence level, should be not less than 95 percent.

Conduct of the “Look-Back” Review

During the “look-back” reviews, in accordance with the OCC orders, the independent consultants must assess:

- a) Whether the foreclosing party had properly documented ownership or was otherwise a proper party to the action;
- b) Whether the foreclosure was in accordance with applicable state and federal law;
- c) Whether the foreclosure sale occurred when a loan modification or other loss mitigation request was under consideration, or when the loan was performing in accordance with a trial or permanent loan modification, or when the loan had not been in default for a sufficient period to authorize foreclosure;
- d) Whether, for any non-judicial foreclosure, the foreclosure sale and post-sale confirmations were in accordance with the mortgage loan and state law requirements;
- e) Whether, in the case of the OCC and OTS orders, a delinquent borrower’s account was charged only fees or penalties that were permissible under the terms of the loan and applicable state and federal law, and were reasonable and customary;
- f) Whether the frequency of fees assessed was excessive under the terms of the loan or applicable state and federal law;
- g) Whether the requirements of the Home Affordable Modification Program (HAMP) and proprietary loss mitigation requirements were followed; and
- h) Whether any errors, misrepresentations, or other deficiencies identified in the review resulted in financial injury to any borrower or mortgagee.

Remediation

On June 21, 2012, the OCC and FRB released a financial remediation framework that provides examples of situations where compensation or other remediation is required for financial injury because of servicer errors, misrepresentations, or other deficiencies. The independent

consultants will use the framework to recommend remediation for financial injury identified during the Independent Foreclosure Review.¹¹

The framework helps ensure that similarly situated borrowers receive similar treatment across all 14 servicers covered by the OCC and FRB consent orders.

The framework covers many categories, but is not intended to address all possible harm scenarios. Not all errors result in financial injury. Examples of actions by the servicer that may result in financial injury include, but are not limited to:

- Foreclosing on a borrower in violation of the Servicemembers Civil Relief Act;
- Foreclosing on a borrower who was not in default on the mortgage;
- Failing to convert a qualified borrower to a permanent modification after successful completion of a written modified payment plan that was supposed to lead to permanent modification;
- Foreclosing on a borrower prior to expiration of a written modified payment plan that leads to permanent modification, while borrower was performing all requirements of the written plan;
- Denying a borrower's loan modification application that should have been approved;
- Failing to offer loan modification options as required by an applicable program;
- Giving a borrower a loan modification with a higher interest rate than should have been charged under the relevant loan modification program;
- Foreclosing on a borrower in violation of federal bankruptcy laws;
- Not providing a borrower with proper notification during the foreclosure process; and
- Committing errors that did not result in foreclosure, but resulted in other financial injury.

Remediation for these injuries may include suspension of a pending or rescission of a completed foreclosure, lump-sum payments, providing the loan modification for which the borrower should have qualified, correction of credit reports, and correction of erroneous deficiency amounts and records.

Lump sum payments can range from \$500 dollars to \$125,000 plus equity in the most egregious cases. The remediation amounts contained in the financial remediation framework are intended to reflect financial harm caused by errors in the foreclosure and loss mitigation process.

No remediation has been made to date as the independent consultants continue to review files and recommend remediation or other compensation. The servicers will prepare remediation

¹¹ See <http://www.occ.gov/topics/consumer-protection/foreclosure-prevention/financial-remediation-framework.pdf>.

plans based on the independent consultants' recommendations. The federal banking regulators must approve each servicer's remediation plan.

More information describing the financial remediation framework is available on the OCC's Web site.¹²

Borrowers Not Required to Provide Waivers to Release Claims Against Servicers

Individuals give up nothing by submitting a request for review under the Independent Foreclosure Review, and requesting a review does not preclude borrowers from taking any other actions related to their foreclosures. The OCC will not permit servicers to require borrowers to sign a waiver of their ability to pursue claims against the servicer in order to receive compensation under the Independent Foreclosure Review. A court could determine, however, that the amount received under the Independent Foreclosure Review should offset any future amount the court awards to a borrower if the borrower separately pursues a claim against the servicer.

¹² See <http://www.occ.gov/independentforeclosurereview>.

Part 2: Corrective Actions Required by OCC Consent Orders

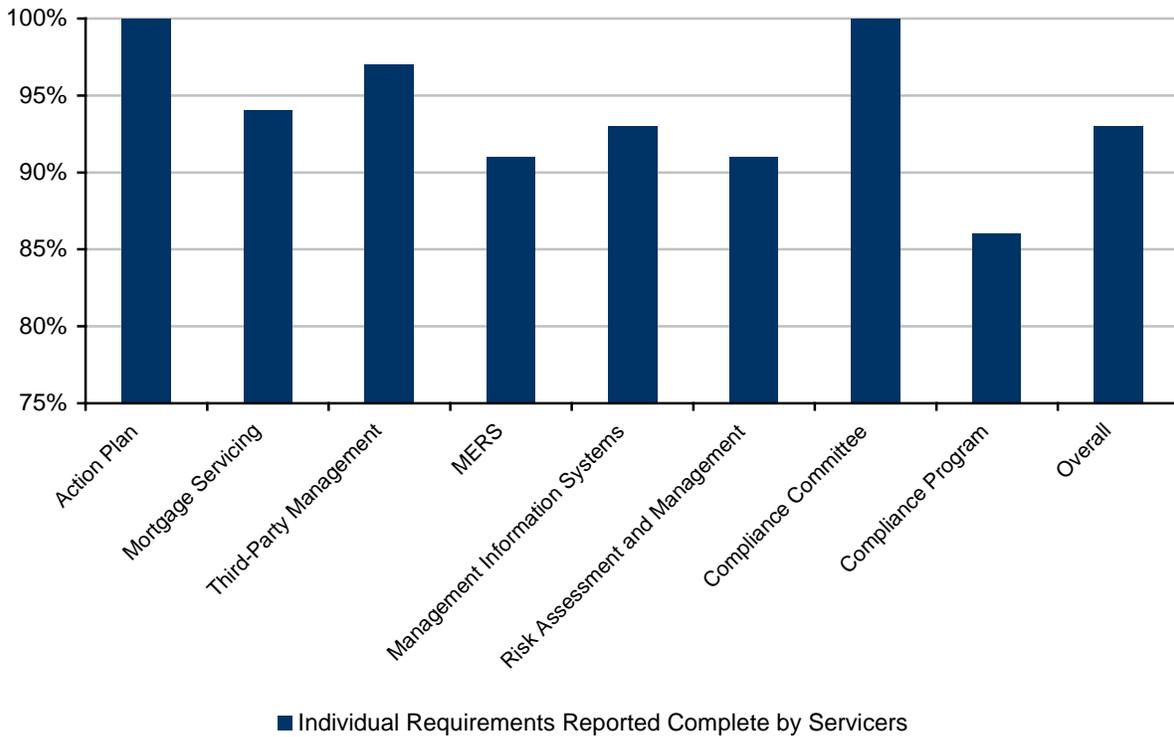
In addition to requiring a comprehensive review of foreclosure activity in 2009 or 2010 to identify and remediate financial injury that resulted from errors in foreclosure processes during that time, the OCC consent orders required comprehensive change to mortgage servicing and foreclosure processes to correct practices going forward. The OCC orders required 12 servicers to implement 97 separate corrective measures to address unsafe and unsound practices documented in the consent orders.¹³ Corrective measures fell into several broad categories—submitting comprehensive action plans, establishing a compliance governance committee, establishing a comprehensive and effective compliance program, enhancing third-party management, reforming MERS, upgrading management information systems, and improving mortgage servicing activities.

Corrective action involves multiple steps and processes. First, servicers develop action plans, subject to OCC acceptance and approval, to correct the identified issues. Second, the servicers must implement the plans and correct deficient processes. Third, the oversight functions at the individual companies will monitor, review, and test the new processes to ensure effective implementation. Lastly, OCC examiners test the new practices to ensure that deficiencies and weakness have been corrected.

The action plans and programs called for by the OCC consent orders must address numerous specific requirements. This interim report provides an update on the status of these actions. Through May 24, 2012, the servicers reported completing 93 percent of these specific requirements. These percentages of completion reflect the status of the individual requirements and not the level of work or time required to fully implement the actions. While the percentages of completion to date represent a significant amount of progress, much work remains to be done to fully implement the corrective actions required by the consent orders and to fully test and validate those actions.

OCC will continue to monitor ongoing work as servicers continue to implement their approved action plans. Work to correct, validate, and monitor corrective action will continue through the remainder of 2012.

¹³ In total, the OCC enforcement orders require 147 separate actions, some of which are addressed in Part 1 of this report and involve actions required in Article VII related to the foreclosure review and other administrative articles. Part 2 reports on the remaining 97 actions required to correct deficiencies in mortgage servicing and foreclosure practices specified in the OCC enforcement orders.

Figure 1. Status of Individual Requirements by Category as of May 24, 2012

Mortgage Servicing

Servicers report completing 94 percent of the required actions to correct deficiencies in mortgage servicing. Corrective actions underway include:

- Measures to ensure that staff members handling loss mitigation and loan modification requests routinely communicate and coordinate with staff members processing foreclosures on the borrowers' properties;
- Deadlines for responding to borrowers' requests for loan modifications and other communications from borrowers, as well as deadlines for making final decisions on loan modification requests; deadlines must be at least as responsive as the timelines under HAMP;
- An easily accessible and reliable single point of contact established for each borrower throughout loan modification and foreclosure processes;
- Written communications to each borrower identifying the single point of contact and specifying one or more means by which the borrower can communicate with the contact;
- Single point of contact access to data necessary to provide borrowers with timely, accurate, and complete information about the status of their loan modification requests and foreclosure cases;
- Measures to ensure that staff members are trained adequately about handling mortgage delinquencies, loss mitigation, and loan modifications;
- Procedures and controls to ensure that, before any foreclosure sale occurs, a final decision regarding a borrower's loan modification request (either on a trial or permanent

basis) is communicated in writing to the borrower within a reasonable period and explains the reasons why the borrower did not qualify for the trial or permanent modification;

- Procedures and controls to ensure that when the borrower's loan has been approved for modification on a trial or permanent basis, no foreclosure or further legal action preceding foreclosure occurs, unless the borrower defaults on the terms of the trial or permanent modification;
- Policies and procedures to enable borrowers to submit complaints about the loan modification process, denial of modification requests, the foreclosure process, or foreclosure activities that impede the pursuit of foreclosure prevention options, as well as a process for making borrowers aware of the complaint procedures;
- Procedures for promptly considering and resolving borrowers' complaints, including a process for timely communication of the resolutions;
- Policies and procedures to ensure that payments are credited promptly; that payments, including partial payments to the extent permissible under the terms of applicable legal instruments, are applied to scheduled principal, interest, and escrow before fees; and that any misapplication of borrowers' funds is corrected promptly;
- Policies and procedures to ensure that timely information about foreclosure prevention options is sent to borrowers in the event of delinquencies or defaults, including plain language notices about loan modifications and foreclosures;
- Policies and procedures to ensure that servicers properly maintain and track documents related to foreclosures and loan modifications, so that borrowers are generally not required to resubmit the same documents already provided, and that borrowers are notified promptly of the need for additional information; and
- Policies and procedures to consider loan modifications or other foreclosure prevention activities with respect to junior lien loans, and to factor the risks associated with such junior lien loans into loan loss reserving practices.

Each servicer has initiated policies, procedures, and processes for providing single points of contact to assist borrowers throughout the loan modification and foreclosure processes. Although full implementation differs from servicer to servicer, actions taken include the establishment of procedures for communicating information about the single points of contact to the borrowers including direct ways to reach these contacts; creation of training programs to instruct single points of contact about their responsibilities and expectations; establishment of specific organizational structures to perform these duties; and the creation of standard communication strategies for conveying information to and from borrowers.

All servicers have implemented controls to prevent "dual-tracking" of loans to ensure that no foreclosure or further legal action relating to foreclosure occurs when a borrower's loan has been approved for modification on a trial or permanent basis. Additional controls are being implemented to address requirements of the Making Home Affordable program and National Mortgage Settlement where applicable, as well as investor requirements. Specific actions related to "dual tracking" also vary from servicer to servicer but include, for example, specific review at designated points before the foreclosure sale, enhanced communication between loss mitigation

and foreclosure processing staff, and development and use of matrices or checklists to ensure that appropriate holds are placed on further foreclosure processing when appropriate.

Corrective actions to improve mortgage servicing will continue throughout the year.

Third-Party Management

Servicers report completing 97 percent of the required actions to improve oversight of third-party service providers that support mortgage servicing and foreclosure activities. Corrective actions underway include:

- Assessing risks associated with third-party activities to determine specific levels of oversight and activities based on identified risks;
- Establishing new policies, or enhancing existing policies, for oversight of third parties;
- Enhancing due diligence in assessing the capabilities of potential third-party service providers;
- Establishing oversight committees to monitor the practices and activities of third parties, to establish processes to assure the quality of their work, and, if necessary, to terminate underperforming or noncompliant third parties;
- Creating procedures to track complaints about third-party activities and performance;
- Scheduling and conducting on-site audits and ongoing quality assurance processes of third parties;
- Including language in service contracts with third parties setting specific work standards;
- Periodically assessing the performance of third-party service providers, including attorneys and law firms providing foreclosure counsel, and the discontinuation of servicing contracts and agreements when appropriate; and
- Improving management information systems used by third parties to ensure the accuracy of records contained in, and transmitted by, those systems.

Work to implement corrective actions to enhance oversight and controls of third-party servicer providers will continue throughout the year.

MERS

Servicers report completing 91 percent of the required actions to ensure appropriate oversight and controls of their activities with respect to MERS and compliance with MERSCORP's membership rules, terms, and conditions. Corrective actions underway include:

- Incorporating MERS into servicers' third-party oversight programs, including periodic review, quality assurance, and independent audits;
- Enhancing controls and standardizing processes for executing mortgage assignments by MERS certifying officers;
- Establishing training, certification programs, and periodic assignments and endorsements related to MERS;
- Improving processes for controlling data quality;

- Creating and executing quality assurance work plans to ensure accuracy and compliance with MERS-related procedures;
- Establishing periodic—in some cases daily—reconciliations of key reports and data to ensure compliance with MERS requirements and prompt resolution of discrepancies; and
- Increasing the number of staff members dedicated to the oversight of MERS-related activities.

Work to implement corrective actions to enhance oversight and controls of activities related to MERS will continue throughout the year.

Management Information Systems

Servicers report completing 93 percent of the required actions to enhance management information systems supporting mortgage servicing, loss mitigation, and foreclosure processing as required by the OCC consent orders. Corrective actions underway include:

- Consolidation of mortgage servicing platforms;
- Standardized and automated workflows to assist personnel with loan modification and foreclosure decisions and processing;
- Development of standardized reporting and improved quality controls;
- Implementation of case management software to provide better access to single points of contact interacting with borrowers;
- Periodic audits;
- Evaluation of requirements and documentation to ensure that management information systems meet the needs of stakeholders from mortgage servicing, loss mitigation, foreclosure processing, and MERS-related activities; and
- Escalated and enhanced reporting to executives and boards of directors.

Enhancing management information systems and other technology-based initiatives is a continuous process. Substantive improvements have been made and will continue throughout the year.

Risk Assessment and Management

Servicers report completing 91 percent of the required actions to assess risks posed by their mortgage servicing operations and develop plans to manage those risks. Corrective actions underway include:

- Conduct periodic third-party audits or self evaluation of risks associated with mortgage servicing and foreclosure processing;
- Conduct periodic assessment of risks and develop action plans to reduce risks from specific functional areas, including loan modifications, disposition of bank-owned real estate, bankruptcy, and compliance with SCRA;
- Strengthen existing policy and internal guidance concerning foreclosure and loss mitigation processes;

- Identify specific individuals or groups accountable for compliance and operational risk associated with mortgage servicing and foreclosure practices;
- Integrate key processes to ensure consistency of policy and procedures related to foreclosure and loss mitigation activities;
- Establish additional training specific to managing risks associated with foreclosure and loss mitigation;
- Develop and report key risk indicators to support monitoring and evaluation of risk on a periodic basis; and
- Use compliance testing on a regular basis.

Work to implement corrective actions to enhance oversight and controls of activities related to risk assessment and management will continue throughout the year.

Compliance Committees, Compliance Programs

Servicers report completing 100 percent of the required actions to implement compliance committees and 86 percent of required actions to implement effective compliance programs related to their mortgage servicing operations. The OCC is in the process of validating these items.

At a minimum, each committee includes at least three members of the institution's boards of directors. The compliance committees are also responsible for timely reporting of actions required by the consent orders, and for taking corrective action for any ongoing or repeated non-compliance.

Corrective actions include:

- Changed management and leadership to ensure accountability and clarify responsibilities for mortgage servicing, foreclosure, and loss mitigation;
- Changed reporting structures to centralize oversight of mortgage servicing, foreclosure, and loss mitigation functions;
- Increased number of personnel responsible for conducting audits and dedicated to ensuring compliance, as well as an increased number of staff members responsible for mortgage servicing, foreclosure, loss mitigation, and information technology services supporting these functions;
- Implemented training programs for signers of sworn documents and notaries to emphasize the personal knowledge required and specific requirements of state law;
- Increased training requirements for customer assistance specialists, single points of contact, and compliance personnel;
- Brought previously outsourced preparation of sworn documents in-house;
- Created or revised templates for sworn documents to conform more closely with state and local law in judicial and non-judicial foreclosure states;
- Implemented quality control processes to ensure proper completion of sworn documents, including, at some servicers, real-time monitoring by dedicated quality assurance staff.

- Established foreclosure referral checklists to verify loss mitigation efforts, bankruptcy status, and the borrower's status related to the SCRA;
- Established dedicated units to specialize in the SCRA and to correct SCRA-related issues;
- Established testing of loan modification denials, sworn document completion, and regulatory compliance, as part of quality control initiatives to verify compliance with loan modification program requirements, Government-Sponsored Enterprises' loan servicing guidelines, and federal laws including the SCRA and bankruptcy; and
- Established periodic evaluations by senior managers of policies, staffing, and functional performance related to mortgage servicing, foreclosure, and loss mitigation.

Work to implement corrective actions to establish compliance committees and to implement compliance programs will continue throughout the year.

Appendix A: Mailings and Requests for Review by State as of May 31, 2012

State	Mailings	Requests	Rates
Alabama	45,310	2,826	6.2%
Alaska	4,603	227	4.9%
Arizona	183,861	7,816	4.3%
Arkansas	21,760	1,079	5.0%
California	788,060	35,480	4.5%
Colorado	74,951	3,733	5.0%
Connecticut	37,657	1,492	4.0%
Delaware	12,161	546	4.5%
District of Columbia	6,566	338	5.1%
Florida	625,919	20,212	3.2%
Georgia	171,275	8,974	5.2%
Hawaii	12,871	642	5.0%
Idaho	21,554	1,134	5.3%
Illinois	197,836	7,607	3.8%
Indiana	82,233	3,232	3.9%
Iowa	23,425	1,163	5.0%
Kansas	23,093	1,144	5.0%
Kentucky	36,033	1,800	5.0%
Louisiana	36,968	2,016	5.5%
Maine	10,629	506	4.8%
Maryland	84,122	3,455	4.1%
Massachusetts	59,993	2,809	4.7%
Michigan	165,615	8,585	5.2%
Minnesota	73,231	3,651	5.0%
Mississippi	21,753	1,524	7.0%
Missouri	63,133	3,570	5.7%
Montana	7,330	514	7.0%
Nebraska	12,606	657	5.2%
Nevada	108,687	4,267	3.9%
New Hampshire	12,850	721	5.6%
New Jersey	131,608	4,417	3.4%
New Mexico	18,061	953	5.3%
New York	160,799	5,847	3.6%
North Carolina	92,027	4,798	5.2%
North Dakota	2,709	118	4.4%
Ohio	140,698	5,879	4.2%
Oklahoma	31,650	1,416	4.5%
Oregon	50,580	2,463	4.9%
Pennsylvania	94,599	4,396	4.6%
Rhode Island	12,143	484	4.0%
South Carolina	49,685	2,508	5.0%
South Dakota	4,359	229	5.3%
Tennessee	66,365	3,519	5.3%
Texas	208,774	10,037	4.8%
Utah	37,573	1,541	4.1%
Vermont	3,323	174	5.2%
Virginia	95,891	4,571	4.8%
Washington	78,381	3,511	4.5%
West Virginia	9,761	537	5.5%
Wisconsin	50,996	3,091	6.1%
Wyoming	3,849	238	6.2%
Other	19,092	1,183	6.2%
Total	4,389,008	193,630	4.4%