Remarks by

Thomas J. Curry
Comptroller of the Currency

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Thank you, it's a pleasure to be here with you today. For all of the time I've been in Washington, Women in Housing and Finance has been an important forum, not only for professional development, but for the sharing of ideas and information about the financial services industry. The programs you put on are top flight, and I'm honored to be part of one.

I've been Comptroller for just over ten months, and I can tell you that there's been no shortage of work to keep us busy. But I'm pleased with the progress we've made on issues involving the industry as well as my agency. Last week, I announced that Larry Hattix, the agency's Ombudsman, has been given the additional title of Senior Deputy Comptroller for Enterprise Governance and elevated to our Executive Committee. By elevating Larry and the enterprise management function, we are setting for ourselves the same high standards we have for federal banks and thrifts.

We're also making good progress on rulemakings, from Volcker to Basel. I remain very hopeful that we'll soon have in place final regulations that provide the clarity the industry needs. As we undertake these critical rulemakings, we are very focused on ensuring that we put standards in place that promote safety and soundness without adding unnecessary burden to community banks.

Finally, enforcement policy has been front and center from the day I walked through the door into the OCC. From unsafe practices involving derivatives trading to Bank Secrecy Act violations, we have found it necessary to impose public enforcement actions on several of our largest banks. Enforcement policy in the context of prudential supervision is not always well understood, and I think there's been a good deal of confusion about several of our actions. So, I'd like to spend the rest of my time today discussing enforcement policy and, in particular, the orders we issued to correct deficient mortgage servicing and foreclosure practices.

First, it should be understood that formal public actions are only one of the tools we have available to ensure that banks and thrifts operate in a safe, sound, and fair manner. While important, formal enforcement actions are rarely the first tool we employ; instead, they are the part of a continuum where they do not reflect the beginning or the end of bank supervision.

Much of our work is aimed at identifying weaknesses that, if left unchecked, might lead to compliance or safety and soundness problems. Our goal is to address such weaknesses early, through the supervisory process and, if necessary through escalating informal enforcement actions, including matters requiring attention of the board of directors. When these steps do not result in corrective action, we do not hesitate to move to the next stage and take a formal, public enforcement action. These actions focus on correcting the problems that would otherwise result in unsafe or unsound practices or noncompliance, and they often require banks to execute detailed action plans under the watchful eyes of our examiners. Sometimes, the infractions require money penalties or restitution orders, and sometimes we find it necessary to bar an individual from working at a bank. It is important to note that the OCC does not have the authority to conduct criminal investigations or prosecutions. Referrals to law enforcement agencies, however, are made where warranted.

There are times when an emergent situation demands an immediate remedy, requiring us to move directly to a public enforcement action. The foreclosure processing mess was one such case, and in April 2011, after conducting a horizontal review of foreclosure and servicing activities, we joined the Federal Reserve and Office of Thrift Supervision in issuing formal enforcement actions against 14 large servicers. At their core, these actions had two fundamental goals: fix what was broken and compensate those who were harmed. That seems simple enough, but in practice it turned out to be quite complicated and not well understood by the public.

Much of the public attention has focused on the independent review of foreclosures in process during 2009 and 2010. That's understandable since these companies service 68 percent of the mortgages in the country, and their foreclosure activities involved 4.4 million borrowers during that period. But, the focus on the Independent Foreclosure Review, as it became known, obscured important work aimed at fixing deficiencies in the system and putting standards in place to ensure that future borrowers will be treated fairly and accorded all of the protections they are entitled to under the law.

Our orders directed servicers to fix what was broken through detailed action plans that are bringing about a sea change in the way they conduct their business. These plans cover deficiencies in mortgage servicing, including programs intended to help struggling borrowers stay in their homes. They deal with oversight and management of third-party service providers, activities related to the custodial responsibilities for mortgage records, management information systems, risk assessment and management, and compliance oversight. The orders required 97 separate corrective actions, some of which involved many steps.

Among the detailed requirements, servicers were directed to improve communication with borrowers, including establishment of single points of contact for foreclosure cases. The plans required effective training programs for customer support staff, and established controls to prevent foreclosures from proceeding when a borrower has been approved for a modification on a trial or permanent basis. These provisions led the way for more robust requirements that were incorporated in the National Mortgage Settlement announced in February 2012, and they have become a centerpiece of the national mortgage servicing standards that are under development.

This was and is an enormous undertaking. We're talking about companies with tens of thousands of employees that were servicing 36.7 million mortgages when the orders were issued. The largest of these institutions do business nationwide and were subject to state and local laws pertaining to foreclosure. This creates a very complicated compliance regime. One bank told us it uses more than 290 different disclosure forms to account for the differing requirements in the many jurisdictions in which it does business. That doesn't excuse any of the lapses we found, but it does illustrate the scope of the problem and the magnitude of the corrective action that was required.

These corrective actions take time to implement, verify, and test. But significant progress has been made, and mortgage servicing standards are far better than they were when we issued our orders. At this point, about 93 percent of the corrective actions have been implemented or stood up, and we are in the process of reviewing and validating the work the servicers have done.

That represents real progress on one front. Unfortunately, as 2012 drew to a close, we recognized that we had made considerably less progress on the Independent Foreclosure Review, or IFR.

The IFR was set up to determine whether eligible borrowers in foreclosure were afforded all of the protections they are entitled to under the law and to provide compensation where errors resulted in financial harm. We knew that would be a difficult task, but it proved to be much more complicated than anyone anticipated.

Our orders directed the servicers to retain independent consultants to conduct the reviews in two parts. The first involved testing a sample of customer files to see if foreclosures were conducted properly, expanding the sample if issues were found. Some 159,000 files were included in the initial sample.

The second part of the review process allowed any eligible borrower who believed they were harmed by servicer practices to request a review. Although this was never intended to be the centerpiece of the IFR, it became the focal point of public attention, and we devoted a lot of effort and resources to building public awareness of the opportunity to request a review. Outreach efforts included a $35 million campaign involving multiple letters; advertising in print, radio, and television in target communities; public service announcements; and grass roots efforts by numerous community groups and counseling organizations. We directed servicers to make every effort to raise awareness among eligible borrowers. As a result, more than 500,000 borrowers requested a review.

The processes established by the consultants to complete the reviews were very thorough and in some cases involved thousands of checkpoints, which reflected the extraordinarily complex laws and rules involved in mortgage servicing and foreclosure processing.

While servicers had expended nearly $2 billion on the consultants' review through November 2012, we were still not ready to compensate the first borrower. So in late 2012, at the same time we were raising awareness of the IFR, we also came to the realization that maintaining our course would significantly delay compensation without appreciable benefit to the affected borrowers. I decided we needed to change direction, and the Federal Reserve came to the same conclusion.

This was not a decision I made lightly. I knew that the servicers, independent consultants, community groups, and even some members of Congress had made a personal and concerted effort to support the process and make it work as well as possible. I am deeply grateful to everyone who supported our efforts, and the added data we received will immensely improve our final analysis.

But in the end, changing course was the right thing to do, for borrowers, for servicers, for the federal banking system, and for the housing markets.

Our new approach will get more money to more people much more quickly. The modified consent orders will provide $3.6 billion in payments to 4.2 million eligible borrowers and $5.7 billion in additional foreclosure prevention assistance. That's the largest cash payout of any foreclosure-related settlement to date. Under this approach borrowers will be contacted and we expect checks will start to go out by the end of

March. Under the old process, reviews would have almost certainly continued into 2014, almost three years after the consent orders were signed.

I know there has been some concern about how we will determine the size and distribution of payments without the full review. Regulators spent a significant amount of time determining categories of potential harm. The types of errors that *could* have occurred fall into 11 basic groups from relatively minor to the very egregious. Eligible borrowers will be slotted into each group based on objective loan attributes and borrower characteristics and then compensated based on that category, a much simpler process than the original IFR. The OCC and the Federal Reserve will then determine the amount of payment for each category ranging from hundreds of dollars to $125,000.

I recognize that this approach is not without its critics. Some have expressed concern that the total amount is too low. Others criticize the agreement because some of the borrowers who receive compensation may not have been affected by errors at all.

To those who think the restitution will be insufficient, I would call their attention to the size of the required outlays — $3.6 billion in direct payments and $5.7 billion in other assistance. The best available information we have suggests the cash payout alone is several times the potential payout had the reviews run their course. And the $5.7 billion in other assistance will result in meaningful relief to borrowers still struggling to keep their homes, and this assistance can make a real difference for those families and their communities. Some have criticized the $5.7 billion in other assistance as being inadequate. However, this requirement should not be viewed in isolation. Other parts of the Consent Orders have numerous and significant requirements addressing loss mitigation and foreclosure prevention activities. These items require servicers to achieve and maintain effective loss mitigation and foreclosure prevention activities, and we will ensure that objective is met. Well structured loss mitigation actions should focus on foreclosure prevention, which will benefit borrowers. These activities should emphasize affordable, sustainable, and meaningful home preservation actions or otherwise provide significant and meaningful assistance to qualified borrowers. Moreover, servicers are expressly prohibited from asking borrowers to execute a waiver of any legal claims they may have against their servicer as a condition for receiving payment.

The concern that some compensation will go to borrowers who did not suffer harm as a result of servicer errors is understandable, but it overlooks the fact that each of these borrowers was part of a process that was far more deficient that any of us should be willing to accept. If we had enough time and unlimited resources to spend on a full review of those case files, then I think all of us would prefer to maintain a process that is aimed at identifying borrowers who were harmed, quantifying that harm, and providing appropriate restitution. But it just doesn't make sense for these servicers to continue funneling money to consultants that could be better used to help distressed borrowers who have lost their homes. The cost of concluding these reviews would far exceed the harm that would be found.

Bringing this process to a conclusion is good for everyone, and it could help speed the recovery of the housing industry, which is so important to the U.S. economy.

I understand there is great interest in this effort and its progress, and I understand the calls for greater transparency. We are in the process of finalizing the amended consent orders, which codify the agreements announced in January, and they will be made public soon. Additionally, we continue to analyze the findings by the independent consultant reviews, and we are gaining knowledge that gives us a unique understanding of the nature of the problems with foreclosure practices. That knowledge will help us ensure that any problems identified are fixed.

Finally, I have committed to additional reporting on this process. We will make periodic reports on the foreclosure mitigation part of this program, and we will issue a final report with considerable detail about our findings. Of course, the Congress, GAO, and the Treasury Inspector General will continue their oversight work to help ensure that the most information possible is made public. I welcome their role and appreciate the important perspective their oversight will bring.

Let me close by thanking each of you for coming out today. Your presence here demonstrates a personal interest and commitment to financial issues and housing matters. You recognize the importance of an industry that services $8.5 trillion in mortgages and plays such a foundational role in our economy. It's critical that we restore trust in this industry so that families undergoing foreclosure can have faith that they will at least be treated fairly. I believe the enforcement actions and the amendments we announced in January will help restore that faith.

I'd be happy now to take your questions.