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Interim Status Report: Foreclosure-Related Consent Orders

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Executive Summary

This interim report summarizes 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

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 consent 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, Board of Governors of the Federal Reserve Board (FRB), and OTS.²

The consent orders required comprehensive action to develop and implement plans to correct the deficiencies identified by the federal regulators. The consent orders required servicers to retain independent consultants to conduct a multi-faceted independent review of foreclosure activities in 2009 and 2010. The servicers were also required to correct deficient and unsafe or unsound practices in their mortgage servicing activities, oversight and management of third-party service providers, activities related to Mortgage Electronic Registration Systems (MERS), management information systems, risk assessment and management, and compliance oversight.

Servicers submitted independent consultant engagement letters and servicer action plans to the OCC in July, as required by the consent orders.³ The OCC has reviewed and accepted these engagement letters and action plans.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. Action plans are not being released because they contain extensive information that is proprietary, but the actions being taken are summarized in this report.

The OCC has stressed the importance of independence as a key requirement for the consultants and outside attorneys engaged for the review process. The OCC closely evaluated and approved consultants to prevent conflicts of interest with regard to issues the independent consultants are

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.

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

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

⁴ The accepted engagement letters, which contain the names of the independent consulting firms conducting the reviews, will be released at the same time as this report with limited proprietary and personal information redacted.

charged to review, and to ensure that reviews are conducted consistently and fairly across all servicers.

Work is well under way on the actions necessary to comply with the consent orders. Efforts to correct deficiencies in foreclosure processes, management oversight, and internal audit are furthest advanced. To advance the process of identifying and providing remediation to borrowers, on November 1, 2011, the OCC and FRB announced that an integrated claims processor began mailing letters to borrowers who were in any stage of foreclosure on their primary residences between January 1, 2009 and December 31, 2010 (see discussion of in-scope borrowers under “Eligibility” in part 1). These letters describe the process the borrowers should follow for requesting reviews of their cases if they believed they suffered financial injury as a result of servicer errors, misrepresentations, or deficiencies in the foreclosure processes. Reviews are expected to take several months to complete.

While much of the work to correct identified weaknesses in policies, operating procedures, control functions and audit processes will be substantially complete in the first part of 2012, other longer term initiatives will continue through the balance of 2012. Actions and progress vary by servicer. OCC examiners continue to provide ongoing oversight of activities to ensure compliance with the consent orders.

The remainder of this report summarizes activities taken through November 4, 2011, to comply with the consent orders.

Part 1: Independent Foreclosure Reviews

The consent orders required the servicers to retain independent consultants to conduct comprehensive, multi-faceted, independent reviews of foreclosure activities in 2009 and 2010. Servicers retained third-party consultants to conduct these reviews.

The independent consultants for each servicer are:

- AllonHill, LLC, for Aurora Bank;
- Clayton Services, LLC, for EverBank;
- Deloitte & Touche, LLP, for JPMorgan Chase;
- Ernst & Young, LLP, for HSBC and MetLife Bank;
- Navigant Consulting, Inc., for OneWest;
- PricewaterhouseCoopers, LLC, for Citibank and US Bank;
- Promontory Financial Group, LLC, for Bank of America, PNC, and Wells Fargo Bank; and
- Trelia Risk Advisors, LLC, for Sovereign Bank.

The independent consultants submitted engagement letters in July describing how they would proceed in conducting those reviews. The OCC reviewed the engagement letters, required changes to address OCC guidance, and accepted the letters in late September.

On November 1, 2011, servicers and the independent consultants began an outreach effort to inform in-scope borrowers of the process for requesting reviews if they believed they suffered financial injury as a result of errors, misrepresentations, or other deficiencies in foreclosure actions on their primary residences between January 1, 2009, and December 31, 2010. For any financial injury that the reviews identify, the consent orders require remediation. In addition to a coordinated, integrated claims process, independent consultants began their file reviews in October pursuant to criteria contained in the engagement letters and accepted by the OCC.

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 servicers below:

America’s Servicing Company	Countrywide	National City
Aurora Loan Services	EMC	PNC
Bank of America	Everbank/Everhome	Sovereign Bank
Beneficial	GMAC Mortgage	SunTrust Mortgage
Chase	HFC	U.S. Bank
Citibank	HSBC	Wachovia

CitiFinancial
CitiMortgage

IndyMac Mortgage Services
Metlife Bank

Washington Mutual
Wells Fargo

A loan is considered active in the foreclosure process if any of the following actions took place on a primary residence at any time during 2009 or 2010:

- The property was sold due to a foreclosure judgment.
- The mortgage loan was 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 was 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 was 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.

Independence

The OCC required independence of the consultants and law firms hired by the consultants to conduct and support foreclosure reviews. During the selection process, regulators rejected some proposed consultants and law firms to avoid potential conflicts of interest. At the direction of the OCC, the engagement letters contained language stipulating that consultants would take direction from the OCC throughout the reviews. This language specifically prohibited servicers from overseeing, directing or supervising any of the reviews. Specifically, the OCC required each independent consultant to:

- Comply with all requirements set forth in article VII of the consent order and to conduct each foreclosure review as separate and independent from any review, study, or other work performed by the servicer or its contractors or agents with respect to the servicer's mortgage servicing portfolio or the servicer's compliance with other requirements of the consent order.
- Ensure its work under the foreclosure review would not be subject to direction, control, supervision, oversight, or influence by the servicer, its contractors, or agents.
- Require immediate notification to the OCC of any effort by the servicer, directly or indirectly, to exert any such direction, control, supervision, oversight, or influence over the independent consultant, its contractors, or agents.
- Agree that the independent consultant is solely responsible for the conduct and results of the foreclosure review, in accordance with the requirements of article VII of the consent order.
- Pursuant to the monitoring, oversight, and direction of the OCC, 1) promptly comply with all written comments, directions, and instructions of the OCC concerning the conduct of the foreclosure review, and 2) promptly provide any documents, work papers, materials or other information requested by the OCC, regardless of any claim of privilege or confidentiality.
- Agree to provide regular progress reports, updates and information concerning the conduct of the foreclosure review to the OCC, as directed.

- Conduct the foreclosure review using only personnel employed or retained by the independent consultant to perform the work required and not to employ services provided by the servicer's employees, contractors, or agents unless the OCC provides prior written approval.
- Adhere to requirements with respect to communication with the servicer, which provide for the independent consultant to utilize documents, materials or other information provided by the servicer, and communicate with the servicer, its contractors or agents, to conduct the foreclosure review. For example, the independent consultant may communicate with bank employees to obtain clerical assistance, to determine if information provided is complete or accurate, to verify or confirm information concerning specific case files, or to communicate with servicer employees regarding case files so that errors or omissions may be brought to the independent consultant's attention. Within these limits, agree that servicer's employees may not influence or attempt to influence determinations concerning the findings or recommendations of the independent consultant, whether regarding specific case files, categories of cases, or the foreclosure review more generally.
- Agree that any legal advice needed in conducting the foreclosure review shall be obtained from the outside law firm whose retention for that purpose has been approved by the OCC and not to obtain legal advice (or other professional services) in conducting the foreclosure review from the servicer's inside counsel, or from outside counsel retained by the servicer or its affiliates to provide legal advice concerning the consent order, or matters contained in the consent order.
- Require the servicer to agree that if the OCC determines that the consultant has not fully complied with the standards for independence, the OCC may direct the servicer to dismiss the consultant and retain a successor consultant.

These standards and oversight by the OCC are aimed at ensuring that the end result of the review, its findings, and recommendations will be the product and opinion of the independent consultants, unaffected by the servicers, their directors, their managers, or their attorneys.

Servicers are required to engage in regular discussions with the consultants to provide information about operations, assistance in gathering information, or feedback for consideration by the consultants.

Claims Process—Outreach to Borrowers

The OCC has worked with the independent consultants and servicers to establish a single integrated claims process. As part of that process, mailings to more than 4 million borrowers began on November 1, 2011, and will continue through the end of the year. The letters provide information on how borrowers can request reviews of their cases if they believe they suffered financial injury as a result of errors, misrepresentations, or other deficiencies in foreclosure proceedings related to their primary residences between January 1, 2009, and December 31, 2010. Each letter includes a request for review form. All servicers agreed to work through a single claims processing firm with experience in setting up integrated claims processes, conducting outreach, and processing claims requests.

A Web site—www.IndependentForeclosureReview.com—and toll-free phone number—1-888-952-9105—were also launched on November 1, 2011, to provide information about the

reviews and the integrated claims process. 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 time).

Requests for review must be received by **April 30, 2012**.

The direct mailings, Web site, and toll-free number are part of a plan developed by the independent consultants and servicers, and accepted by the OCC, for advertising and communicating the existence of the integrated claims process and answering borrower questions. While direct mail will reach those borrowers still in their homes, and other borrowers whose addresses have been identified, the plan also includes the use of address tracing and other methods to locate borrowers. If an address is not current, borrower data will be run through a national change-of-address database to look for a more current address. All returned mail from the initial mailing will be processed through a third-party consumer information database using information from sources such as credit bureaus, public records and registrations, utilities, phone number databases, etc., to determine most likely current addresses. Returned mail from the second attempt will be processed a third time to determine the most likely current address. Mass media and online advertising, media coverage (news stories and other unpaid coverage), and outreach to consumer groups are also planned to generate broad awareness of the review process and reach those borrowers whose addresses are unknown.

The mass media advertising includes full-page print advertisements in widely read national publications (e.g. *Parade Magazine*, *People*, *TV Guide*), and online marketing activities, including social media, and key-word advertising on major search engines (e.g. Google, Bing).

National advertising will begin toward the end of the year to reinforce the direct-mail messages and reach borrowers who were not reached directly. Proposed print advertising outlets have a combined circulation in excess of 60.5 million, adequate saturation in areas most affected by foreclosure, and reach a diverse target audience.

Online paid search, or key-word marketing, will enable people to find information about the independent foreclosure reviews quickly by using familiar search Web sites and typing in basic search terms.

Media coverage is being sought in print, radio, online, and television news outlets. On November 1, 2011, the OCC, FRB, and the consortium of servicers published news releases announcing the integrated claims process.⁵ The OCC news release was posted to the agency's Web site, sent to more than 36,000 subscribers to its e-mail subscription lists, distributed to more than 1,000 news outlets through a news release distribution service, and appeared verbatim on more than 213 news Web sites. In addition, the release was posted to the OCC's Facebook page and sent out to Twitter followers. As a result, dozens of news stories on the subject have been published in national and regional news outlets, and dozens of blogs have covered the subject. Readership of print news coverage alone exceeded 7.5 million on November 2 and 3, 2011.

⁵ See OCC NR 2011-133, "Independent Foreclosure Review" (<http://www.occ.gov/news-issuances/news-releases/2011/nr-occ-2011-133.html>)

Outreach to consumer groups includes direct communication with organizations, community groups, and certified housing counselors. The OCC and representatives of servicers have each held meetings or conducted calls with a variety of groups. Outreach efforts will continue throughout the review process.

Servicers, the consultants, and the OCC will monitor the reach and effectiveness of this advertising, outreach, and publicity activities.

“Look-Back” Reviews—Sampling

In addition to the coordinated claims process, a “look-back” review using sampling techniques will be conducted. The review supplements the coordinated claims process and is intended to further identify servicer deficiencies, errors, or misrepresentations that may have caused financial injury. In October, the consultants began selecting files from servicers for their foreclosure reviews, in accordance with plans for segmentation and sampling contained in engagement letters submitted to, and accepted by, the OCC.

The consent orders allowed the consultants to use sampling methods and other tools to identify files for review. Guidance from the OCC described methods and controls to ensure that samples would be representative of the in-scope mortgages to be reviewed—loans on the borrower’s primary residence that were in any stage of the foreclosure process during 2009 and 2010. The engagement letters contain descriptions of the statistical basis for the sampling methods used by the independent consultants. Those sampling methods were subject to OCC approval.

Some segments of foreclosure cases require 100 percent review, including certain bankruptcy cases facing foreclosure in 2009 and 2010, foreclosure cases involving Servicemembers Civil Relief Act (SCRA), foreclosure cases referred by state or federal agencies, and cases arising from claims and complaints submitted under the integrated claims process established pursuant to the consent orders.

Mortgages that are in the sampling population may be segmented based on characteristics that include geography, third-party attorney, types of borrower history in paying mortgages, prior customer complaints, and participation in modification programs, such as the federal Home Affordable Modification Program (HAMP).

The segments and sizes of the samples selected for review were determined by the consultants, based on guidance from the OCC and in consultation with the servicers, but not determined or dictated by servicers.

In determining sample segmentation and assessing whether particular foreclosure cases or groups of cases require higher degrees of review, the consultants will use a variety of information available from the servicers. Such information includes internal reports or reviews, as well as information obtained through litigation or other means, that identified credible evidence of errors, misrepresentations, or other deficiencies with the potential to cause financial injury. These deficiencies could include problems in the preparation or submission of foreclosure documents.

In some cases, sampling may be appropriate at the outset, but initial results may lead to more in-depth review based on initial results. These second-level reviews will be monitored by the OCC to ensure they are appropriately structured and implemented. The OCC expects the consultants to assess the results of the ongoing reviews continuously to identify potential “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 consent 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 permissible under the terms of the loan, 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 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.

Part 2: Mortgage Servicing

The consent orders require servicers to correct deficiencies in mortgage servicing. Plans submitted by the servicers include, at a minimum:

- 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;
- A requirement for 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;
- A requirement that each single point of contact have 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 established policies and procedures for providing single points of contact to assist borrowers throughout the loan modification and foreclosure processes. Although 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. Servicers are required to initiate processes for establishing single points of contact and supporting procedures by the end of the year.

All servicers have implemented controls to prevent "dual-tracking" of loans to ensure 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. 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 appropriate holds are placed on further foreclosure processing when appropriate.

Part 3: Third-Party Management

The consent orders require servicers to improve oversight of third-party service providers that support mortgage servicing and foreclosure activities.

The servicers submitted plans by July 13, 2011, to implement controls and enhance oversight of third parties. In October, the OCC accepted plans for servicers it regulates. Work is under way to implement those plans.

The plans establish processes for appropriate due diligence in evaluating the qualifications of potential third-party service providers before entering into new contractual arrangements. The plans also provide for regular, periodic reviews of third-party service providers and assessment of their performance based on qualitative standards for competence, completeness, and legal compliance rather than standards based solely on the volume of foreclosures processed or the speed of processing. Additionally, the plans provide for the secure custody and accuracy of records transferred to these third parties during the foreclosure process.

Specific actions vary from servicer to servicer. Examples of actions taken by servicers 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.
- Improving management information systems used by third parties to ensure accuracy of records contained in, and transmitted by, those systems.

Part 4: MERS

The consent orders require servicers to ensure appropriate oversight and controls of their activities with respect to MERS and compliance with MERSCORP's membership rules, terms, and conditions. Servicers action plans submitted in July required, at a minimum:

- Processes to ensure that all mortgage assignments, endorsements, and all other actions with respect to mortgage loans serviced or owned by the servicer out of MERS' name are executed only by a certifying officer authorized by MERS and approved by the servicer;

- Processes to ensure that the servicer maintains up-to-date corporate resolutions from MERS for all servicer employees and third-parties who are certifying officers authorized by MERS, and up-to-date lists of MERS certifying officers;
- Processes to ensure compliance with all MERS requirements and with the requirements of the MERS Corporate Resolution Management System;
- Processes to ensure the accuracy and reliability of data reported to MERSCORP, including monthly system-to-system reconciliations and daily capture of all reports of problems with registrations, transfers, and status updates on open-item aging reports; and
- An appropriate MERS quality assurance work plan and annual independent tests of the control structure of the system-to-system reconciliation process, the error correction process, and adherence to the servicer's MERS Plan.

Work is under way to implement these plans. Specific actions vary from servicer to servicer, and 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.
- Increasing the number of staff members dedicated to the oversight of MERS-related activities.

Corrective actions to enhance oversight and controls of activities related to MERS are expected to be in effect by the end of the first quarter of 2012.

Part 5: Management Information Systems

The consent orders require the servicers to improve the management information systems that support mortgage servicing and foreclosure processing. Each servicer has submitted a plan for the operation of its management information systems for foreclosure and loss mitigation to ensure the timely delivery of complete and accurate information to permit effective decision making regarding foreclosure, loan modification, or loss mitigation. The plans include descriptions of systems used by servicers for foreclosure and loss mitigation purposes. They also include timetables for changes or upgrades necessary to monitor compliance with legal requirements, servicing guidelines of government-sponsored enterprises (GSE), and requirements of the consent orders. Improvements to management information systems will ensure accuracy of records and provide staffs working on foreclosures and loss mitigation efforts access to necessary and timely information provided by the borrowers.

Work is under way and varies by servicer. Examples of actions related to management information systems 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.
- Escalation 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 next year.

Part 6: Risk Assessment and Risk Management

The consent orders require the servicers to assess risks posed by their mortgage servicing operations and develop plans to manage those risks. Servicers have conducted their assessments and developed specific action plans to effectively mitigate or manage identified risks on an ongoing basis. Work on those plans is under way. Actions vary by servicer. Examples of actions related to risk assessment and management 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.

- Use compliance testing on a regular basis.

Implementation of risk management plans is expected to be in effect during the first quarter of 2012. Assessment and monitoring will be an ongoing servicer activity.

Part 7: Compliance Committees, Compliance Programs

The consent orders require a number of actions to ensure compliance with the orders and with applicable laws and regulations.

During the third quarter of 2011 as required by the consent orders, the servicers set up compliance committees responsible for the development and implementation of compliance programs, action plans, policies and procedures, and strengthened operating processes to correct the deficiencies cited by the enforcement actions. 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 enforcement orders, and for taking corrective action for any ongoing or repeated non-compliance.

Consent orders required comprehensive action plans to address compliance. Servicers submitted those plans by July 13, 2011, and work is under way to implement the plans. Plans addressed financial and personnel resources, organizational structure, and specific controls to ensure the affidavit, declarations, and notarization processes comply with applicable laws and regulations.

Actions vary by servicers. Examples of actions to enhance compliance 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 the 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 laws, 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 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, GSE loan servicing guidelines, and federal laws including SCRA and bankruptcy.
- Established periodic evaluations by senior managers of policies, staffing, and functional performance related to mortgage servicing, foreclosure, and loss mitigation.

As work continues to improve compliance controls across the servicers, the OCC expects the servicers to complete the implementation of new processes, policies, and enhanced controls during the first part of 2012.