

United States Senate

WASHINGTON, DC 20510

January 13, 2012

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW, Room 7000
Washington, DC 20548

Dear Comptroller General Dodaro:

Under the enforcement action taken in April 2011 by the Office of Comptroller of the Currency (“OCC”) and the Federal Reserve Bank (“FRB”), several large mortgage servicers were required to correct deficiencies in their servicing and foreclosure processes and to engage third-party consultants to conduct a multi-faceted review of foreclosure actions that occurred in 2009 and 2010. The foreclosure reviews will largely be conducted by third-party consultants upon request by borrowers who faced some type of foreclosure action on their primary residence. The consultants are charged with evaluating whether borrowers suffered financial injury as a result of servicer errors, misrepresentations or other deficiencies in the foreclosure process and determining appropriate remedies such as compensation for those borrowers. The foreclosure review program could potentially impact about 4.6 million homeowners who are eligible for review.

We are pleased that the OCC and FRB are taking steps to evaluate wrongful foreclosure processes and provide recourse for homeowners who have been harmed by deficient foreclosure actions. However, it is imperative that this program receive the necessary oversight and evaluation it needs to ensure its success.

Accordingly, we request that GAO assess the independence, transparency, accountability, and consistency of this foreclosure review process in its design, implementation, and results. We request that this GAO assessment include, among other things:

Independence

- Should the OCC and FRB have allowed mortgage servicers found responsible for wrongdoing in foreclosures to pick the third party consultants that would review those same servicers’ foreclosure cases?
- Were there any alternatives to the OCC and FRB’s approach to allowing mortgage servicers to choose third party consultants? If so, what are the tradeoffs between the various approaches that were available to the OCC and FRB?
- Were the conflict of interest standards used by the OCC and FRB to approve or disapprove of the third party consultants fair to both servicers and homeowners?
- As part of the information gathering process during foreclosure reviews, should the third party consultants be required or permitted to speak directly to homeowners without getting permission from or notifying servicers of such direct communication?

Transparency

- Should the OCC and FRB release the full guidelines (more than just examples) to the public for what constitutes “financial harm” to a borrower?
- Should the OCC and FRB release full guidelines on the escalation process for imminent foreclosure? Should the foreclosure process be temporarily stopped for homeowners with imminent foreclosures until the review is completed?
- Should the OCC and FRB release the full guidelines on what standards are being used to provide relief or compensation for people whose foreclosures were not handled properly?

Accountability

- How will the OCC and FRB conduct oversight of both the third party consultants’ work and the responsiveness of servicers? What actions should regulators take if they find performance of third party consultants or servicers lacking?
- Does each of the third party consultants have adequate capacity and expertise to perform the reviews in an accurate and timely manner?
- Are the outreach procedures and advertising to homeowners that are being adopted adequate to effectively reach all eligible households? What should constitute “success” in terms of a borrower response rate?
- Is April 30, 2012 an appropriate deadline for when eligible homeowners must submit claims related to deficient mortgage servicing?
- Are the penalties the OCC and FRB ultimately impose on servicers for illegal or improper foreclosure practices fair given the need for both compensation and deterrence?

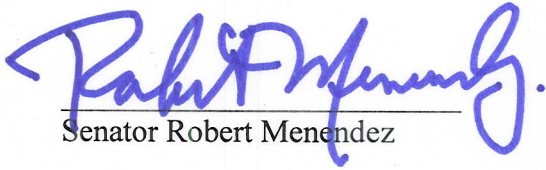
Consistency

- What procedures are being established for both the foreclosure reviews and the remediation process to ensure uniformity so that borrowers get the same treatment no matter which servicers or consultants they have? Will these be uniform for all of the affected servicers, both those regulated by the OCC and those regulated by the FRB?
- What standards for relief should be used to provide compensation for people who were foreclosed upon improperly in various ways?

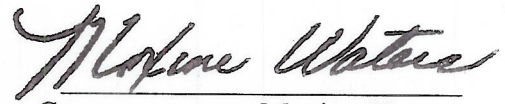
In closing, the foreclosure review program is extremely important to our nation’s homeowners, especially those who have been harmed by illegal foreclosure practices. As we attempt to correct for past illegal foreclosure practices, the federal government must ensure independence, transparency, accountability, and consistency in all aspects of the foreclosure review program. After being hard-hit by the foreclosure crisis and other economic woes, American homeowners expect and deserve a fair review and compensation where appropriate.

Thank you for your prompt attention and consideration. To discuss this request, please contact Michael Passante at (202) 224-3551 and Amanda Fischer (202) 226-3903.


Sincerely,



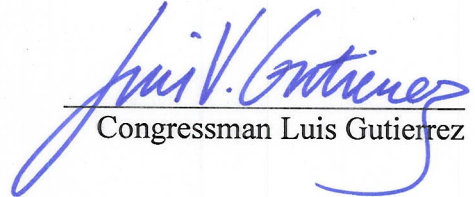
Senator Robert Menendez



Congresswoman Maxine Waters



Congressman Brad Miller



Congressman Luis Gutierrez