



Audit Report



OIG-14-044

SAFETY AND SOUNDNESS: OCC Needs to Ensure Servicers Implement Amended Foreclosure Consent Orders and Act on Identified Weaknesses

August 6, 2014

Office of
Inspector General

Department of the Treasury

Contents

Audit Report

Background 3

Audit Results..... 7

Foreclosure Settlement Amounts Were Negotiated 7

Borrower Payment Amounts Were Based on the Independent Foreclosure
Review Remediation Framework 9

OCC Relied on Servicers to Validate Borrowers Categorization 12

OCC Did Not Object to Paying Agent and Paying Bank 15

OCC Monitored the Payment Process and Noted Concerns 16

Everbank and OneWest Payments 18

OCC’s Oversight of Foreclosure Prevention Actions Has Not
Substantively Begun 19

GAO Foreclosure Review..... 20

Recommendations 21

Appendices

Appendix 1: Objectives, Scope, and Methodology 25

Appendix 2: Cash Payment and Foreclosure Prevention Amounts Under the
Amended Foreclosure-Related Consent Orders 28

Appendix 3: Independent Foreclosure Review Payment Agreement Details
as Published by OCC and FRB 29

Appendix 4: Management Response 30

Appendix 5: Major Contributors to This Report 32

Appendix 6: Report Distribution 33

Abbreviations and Acronyms

EIC	examiner in charge
FRB	Board of Governors of the Federal Reserve System
GAO	Government Accountability Office
IFR	independent foreclosure review
JAMES	Joint Audit Management Enterprise System
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
QSF	Qualified Settlement Fund
RFR	Request for Review
SCRA	Servicemembers Civil Relief Act

This page intentionally left blank

*The Department of the Treasury
Office of Inspector General*

August 6, 2014

Thomas J. Curry
Comptroller of the Currency

This report presents the results of our audit of the Office of the Comptroller of the Currency's (OCC) oversight of amended foreclosure consent orders that OCC, in conjunction with the Board of Governors of the Federal Reserve System (FRB), issued to major mortgage servicers.¹ These orders amended foreclosure related consent orders originally issued in April 2011 against these major mortgage servicers for unsafe and unsound practices in residential mortgage servicing and foreclosure processing.² The amended orders required that the servicers cease work on the independent foreclosure reviews (IFRs) required by the original orders and provide relief to potentially harmed borrowers in the form of cash payments and foreclosure prevention actions.

Our audit objectives were to: (1) report on the circumstances and processes used to determine that the foreclosure consent orders issued in April 2011 needed to be amended, including how the new

¹ In February 2013, amended consent orders were entered into with Bank of America, N.A.; Citibank, N.A.; Goldman Sachs; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; Morgan Stanley; PNC Bank, N.A.; U.S. Bank National Association and U.S. Bank National Association ND; Wells Fargo Bank, N.A.; Aurora Bank FSB; Sovereign Bank, N.A.; and, SunTrust Banks, Inc., SunTrust Bank and SunTrust Mortgage, Inc. GMAC/Ally entered into an amended consent order with FRB in July 2013. Similarly, Everbank entered into an amended consent order with OCC in August 2013.

² In September 2013, we reported the results of our audit of OCC's oversight of the April 2011 foreclosure-related consent orders. In that audit, we found that OCC had developed a framework to monitor servicers' corrective action plans and oversee the IFR process. However, we noted that OCC oversight needed strengthening. Specifically, OCC had not performed comprehensive direct testing of individual IFRs to assess whether independent consultants were performing the reviews objectively, consistently, and in compliance with OCC guidance. In addition, improvements were needed in the documentation of various aspects of OCC oversight. *OIG, Safety and Soundness: Improvement Needed in OCC's Oversight of Foreclosure Related Consent Orders* (OIG-13-049; Sep. 9, 2013)

settlement amounts were derived; and (2) assess OCC's oversight of servicers' compliance with the amended foreclosure consent orders, including the servicers' categorization of the population of borrowers due payment, the payment of funds from a Qualified Settlement Fund (QSF),³ and the servicers' loss mitigation or other foreclosure prevention actions.

We conducted our fieldwork from April 2013 through December 2013. We interviewed OCC headquarters management and examiners-in-charge (EIC) at select servicers subject to the amended consent orders. In addition, we reviewed documentation of OCC's development of the amended consent orders and oversight of the payment process. Appendix 1 contains a more detailed description of our audit objectives, scope, and methodology. Concurrent with our review, the Government Accountability Office (GAO) reviewed the amended consent order process. We coordinated our efforts with GAO to minimize the resource impact on OCC and to avoid duplication of effort.

In brief, we found that OCC pursued the amendment of the original foreclosure related consent orders to facilitate more timely relief to borrowers potentially harmed during the foreclosure process. We found the cash payment and foreclosure prevention figures in the amended consent orders were negotiated amounts with the servicers that had limited analytical support. We also found that OCC provided oversight of servicers' borrower categorization and the payment processes. This oversight identified weaknesses and concerns with both processes of which OCC is continuing to address the concerns with the payment process. We noted that OCC oversight of servicers' foreclosure prevention actions has not yet substantively begun.

We are recommending that OCC (1) continue to work to ensure that errors and concerns that it identified in the payment process are addressed; (2) finalize its determination on the disposition of funds remaining in the QSFs after the distribution is complete; (3) ensure servicer system weaknesses and data limitations identified during OCC's validation work are addressed in the

³ QSFs were established by the amended consent orders from which payments to potentially harmed borrowers are made. As discussed in more detail in footnote 9, there are four QSFs for the amended consent orders.

corrective action plans developed by the servicers and that these corrective action plans are implemented; and (4) implement processes to monitor the sufficiency of foreclosure prevention measures taken by servicers subject to the amended consent orders.

Management Response In a written response, included as appendix 4, OCC stated it will continue to (1) provide oversight including addressing errors and concerns identified in the payment process until the QSFs are closed and (2) discuss options for the use of residual QSF funds and plans to have a decision in the near future. OCC stated that it plans to assess servicer system weaknesses and data limitations, including those identified by the independent consultants and their examiners, during testing of management information systems and reporting. Completion of this testing is expected by November 30, 2014. OCC also stated that that it would complete testing of the effectiveness of servicers' loss mitigation and foreclosure prevention activities by November 30, 2014.

OIG Comment We consider the actions taken and planned by OCC as responsive to our recommendations. However, OCC will need to record planned completion dates for planned actions in the Joint Audit Management Enterprise System (JAMES), the Department of the Treasury's audit recommendation tracking system.

Background

In April 2011, OCC, the former Office of Thrift Supervision (OTS), and FRB issued foreclosure related consent orders against 14 major mortgage servicers (8 supervised by OCC, 4 supervised by OTS, and 2 by FRB) for unsafe and unsound practices in residential

mortgage servicing and foreclosure processing.⁴ These unsafe and unsound practices were identified during a horizontal review⁵ performed in 2010. FRB issued similar consent orders against two other servicers at a later date.⁶ Pursuant to these orders, the servicers engaged independent consultants to perform IFRs to identify and remediate financial injury to borrowers who were in the foreclosure process in 2009 and 2010. These reviews were performed during 2011 and 2012. The consent orders also required that servicers develop and implement various corrective action plans to address the unsafe and unsound practices that had been identified.

OCC officials told us that, as of November 2012, the independent consultants, hired to perform the IFRs, had received about \$2 billion in compensation from the servicers, but no borrower remediation for financial injury had been made. OCC officials concluded that the IFR process was taking longer than anticipated and delaying the compensation to harmed borrowers. Working in conjunction with FRB, OCC began negotiating changes to the original consent orders with the servicers. In January 2013, new terms were agreed to by 11 of the 14 servicers subjected to the original consent orders (10 supervised by OCC and 1 supervised by FRB) and amended orders were entered into with the participating servicers in February 2013. FRB also entered into amended consent orders with the two servicers that had been issued foreclosure consent orders after April 2011.⁷

⁴ OCC took action against eight national bank servicers: Bank of America, N.A.; Citibank, N.A.; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; PNC Bank, N.A.; U.S. Bank National Association and U.S. Bank National Association ND; and Wells Fargo Bank, N.A. OTS took action against four federal savings association servicers: Aurora Bank FSB; Everbank and its thrift holding company, EverBank Financial Corp.; OneWest Bank, FSB and its holding company IMB HoldCo LLC; and, Sovereign Bank. FRB took action against the holding companies for the national banks mentioned above and two other financial institutions under their supervision: Ally Financial, Inc., and SunTrust Banks, Inc. With the transfer of OTS' oversight of federal savings associations to OCC in July 2011 pursuant to Public Law 111-203, OCC now supervises the four federal savings association servicers, including enforcement of the OTS-issued consent orders.

⁵ The term horizontal review refers to a bank examination in which the regulator simultaneously performs the same examination procedures across a group of institutions.

⁶ FRB took action against Goldman Sachs Group, Inc., on September 1, 2011, and Morgan Stanley on April 2, 2012.

⁷ The two additional servicers were Goldman Sachs Group, Inc., and Morgan Stanley.

For the participating servicers, the new terms required them to immediately cease most IFR activity, make cash deposits to a QSF established to make payments to potentially harmed borrowers, and initiate a range of foreclosure prevention actions. OCC officials told us that the totals for cash payments to potentially harmed borrowers and foreclosure prevention actions were negotiated with the servicers.

Under the amended orders, servicers were required to categorize borrowers according to the most likely type of potential financial harm suffered as a result of the servicer's foreclosure practices. These categorizations were called "the waterfall" by the regulators. The category in which a potentially harmed borrower was placed determined the cash payment amount. OCC and FRB developed the categories and associated payment amounts. OCC officials told us that if a borrower fell into more than one category, the borrower was placed in the category that yielded the highest payment.

The servicers engaged Rust Consulting, Inc. (Rust), as the paying agent to manage the distribution process.⁸ Rust was responsible for setting up and administering the QSFs and performing operational activities to distribute cash payments to eligible borrowers.⁹ These operational activities included issuing and reissuing checks, following up on undeliverable mail, providing a call center and customer support, and providing activity reporting. Rust engaged The Huntington National Bank (Huntington) as the paying bank to hold the QSFs' deposits and provide check-clearing services for payments made from the QSFs. Direct payments to potentially harmed borrowers began in April 2013.

⁸ Rust provides project management, data management, notification, contact center, claims processing and distribution reporting to customers in the public, legal, and business sectors.

⁹ There are four QSFs for the amended consent orders: QSF1 for the OCC- and FRB-supervised institutions detailed in footnote 1 as entering into amended consent orders in February 2013; QSF2 for the FRB-supervised institutions detailed in footnote 6; and QSF3 for FRB-supervised Ally Financial Inc. A separate QSF for EverBank is being administered by Epiq Class Action & Claims Solutions, Inc.

The amended consent orders set guiding principles for servicers to follow in meeting their foreclosure prevention action obligation.¹⁰ The orders also include those activities for which servicers may receive credit, such as loan modifications, short sales, interest rate modifications, and deficiency waivers. In addition, the orders allow servicers to alternatively meet their foreclosure prevention obligation through additional cash payments to the QSFs, or cash payments or resource commitments to borrower counseling or education, subject to OCC non-objection.¹¹

In recognition of the cash payments and foreclosure prevention commitments made by the servicers in the amended consent orders, OCC agreed not to assess civil money penalties against the servicers for past mortgage servicing- or foreclosure-related practices addressed by the original consent orders or findings of the IFR process. However, the amended consent orders specifically state that OCC reserves the right to take action against servicers for non-IFR related violations of the original consent orders or for the failure of the servicer to meet the terms of the amended consent orders.

Two of the three servicers that did not originally agree to the amended orders — EverBank and OneWest — are supervised by OCC. OCC officials told us that these two servicers did not agree for a variety of reasons, including, among others, the belief that it was too costly and because their reviews were further along. On August 23, 2013, OCC announced that EverBank had agreed to an amendment of its consent order to make direct cash payments and provide other foreclosure relief. OCC officials told us that OneWest is continuing to perform the IFR reviews and is projecting to

¹⁰ The amended consent orders note that the participating banks' foreclosure prevention actions should reflect the following guiding principles: (a) preference should be given to activities designed to keep the borrower in the home; (b) foreclosure prevention actions should emphasize affordable, sustainable, and meaningful home preservation actions for qualified borrowers; (c) foreclosure prevention actions should otherwise provide significant and meaningful relief or assistance to qualified borrowers; and (d) foreclosure prevention actions should not disfavor a specific geography within or among states, nor disfavor low and/or moderate income borrowers, and not discriminate against any protected class of borrowers.

¹¹ For those participating servicers that requested to satisfy their foreclosure prevention commitments in this manner, OCC has only issued non-objections to servicers requesting to make additional cash payment to the QSFs or to U.S. Department of Housing and Urban Development-approved borrower counseling organizations.

complete the IFR process by the end of summer 2014. OneWest commenced issuing remediation checks in March 2014.

Audit Results

Foreclosure Settlement Amounts Were Negotiated

As noted previously, by November 2012, OCC officials had concluded that the IFR process was taking longer than anticipated and delaying the compensation of affected borrowers. Working in conjunction with FRB, OCC contacted the servicers to solicit interest in a settlement and discuss its structure. These discussions resulted in an initial agreement that the potential settlement would require servicers to make cash payments to borrowers and fund foreclosure prevention activities. Negotiations with servicers over the cash payment and foreclosure prevention amounts continued during November and December 2012.

In January 2013, new terms were finalized with 11 of the 14 servicers subject to the original consent orders (10 supervised by OCC and 1 supervised by FRB) requiring the servicers to make cash payments to borrowers totaling \$3.39 billion and to fund nearly \$5.4 billion in foreclosure prevention activities.¹² Amended orders executing the change in terms were entered into in February 2013 with the participating servicers. A breakout of the cash payment and foreclosure prevention amounts by servicer is provided in Appendix 2.

OCC officials told us that a number of factors informed their thinking when negotiating the cash payment amount, including OCC's:

- Estimates of total expenditures that would be required to complete the IFR process.
- Estimates of reserves that the servicers had set up related to the IFR process.

¹² In response to our inquiry about the potential for a shortfall in a QSF, OCC officials told us that the amended consent order payment process was designed to preclude the possibility of a shortfall; sufficient funds were deposited to cover the total amount of cash payment to borrowers.

-
- Estimates of the range of payouts that may have occurred if the IFR process was continued to completion.

OCC's and FRB's estimates for payouts that may have occurred if the IFR process was continued to completion ranged from \$934 million to \$3.7 billion. A key driver of these estimates was the estimated rate of financial harm that existed in the IFR population. The low end of the estimated payout amount (\$934 million) was based on a 6.5 percent rate of financial harm. OCC officials told us that this rate was based on the overall rate of errors with financial harm reported by the independent consultants conducting the IFR at the time the settlement was being negotiated; however, this rate was based on incomplete IFR data that had not been validated. In fact, as of December 2012 when the cash payout figures were being negotiated, less than 400 of 654,000 planned reviews had been completed. OCC officials told us that these results reinforced how much work remained and that the regulators thereafter began negotiations for a settlement.

The higher end of the range of potential settlement payments (\$3.7 billion) was sufficient to cover a 26 percent rate of harm, or four times the average rate (6.5 percent) of financial harm reported by the independent consultants. OCC officials told us that the \$3.39 billion cash payment was a negotiated amount and the exercise undertaken to determine whether it was the "right" amount was based on analysis of the factors noted above, but not an exercise of mathematical precision.

Similarly, OCC officials told us that the \$5.4 billion in foreclosure prevention actions was also a negotiated figure for which there was no analytical basis. It was a goal established to encourage servicers to continue promoting loss mitigation efforts with borrowers. The amended consent orders contain guidelines for crediting foreclosure prevention actions and also allow a \$7 to \$10 credit for each \$1 contributed to borrower counseling or education or provided as an additional cash payment to the QSFs. OCC

officials noted that borrowers who benefit from these actions could still seek relief under the National Mortgage Settlement.¹³

Borrower Payment Amounts Were Based on the Independent Foreclosure Review Remediation Framework

OCC and FRB determined how the negotiated cash payment amount would be distributed across the population of potentially harmed borrowers and documented the result in a joint payment distribution plan. The category in which the potentially harmed borrower was placed determined the amount of the cash payment to be made. OCC and FRB developed the categories and associated payment amounts using the financial remediation framework¹⁴ issued during the IFR process as a starting point. OCC officials told us that the payment amounts were also determined in consideration of the overall amount of proceeds deposited to the QSF, pursuant to the agreement with the participating servicers. The IFR remediation framework was replaced by the new payment agreement by consolidating the number of categories and establishing payment amounts for the categories. The resulting categories and amounts used in the payment agreement are presented in appendix 3.

For some categories, the payment amounts in the payment agreement were the same or similar as the payouts from the original financial remediation framework while, for other categories, payment amounts were significantly different. For example,

¹³ The National Mortgage Settlement is a settlement between the state attorneys general, along with other federal agencies, and the five leading bank mortgage servicers resulting in approximately \$25 billion dollars in monetary sanctions and relief, and the reform of mortgage servicing practices. The five servicers are Ally Financial, Inc./General Motors Acceptance Corporation; Bank of America, N.A.; Wells Fargo, N.A.; Citibank, N.A.; and JPMorgan Chase, N.A.

¹⁴ OCC and FRB, "Financial Remediation Framework for Use in the Independent Foreclosure Review," June 21, 2012. This framework was to be used by the independent consultants to determine remediation for completed IFRs where there were findings of financial harm due to servicer error.

borrowers in the Servicemember Civil Relief Act (SCRA)¹⁵ category were to receive the same payment for foreclosure under the financial remediation framework and the payment plan (\$125,000 plus equity). OCC officials told us that the independent consultants had largely completed the reviews for SCRA borrowers and had made harm determinations, which supported full payouts for harmed SCRA borrowers under the Framework. By contrast, for borrowers who were foreclosed on prior to the expiration of written trial modification plans while performing as required during the trial period, the financial remediation framework provided for a top payment of \$125,000 subject to specific adjustments. However, such borrower would receive a payment of \$25,000 under the payment agreement or \$50,000 if that borrower had submitted a Request for Review (RFR) under the IFR process.¹⁶ According to OCC officials, OCC and FRB decided that borrowers, who had submitted a RFR under the IFR process, would be paid a higher amount than those borrowers who did not submit an RFR. The table, on the next page, provides a more detailed comparison of these two examples.

¹⁵ The Servicemembers Civil Relief Act, formerly known as the Soldiers' and Sailors' Civil Relief Act (SSCRA), is a federal law that provides legal and property protections for military members while they are on active duty and less able to timely respond to and participate in proceedings. It covers a broad range of issues including rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments. The types of relief provided under the law include: limitations on the rate of interest for debts incurred before military service; protection against default judgments, evictions, foreclosures, and repossessions of property; and the ability to terminate residential and automobile leases due to military orders.

¹⁶ The original foreclosure related consent orders required that, as part of the IFR process, each servicer establish a process for borrowers who believed they had been financially harmed by the servicer's foreclosure related deficiencies to make submissions to be considered for remediation. These submissions were known as Request for Reviews.

Table: Comparison of Select Categories Payments under the IFR Remediation Framework (original consent orders) and the Payment Agreement (amended consent orders)

<u>Financial Remediation Framework (June 2012)</u> ¹			<u>Payment Agreement (April 2013)</u> ²		
Category	Remedy	Payment	Category	Foreclosure Stage	Payment
SCRA	Rescind foreclosure when possible; pay \$15,000, correct servicer record for any improper amounts, and correct credit reports	\$15,000	Servicer foreclosed on borrower eligible for SCRA protection	Rescinded	\$15,000
	If rescission of foreclosure is not possible; pay \$125,000 plus equity, remedy deficiency, and correct credit reports	\$125,000 plus equity		Completed	\$125,000 plus equity
Error after Trial Modification Approved - servicer foreclosed on borrower prior to expiration of written trial-period plan while borrower was performing all requirement of the written trial-period plan	Rescind foreclosure when possible and provide trial-period plan; pay \$15,000, correct servicer record for any improper amounts, and correct credit reports.	\$15,000	Servicer completed foreclosure on borrower who was performing all requirements of the written trial-period plan	Rescinded	\$6,000 for borrowers that requested a review; \$3,000 for all other borrowers
	If rescission of foreclosure is not possible; pay \$125,000 plus equity, remedy deficiency for any improper amounts, and correct credit reports. Servicer may offset missed and unpaid principal and interest payments and property taxes paid on behalf of the borrower, subject to certain limitations.	\$125,000 plus equity, less offset		Completed	\$50,000 for borrowers that requested a review; \$25,000 for all other borrowers

¹ Source: OCC Website, News Release NR 2012-94, <http://www.occ.treas.gov/news-issuances/news-releases/2012/nr-ia-2012-94.html>

² Source: OCC Website, News Release NR 2013-60 , <http://www.occ.treas.gov/news-issuances/news-releases/2013/nr-ia-2013-60a.pdf>

We noted that the payment amounts to borrowers were based on a number of subjective decisions that did not seem to be directly correlated to the harm that they may have suffered as a result of being in the foreclosure process. OCC officials told us that it was

decided to pay borrowers in the SCRA category and the Borrower Not in Default category the same amounts as provided by the IFR remediation framework. Once that decision was made, the payment amounts for the other categories were subjectively determined based on the amounts available in the QSFs. In this regard, OCC officials told us that the relative severity of potential harm reflected in each category of the original framework was taken into account. Additionally, the regulators believed it reasonable that higher amounts would be paid to RFR filers than those who did not request a review. The officials told us that the method for determining the category payment amounts was “more of an art than a science.” The amounts were based on the consideration of the factors discussed above and included input from community groups regarding the relative payment amounts for each category and payments to RFR versus non-RFR borrowers. Also, borrowers do not relinquish their right to take legal action against the servicers by accepting the compensation.

OCC officials told us that servicers were not allowed to offset other general settlement payments, such as a payment made from the National Mortgage Settlement “Borrower Payment Fund” against the amount due to the potentially harmed borrower under the amended consent orders. However, consistent with the IFR, servicers were allowed to offset a prior remediation payment by the servicer to the borrower if the previous payment was determined under a prior litigation settlement and only if it covered the exact same harm to the borrower identified under the amended consent order. For example, remediation payments under the amended consent order for certain harmed borrowers in the SCRA category were reduced by the amount previously paid by the servicer to those borrowers for the same violation of law in connection with other settlements.

OCC Relied on Servicers to Validate Borrowers Categorization

In January 2013, OCC provided servicers with instructions for categorizing borrowers into 11 categories according to the most likely type of potential financial harm suffered as a result of the servicer’s foreclosure practices. This categorization was primarily a data driven exercise. Specifically, servicers used computer

programs to analyze their respective servicing system data to categorize the affected borrowers. After OCC gained comfort through the activities described below that the borrower categorization was satisfactory, the servicers provided the categorization files to the paying agent.

OCC officials told us that OCC headquarters personnel and resident examination team members maintained an ongoing dialogue with servicer personnel to address questions and concerns throughout the categorization process. OCC also provided written validation procedures for OCC resident examination teams to follow when validating servicers' categorizations. These written procedures called for the examiners to gain and document an understanding of the assumptions and processes used by the servicers to categorize borrowers, identify gaps, and test the process with a goal of verifying that the categorization was reasonably accurate.

Our review of validation procedures for 5 of the 10 servicers under OCC supervision found documentation to support that OCC examiners conducted oversight of the servicers' categorization, gained an understanding of the servicers' assumptions and slotting processes, identified gaps, and required corrective action. However, we noted that OCC examiners performed only a limited amount of testing (reviewing loan documentation) of the categorization. Independent consultants completed the bulk of their reviews resulting in findings for the categories involving SCRA eligible borrowers and borrowers not in default. For all other categories, OCC leveraged the work of servicers' internal groups such as internal audit, and compliance or risk management functions, to gain an understanding of the programs that generated the borrower categorization and to perform the testing. OCC examiners told us that this strategy of leveraging servicer internal processes and testing, performed subject to regulator oversight, was necessary to meet the tight timeframes that OCC had set for validation and payment. OCC officials told us that this is consistent with normal practice where regulators leverage the work performed by banks' internal audit and risk management functions and validate the process and results. These officials also told us that they gained comfort in the internal testing through ongoing meetings, asking specific questions, and reviewing the results of the work performed by internal audit.

Documentation summarizing OCC's oversight of the borrower categorization process noted concerns and limitations with some processes and certain of the servicer system data from which the categorization was derived. This documentation detailed the nature of the concerns identified during the validation process. In cases where there were data deficiencies, OCC required adjustments to the categorization, such as requiring the servicer to place borrowers in a higher borrower payment category, to address these concerns. Examples of issues noted at individual servicers follow.

- The identification of deficiencies in one servicer's bankruptcy data required that over 6,000 borrowers, originally excluded by the bank, be added to the population.
- Errors with the running of categorization programs initially resulted in thousands of loans not being properly categorized at another servicer.
- A population of potentially harmed borrowers from a subsidiary of a servicer had not been included in the servicer's in-scope population and had to be added.
- Limitations identified in a servicer's system data required over 10,000 loans to be added to the servicer's in-scope population.
- Limitations identified in servicer system data inhibited the ability of a servicer to determine which category some borrowers' belonged in. Accordingly, these borrowers were placed into categories with higher cash payout amounts.

The resident OCC examination teams documented their overall conclusions regarding the borrower categorization in their workpapers. In general, these teams concluded that the servicers' categorization of borrowers, after necessary adjustments were made, was satisfactory. However, OCC officials noted that the borrower categorization could never be 100 percent precise for 4.2 million borrowers. For example, one OCC official told us while he could not assure that all loans were precisely put in categories, every effort was made to slot borrowers as fairly as possible. At one servicer, OCC examiners concluded that the "final waterfall

represents a reasonable representation of both the in scope population and request for review sub portfolio...“but noted “...there is a degree of inaccuracy in the waterfall based on the testing and the system of record data limitations.”

OCC Did Not Object to Paying Agent and Paying Bank

The servicers hired Rust as the paying agent. In turn, Rust engaged Huntington as the paying bank. The paying agent is responsible for distributing payments to the borrowers identified in each servicer’s categorization file. The paying bank maintains deposit accounts for the payment funds and provides check-clearing services to facilitate the payment process.

OCC issued a letter of no supervisory objection for each servicer’s statement of work (SOW) with Rust. OCC officials told us that it is OCC standard practice to issue a letter of no supervisory objection versus an approval of decisions of this nature. Although no letter was issued, an internal OCC email showed that OCC did not object to Rust’s engagement of Huntington. While OCC had not established specific criteria to evaluate the qualifications and internal controls of the paying agent or paying bank, OCC officials told us that their acceptance of these entities was based on a number of factors, including expediency.

- Rust had been working with the 14 participating servicers since the fall of 2011 as the IFR Administrator for the IFR process. The servicers were familiar with Rust’s caliber of work and keeping Rust as agent meant Rust could start working right away without delaying the process. Further, the servicers and Rust had existing contracts under the IFR and it would be more expedient to revise existing contracts to reflect the scope of Rust’s work under the amended consent orders than initiate a new contract with a different company, which would require each of the 14 participating servicers to subject the new company to their individual internal procurement processes.
- Rust was familiar with the IFR process and customer related data, and had corresponded with borrowers during the IFR process. Borrowers were already familiar with Rust as

administrator following the advertising and branding campaign surrounding the IFR.

- Rust had experience in class action settlements and is the administrator for the National Mortgage Settlement.
- Rust had an existing working relationship with Huntington.
- OCC regulates Huntington and had access to information concerning Huntington through its supervisory channels.

Those servicers who agreed to the settlement in January 2013 deposited the required cash payment amounts into the first QSF (QSF1) at Huntington. QSF2, a separate account at Huntington, is for FRB-regulated institutions Morgan Stanley and Goldman Sachs. QSF 3, a separate account at Huntington, is for FRB-regulated GMAC/Ally. After accounting for adjustments made as a result of the validation of the servicers' borrower categorization (which in some cases required increased payments by a participating servicer above the amount specified under the amended consent orders), servicers deposited \$3.418 billion into QSF1 and \$249 million into QSF2. As of May 2, 2014, \$469.9 million remained in QSF1 and \$33.4 million in QSF2.¹⁷

OCC Monitored the Payment Process and Noted Concerns

After the borrower categorization process was completed, the servicers transmitted borrower categorization data files to OCC for review and to Rust to execute the payment process. OCC officials told us that their oversight of the payment process included:

- A reconciliation of (1) borrower categorizations prepared by the servicers subject to OCC oversight and transmitted to OCC to (2) those borrower categorizations received by Rust directly from the servicers. (This was done to ensure that Rust used the categorizations prepared under OCC oversight.)

¹⁷ As QSF 3 was an account for FRB-regulated GMAC/Ally, we did not inquire as to the amounts deposited and remaining.

-
- An OCC/FRB on-site visit to review controls at Rust and a third-party check printer hired by Rust.
 - Frequent phone calls and email exchanges where Rust provided OCC with status updates on payment activity and the funds including activity reports related to check issuance and cashing, undeliverable mail, skip tracing, and borrower complaints. During these calls, OCC officials said they also addressed paying agent questions.
 - Periodic OCC reconciliation of the QSF fund balances maintained on OCC internal spreadsheets to Huntington's account statement.

We reviewed documentation related to OCC monitoring of the payment process, including OCC's waterfall reconciliation and OCC's October 2013 QSF reconciliation, results of OCC's on-site visit related to Rust and the third-party check printer, records of daily calls, copies of activity reports, borrower complaint logs, and OCC correspondence with the payment agent. This documentation showed that OCC's monitoring was operating as OCC officials had described to us.

The documentation also revealed the following:

- Payment activity reports, as of May 5, 2014, showed that the initial check mailing had an undeliverable rate of 10.6 percent. Thirty-one (31) percent of the checks originally issued needed to be reissued for reasons such as name or address change, to replace a lost or damaged check, or to replace a check that had not been cashed or deposited before its void date.
- These reports showed that, as of April 25, 2014, approximately 17 percent of the initial 3.9 million checks had not been cashed.
- As of July 31, 2013, over 3 months after the initial check mailings of approximately 4 million payments, Rust logs contained approximately 1,000 borrower complaints. We noted that many borrower complaints involved the failure to

receive an expected check, incorrect addresses and borrower information, or concerns with the process to change addresses and borrower information.

- OCC identified certain material errors and weaknesses in the payment process by Rust.¹⁸

OCC officials are working with the paying agent to address these limitations and weaknesses.

OCC has not yet made a determination regarding the disposition of any residual amounts in the QSFs. OCC's distribution plan notes that at the end of the distribution process in December 2015, any uncashed checks will be added to the undistributed pool. The funds in the undistributed pool will not be returned to the servicers.

Everbank and OneWest Payments

Everbank agreed to amend their original foreclosure related consent order in August 2013; 7 months after terms were agreed to by the other servicers. Everbank originally decided to continue with the IFR process; however, OCC officials told us that issues related to testing borrower fees threatened to extend the reviews significantly and further prolonging the time to provide compensation to borrowers.

Everbank was required to make a cash payment of \$39.9 million in connection with their amended consent order. According to OCC, this payment amount was based on the actual findings by the independent consultant. The amended consent order also contained a foreclosure prevention amount of \$44.4 million, which Everbank agreed to satisfy by making a \$6.3 million payment to organizations approved by the U.S. Department of Housing and Urban Development.

Everbank selected Epiq Class Action & Claims Solutions, Inc. (Epiq), to be its paying agent, subject to OCC non-objection.¹⁹ Epiq will also use Huntington as the paying bank. OCC officials told

¹⁸ The nature of the identified material errors and weaknesses are subject to litigation and therefore are not discussed in this report.

¹⁹ Epiq is a provider of class action and mass litigation case management services.

GAO that Everbank's consent order distribution plan was finalized in November 2013. OCC officials told us that, as of July 22, 2014, 30,892 out of 32,574 initial checks had been mailed. Another 1,495 checks were to be mailed July 29, 2014. The other 187 initial checks will be mailed out once various issues are resolved.

OCC officials also told us that OneWest; the OCC supervised institution that elected to continue the IFR process, expects to complete the IFR process by the end of summer 2014 and commenced making payments to harmed borrowers in March 2014.

OCC's Oversight of Foreclosure Prevention Measures Has Not Substantively Begun

As discussed above, the amended consent orders require the servicers to provide a range of foreclosure prevention actions. The consent order details the foreclosure prevention amount for each servicer and describes how the actions will be credited. It also requires the servicers to (1) submit regular reports beginning May 15, 2013, detailing foreclosure prevention actions taken to fulfill the obligation and (2) complete their obligation to provide foreclosure prevention actions by January 7, 2015.

OCC delayed the initial reporting deadline to July 31, 2013, and allowed servicers subject to the National Mortgage Settlement to fulfill obligations under that settlement before beginning reporting under the amended consent order. OCC did not have concerns with this delay in reporting because each servicer has 2 years to meet their amended consent order obligation. OCC told us that as of January 31, 2014, all seven of the servicers with reporting requirements had begun reporting.

As of the end of our fieldwork, OCC oversight of servicer's foreclosure prevention activities had not yet substantively begun. For example, OCC has not yet conducted testing on servicer submissions to evaluate eligibility or crediting, finalized a reporting format, or issued any public reports related to foreclosure prevention actions.

OCC has engaged a third party to perform testing of each servicer's foreclosure prevention activity submissions required under the amended consent orders. Also, an SOW, which specifies the testing to be done by the contractor, was recently issued.

GAO Foreclosure Review

In April 2014, GAO issued a report entitled *Foreclosure Review: Regulators Could Strengthen Oversight and Improve Transparency of the Process*.²⁰ GAO reported that the regulators generally met their goals for timeliness and amount of the cash payments and concluded that:

- The amended consent order process addressed some of the challenges identified by regulators with the file review process—for example, it provided cash payments to borrowers more quickly than might have occurred had the file reviews continued. In addition, through the foreclosure prevention component of the amended orders, regulators were able to convey their commitment to specific principles to guide loss mitigation actions.
- While regulators used the amended consent orders to establish principles for foreclosure prevention activities, they did not require examination teams to evaluate or test servicers' activities related to these principles. In particular, they did not require evaluation or testing of servicers' policies, monitoring controls, and performance measures, to determine the extent to which servicers are implementing these principles to provide meaningful relief to borrowers.
- Although regulators communicated information about the status and results of the cash payment component of the amended consent orders, they missed opportunities to communicate additional information to borrowers and the public about key amended consent order processes.

Similarly, our audit found that OCC pursued the amendment of the foreclosure related consent orders to facilitate more timely relief to borrowers potentially harmed during the foreclosure process and,

²⁰ GAO, GAO-14-376 (Apr. 29, 2014)

provided oversight of servicers' borrower categorization and the payment processes. We also noted that OCC oversight of servicers' foreclosure prevention actions has not yet substantively begun. While our audit was focused on OCC's oversight of the amended consent order process, GAO's scope was wider, including FRB's oversight of the process, as well as, regulator information sharing and transparency.

Based on its work, GAO made two recommendations directed to OCC.

- That the Comptroller of the Currency direct examination teams to take additional steps to evaluate and test servicers' implementation of the foreclosure prevention principles.
- That the Comptroller of the Currency include in forthcoming reports or other public documents information on the processes used to determine cash payment amounts, such as the criteria servicers use to place borrowers in various payment categories.

In its response to GAO's report, OCC stated that it included a requirement to evaluate and test servicers' implementation of the foreclosure prevention principles in its examination plans and that foreclosure prevention principles will be used as considerations when assessing the effectiveness of servicer actions. OCC also stated that it will consider including additional detail about the categorization of borrowers in its public reports.

Recommendations

We recommend that the Comptroller of the Currency do the following:

1. Continue to work with the paying agent to ensure that errors and concerns are addressed so that borrowers receive the payments they are due.

Management Response

OCC has provided substantive oversight; including review and assessment of processes and correction of errors, of the paying agent to ensure borrowers receive payments consistent with OCC instructions. OCC will continue to provide diligent oversight until the QSFs are closed.

OIG Comment

Management's commitment to take these actions is responsive to our recommendation. OCC will need to record the estimated date(s) for completing its planned corrective action in JAMES.

2. Determine, in conjunction with FRB, the disposition of funds remaining in QSFs after the distribution is complete.

Management Response

OCC continues to discuss options for the use of the residual funds in the QSFs and plans to have a decision in the near future.

OIG Comment

Management's commitment to take these actions is responsive to our recommendation. OCC will need to record the estimated date(s) for completing its planned corrective action in JAMES.

3. Ensure that servicer system weaknesses and data limitations identified during OCC's borrower categorization validation work are addressed in the corrective action plans developed by servicers in response to the original foreclosure related consent orders and that these corrective actions plans are implemented.

Management Response

OCC's examination plan for assessing compliance with the consent orders includes procedures requiring examiners to test the effectiveness of management information systems (MIS) and reporting. Servicer system weaknesses and data limitations,

including those identified by the independent consultants and our examiners, are key factors in assessing the effectiveness of MIS and reporting. OCC expects to complete its tests by November 30, 2014.

OIG Comment

Management's planned corrective action is responsive to our recommendation. The recommendation, however, should remain open in JAMES until the servicers' corrective actions plans are implemented.

4. Implement processes to monitor the sufficiency of foreclosure prevention measures taken by servicers subject to the amended consent orders.

Management Response

OCC's examination plan for assessing compliance with the consent orders includes procedures requiring examiners to test loss mitigation and foreclosure prevention activities against criteria described in the orders. OCC will use the foreclosure prevention principles included in the amendment to the consent orders as considerations when assessing the effectiveness of these programs. OCC expects to complete its tests by November 30, 2014.

OIG Comment

Management's planned corrective action is responsive to our recommendation. The recommendation, however, should remain open in JAMES until any needed corrections identified through OCC's tests are made by the servicers.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 927-0384 or James Lisle, Audit Manager, at (202) 927-6345. Major contributors to this report are listed in Appendix 3.

Jeffrey Dye /s/
Director, Banking Audit

In April 2011, the Office of the Comptroller of the Currency (OCC), the former Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System (FRB) issued foreclosure-related consent orders against 14 major servicers for unsafe and unsound practices in residential mortgage servicing and foreclosure processing.²¹ In February 2013, OCC, in conjunction with FRB, amended the consent orders for 11 of these servicers of which 10 servicers were OCC-supervised and 1 was FRB-supervised. The amended orders required that the servicers cease work on the independent foreclosure reviews (IFRs) required by the original orders and provide relief to potentially harmed borrowers in the form of cash payments and foreclosure prevention actions. In August 2013, OCC similarly amended the consent order for another of the servicers bringing the number of OCC-supervised servicers under amended consent orders to 11.

The objectives of this audit were to (1) report on the circumstances and processes used to determine that the foreclosure consent orders issued in April 2011 should be amended, including how the settlement amounts were derived; and (2) assess OCC's oversight of servicers' compliance with the amended foreclosure consent orders, including the servicers' categorization of the population of borrowers due payment, the payment of funds from a Qualified Settlement Fund (QSF), and the servicers' loss mitigation or other foreclosure prevention actions.

To accomplish the audit objectives, we:

1. Interviewed OCC headquarters management, including the Deputy Comptroller of Large Bank Supervision, Mortgage Banking Lead Examiner, Senior Deputy Comptroller for Enterprise Governance and Ombudsman, Deputy Chief Counsel, Public Affairs Director, Assistant Director of Enforcement and Compliance, and Senior Attorney Enforcement and Compliance, to gain an understanding of the nature and extent of OCC oversight of the amended consent order process. Topics discussed included determination of settlement amounts, OCC's

²¹ Amended consent orders were issued to Bank of America, N.A.; Citibank, N.A.; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; PNC Bank, N.A.; U.S. Bank National Association and U.S. Bank National Association ND; Wells Fargo Bank, N.A.; Aurora Bank FSB; Sovereign Bank, N.A.; and, SunTrust Banks, Inc., SunTrust Bank and SunTrust Mortgage, Inc.

borrower categorization validation procedures, payment process monitoring processes, and foreclosure prevention action monitoring processes.

2. Reviewed the term sheet which defined the terms that the servicers subject to the April 2011 consent orders would have to agree to in order to amend the orders, the amended consent orders for the OCC-supervised servicers, servicer guidance, written examination procedures, and payment distribution plan.
3. Reviewed OCC examination workpapers related to the validation of the servicer's borrower categorization at 5 of 10 OCC-regulated servicers subject to the amended consent orders. The servicers were Bank of America, N.A.; JPMorgan Chase, N.A.; HSBC Bank USA, N.A.; MetLife Bank, N.A.; and Sovereign Bank. We also interviewed OCC examiners in charge and examination team members at these institutions to confirm our understanding of the validation process.
4. Reviewed documentation related to OCC's monitoring of the amended consent order payment process. These included: statement(s) of work between servicers and Rust Consulting, Inc. (Rust), the paying agent; IFR payment agreement procedures; the QSF account governing agreement; OCC's review of borrower categorization; OCC's October 2013 QSF reconciliation; various records of meetings, status and activity reports; and Rust borrower complaint logs.

Concurrent with our audit, the Government Accountability Office (GAO) reviewed the amended consent order process. We coordinated our fieldwork with GAO scheduling joint interviews and making joint documentation requests, when possible.

We performed our audit fieldwork from April 2013 through December 2013.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the

evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2
Cash Payment and Foreclosure Prevention Amounts Under the
Amended Foreclosure-Related Consent Orders

The following table presents the cash payment and foreclosure prevention amounts included in the amended consent orders. The servicers are arranged by the Qualified Settlement Fund (QSF) into which their cash payment funds were deposited. The cash deposit for a servicer may differ from these originally agreed to amounts for various reasons including increases in deposits required by population adjustments made during the validation process or conversion of foreclosure prevention amounts into QSF deposits.

Entity	Cash Payment Amounts per Amended Consent Orders	Foreclosure Prevention Amounts per Amended Consent Orders
QSF1		
Aurora Bank, FSB	\$93,237,805	\$149,180,488(b)
Bank of America, N.A.	1,127,453,261	1,759,125,217
Citibank, N.A.	306,574,179	486,918,687
HSBC Bank USA, N.A.	96,540,359	153,361,054
JPMorgan Chase & Co.	753,250,131	1,205,200,210
MetLife Bank, N.A.	30,206,329	48,330,126(c)
PNC Bank, N.A.	69,433,224	111,093,158(c)
Sovereign Bank, N.A.	6,186,992	9,899,188
SunTrust Banks, Inc.	62,555,947	100,089,515
US Bank, N.A. and US Bank, N.A., ND	80,060,193	128,096,308
Wells Fargo Bank, N.A.	765,823,531	1,225,317,650
QSF1 Total	\$3,391,321,951	\$5,376,611,601
QSF2		
Morgan Stanley	\$97,000,000	\$130,000,000
The Goldman Sachs Group, Inc.	\$135,000,000	\$195,000,000
QSF2 Total	\$232,000,000	\$325,000,000
Other QSFs		
Ally Financial, Inc.- QSF3(d)	\$198,077,499	\$316,923,998(c)
EverBank – EB Expedited Payment Agreement		
QSF(a)	37,390,450	44,408,629(c)
Other QSFs Total	\$235,467,949	\$361,332,627
Grand Total – All QSFs	\$3,858,789,900	\$6,062,944,228

Legend

- a Everbank, an OCC-regulated institution, did not settle until August 2013 and elected not to contract with Rust Consulting, Inc. as the payment agent. Accordingly, Everbank has established a separate settlement account named “EB Expedited Payment Agreement QSF” with The Huntington National Bank.
- b The foreclosure prevention action amount for this servicer was converted, as allowed by the amended consent order, into an additional cash deposit to the QSF.
- c The foreclosure prevention amount for this servicer was satisfied by conversion to a cash contribution for borrower counseling or education, as allowed by the amended consent order.
- d Ally, an FRB-regulated institution, did not settle until July 2013. Ally’s cash payment amount is deposited into a separate settlement account, QSF 3.

Appendix 3
 Independent Foreclosure Review Payment Agreement Details
 as Published by OCC and FRB

Independent Foreclosure Review Payment Agreement Details						
<p>The table below provides number of eligible borrowers and payment amounts in each category for borrowers covered by the Independent Foreclosure Review Payment Agreement. The agreement was announced in January 2013 between federal banking regulators -- the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System -- and 11 mortgage servicers. More information about these agreements is available from the regulators' Web sites -- www.occ.gov and www.federalreserve.gov. The table contains only standard payout amounts; it does not include amounts for lost equity, which borrowers in the first and third categories may receive in addition to the standard payout amounts, or the payments calculated on a case-by-case basis in the second category. This table excludes borrowers whose mortgages were serviced by Goldman Sachs and Morgan Stanley.</p>						
Category	Foreclosure Stage	Borrowers Who Requested a Review		All Other Borrowers		Total Borrowers
		Number of Borrowers	Payment	Number of Borrowers	Payment	
Servicer foreclosed on borrower eligible for Servicemembers Civil Relief Act (SCRA) protection (applies only to rescinded or completed foreclosures)*	Rescinded	8	\$15,000	108	\$15,000	116
	Completed	123	\$125,000	959	\$125,000	1,082
Servicer charged servicemembers interest rates that exceed SCRA Section 527 limits**	In process	33	>=\$300	317	>=\$300	350
	Completed	11	>=\$300	63	>=\$300	74
Servicer initiated or completed foreclosure on borrower who was not in default	In process	46	\$5,000	543	\$5,000	589
	Rescinded	8	\$15,000	29	\$15,000	37
	Completed	8	\$125,000	45	\$125,000	53
Servicer initiated or completed foreclosure on borrower who was protected by federal bankruptcy law	In process	2,401	\$7,500	19,860	\$3,750	22,261
	Rescinded	28	\$7,500	160	\$3,750	188
	Completed	763	\$62,500	5,075	\$31,250	5,838
Servicer completed foreclosure on borrower who was meeting all requirements of documented forbearance plan (applies only to rescinded or completed foreclosures)	Rescinded	50	\$6,000	185	\$3,000	235
	Completed	162	\$24,000	684	\$12,000	846
Servicer failed to convert borrower to permanent modification after three successful payments under a written trial-period plan	In process	461	\$6,000	2,436	\$3,000	2,897
	Rescinded	31	\$6,000	91	\$3,000	122
	Completed	239	\$50,000	718	\$25,000	957
Servicer completed foreclosure on borrower who was performing all requirements of the written trial-period plan	Rescinded	29	\$6,000	126	\$3,000	155
	Completed	163	\$50,000	477	\$25,000	640
Modification request approved	In process	118,177	\$500	746,894	\$300	865,071
	Rescinded	2,617	\$500	9,229	\$300	11,846
	Completed	39,368	\$500	195,448	\$300	234,816
Modification request denied	In process	62,557	\$2,000	432,595	\$1,000	495,152
	Rescinded	1,539	\$2,000	6,007	\$1,000	7,546
	Completed	60,251	\$6,000	309,597	\$3,000	369,848
Modification request received but no underwriting decision made	In process	21,153	\$800	200,596	\$400	221,749
	Rescinded	709	\$800	3,757	\$400	4,466
	Completed	27,152	\$800	168,479	\$400	195,631
Servicer did not engage with borrower in a loan modification or other loss mitigation action	In process	16,679	\$600	312,881	\$300	329,560
	Rescinded	350	\$600	4,549	\$300	4,899
	Completed	36,564	\$600	531,912	\$300	568,476
All other loans	In process	21,459	\$500	334,630	\$300	356,089
	Rescinded	450	\$500	4,161	\$300	4,611
	Completed	24,959	\$500	218,737	\$300	243,696
Totals		438,548		3,511,348		3,949,896

*Total amount received by borrower in the first and third categories listed here may differ from amount shown because of offsets resulting from other legal settlements.

**Servicemembers who were charged interest rates higher than limits allowed by the SCRA Section 527 will receive payments of \$300 or the amount overcharged and paid by the borrower, whichever is greater.

Source: OCC Website, <http://www.occ.gov/topics/consumer-protection/foreclosure-prevention/correcting-foreclosure-practices.html>



Office of the Comptroller of the Currency

Washington, DC 20219

July 16, 2014

Jeffrey Dye
Director, Banking Audits
Office of Inspector General
Department of the Treasury
Washington, DC 20220

Subject: Response to Draft Report

Dear Mr. Dye:

We have reviewed your draft report titled "OCC Needs to Ensure Servicers Implement Amended Foreclosure Consent Orders and Act on Identified Weaknesses." Your audit objective was to: (1) report on the circumstances and processes used to determine that the foreclosure consent orders issued in April 2011 needed to be amended, including how the new settlement amounts were derived; and (2) assess the Office of the Comptroller of the Currency's (OCC) oversight of servicers' compliance with the amended foreclosure consent orders, including the servicers' categorization of the population of borrowers due payment, the payment of funds from a Qualified Settlement Fund (QSF), and the servicers' loss mitigation or other foreclosure prevention actions.

You found that the OCC pursued the amendment of the original foreclosure related consent orders to facilitate more timely relief to borrowers potentially harmed during the foreclosure process. You found the cash payment and foreclosure prevention amounts in the amended consent orders were negotiated amounts with the servicers that had limited analytical support. You also found that the OCC provided oversight of servicers' borrower categorization and the payment processes. You concluded that the oversight identified weaknesses and concerns with both processes and that the OCC is addressing those concerns with the payment process. You also noted that OCC oversight of servicers' foreclosure prevention actions had not yet substantively begun at the time of your review.

Your report makes four recommendations. First, you recommend that the OCC continue to work to address errors and concerns identified in the payment process. The OCC has provided substantive oversight; including review and assessment of processes and correction of errors, of the paying agent to ensure borrowers receive payments consistent with our instructions. The agency will continue to provide diligent oversight until the QSFs are closed.

Appendix 4
Management Response

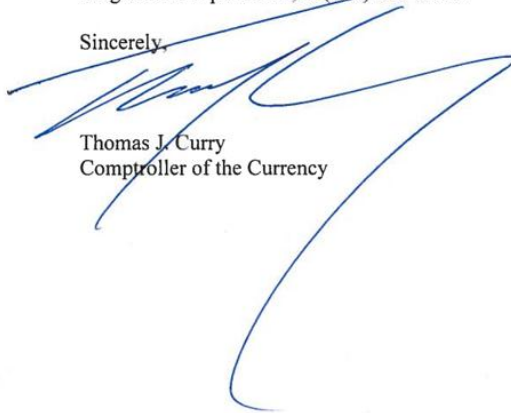
Second, you recommend that OCC finalize its determination on the disposition of funds remaining in the QSFs after the distribution is complete. We continue to discuss options for the use of the residual funds in the QSFs and plan to have a decision in the near future.

Third, you recommend that the OCC ensure servicer system weaknesses and data limitations identified during the OCC's validation work are corrected by the servicers. Our examination plan for assessing compliance with the consent orders includes procedures requiring examiners to test the effectiveness of management information systems (MIS) and reporting. Servicer system weaknesses and data limitations, including those identified by the independent consultants and our examiners, are key factors in assessing the effectiveness of MIS and reporting. We expect the test will be complete by November 30, 2014.

Finally, you recommend that the OCC implement processes to monitor the sufficiency of foreclosure prevention measures taken by servicers subject to the amended consent orders. Our examination plan for assessing compliance with the consent orders includes procedures requiring examiners to test loss mitigation and foreclosure prevention activities against criteria described in the orders. We will use the foreclosure prevention principles included in the amendment to the consent orders as considerations when assessing the effectiveness of these programs. We expect this test will be complete by November 30, 2014.

If you need additional information, please contact me or Morris Morgan, Deputy Comptroller for Large Bank Supervision, at (202) 649-6789.

Sincerely,



Thomas J. Curry
Comptroller of the Currency

Appendix 5
Major Contributors to the Report

James Lisle, Audit Manager
Vicki Preston, Auditor in Charge
Virginia Shirley, Program Analyst
James Hodge, Referencer

The Department of the Treasury

Deputy Secretary
Office of Strategic Planning and Performance Management
Office of the Deputy Chief Financial Officer, Risk and Control
Group

Office of the Comptroller of the Currency

Comptroller of the Currency
Liaison Officer

Office of Management and Budget

OIG Budget Examiner