

**Congress of the United States**  
**Washington, DC 20515**

March 25, 2013

The Honorable Ben Bernanke  
 Chairman  
 Board of Governors of the Federal Reserve System  
 20th Street and Constitution Avenue, NW  
 Washington, DC 20551

The Honorable Thomas Curry  
 Comptroller of the Currency  
 Administrator of National Banks  
 Washington, DC 20219

Dear Chairman Bernanke and Comptroller Curry:

Thank you for your letter of March 22, 2013, responding to our request of January 31, 2013, for information and documents from the Board of Governors of the Federal Reserve System (Federal Reserve) and the Office of the Comptroller of the Currency (OCC) relating to the abuses committed by mortgage servicing companies that your agencies have identified.

For our 14 specific requests, your response letter provided two partial responses and only one full response. The table below details specifically what we requested, the information you provided in your March 22<sup>nd</sup> letter, and the information yet to be provided.

Warren/Cummings request	Federal Reserve/OCC Response
<p>1. <b>Performance reviews:</b> The results of all performance reviews conducted by the Federal Reserve or the OCC over the Independent Foreclosure Review, including:</p> <ul style="list-style-type: none"> <li>a. all documents reviewing the performance of each of the independent contractors engaged by mortgage servicers to conduct reviews of borrower files under the terms of the consent orders issued in April 2011,</li> <li>b. all documents detailing the nature of any instances of unsatisfactory performance found by the Federal Reserve or the OCC,</li> <li>c. all documents detailing any corrective actions ordered by the Federal Reserve or the OCC to be taken by any mortgage servicer subject to the April 2011 consent orders or by any independent contractor conducting borrower file reviews, and</li> <li>d. all documents describing the adequacy of any corrective action taken by any mortgage servicer subject to the April 2011 consent order or by any</li> </ul>	<p>1. <u>No response.</u></p> <p>1a. <u>No response.</u></p> <p>1b. <u>No response.</u></p> <p>1c. <u>No response.</u></p> <p>1d. <u>No response</u></p>

<p>independent contractor engaged to review borrower files;</p>	
<p>2. <b>Updates to OCC/Fed from servicers and consultants:</b> All documents and reports prepared by the mortgage servicers subject to the April 2011 consent orders or the independent contractors engaged by mortgage servicers to conduct reviews of borrower files under the terms of the consent orders issued in April 2011, describing, reviewing, or updating on the Independent Foreclosure Review process, and supplied to the OCC or the Federal Reserve; and,</p>	<p>2. <i>No response.</i></p>
<p>3. <b>Amounts paid to consultants:</b> All documents compiled by the Federal Reserve or the OCC indicating the total amount of settlement funds paid to each independent contractor engaged by the 14 mortgage servicers subject to the April 2011 consent orders and all documents compiled by the Federal Reserve or the OCC indicating itemizations of specific work performed by each contractor.</p>	<p>3. <i>Minimal response:</i> The OCC and Fed have disclosed the total amount spent on the consultants - \$2 billion – but no documents have been provided that detail the amount paid to each contractor or that itemize the specific work performed by each contractor.</p>
<p>4. <b>Information on borrowers:</b> The total number of eligible borrowers who requested reviews of their foreclosure files by gender, race, zip code, and property value</p>	<p>4. <i>Minimal response:</i> The OCC and Fed have disclosed the total number of eligible borrowers who requested reviews and, in September 2012, the Federal Reserve and the OCC released county-by-county data on (1) borrowers mailed a form to request a file review and (2) borrowers who submitted a request for review up to that date. However, no data broken down by gender, race, zip code, and property value have been provided.</p>
<p>5. <b>IFR findings:</b> The total number of reviews of borrower files initiated by each of the independent contractors engaged by the 14 mortgage servicers subject to the April 2011 consent orders, including</p> <ul style="list-style-type: none"> <li>a. the number of reviews completed by January 7, 2013 by each independent contractor,</li> <li>b. the number of borrower files in which unsafe or</li> </ul>	<p>5. <i>Partial response:</i> The OCC and Fed have disclosed the total number of borrower files identified for review – 744,685 – but these have not been broken down by consultant.</p>

<p>unsound practices were found,</p> <p>c. the amount of remediation each borrower who experienced an unsafe or unsound practice was recommended to receive, and</p> <p>d. the amount of remediation paid out to borrowers as part of the Independent Foreclosure Review process; and</p>	<p>5a. <i>Partial response:</i> The OCC and Fed have identified the total number of reviews completed – 103,820 – but these have not been broken down by consultant.</p> <p>5b. <i>No response.</i></p> <p>5c. <i>No response.</i></p> <p>5d. <i>Full response.</i> The OCC and Fed have indicated that no remediation has been paid out.</p>
<p>6. <b>Consultant time spent per file:</b> The average time each independent contractor engaged by the 14 mortgage servicers subject to the April 2011 consent orders required to complete a review of a borrower’s file.</p>	<p>6. <i>No response.</i></p>

By your account, the Federal Reserve and the OCC have overseen the expenditure of \$2 billion on the Independent Foreclosure Review process – nearly \$20,000 per file reviewed. That is a staggering amount. It is nearly five times the average payout that will go to homeowners as part of the settlement.

As part of Congress’ work conducting oversight of the Independent Foreclosure Review process, we seek to understand what information these expenditures revealed – particularly given that your offices have already identified systematic and widespread abuses, including wrongful foreclosures, excessive fees, and fraudulent affidavits filed in court. Thus, in 2011, your offices joined the then-Office of Thrift Supervision in issuing a joint report summarizing the results of “horizontal reviews” you conducted of the nation’s 14 largest mortgage servicers. The summary stated:

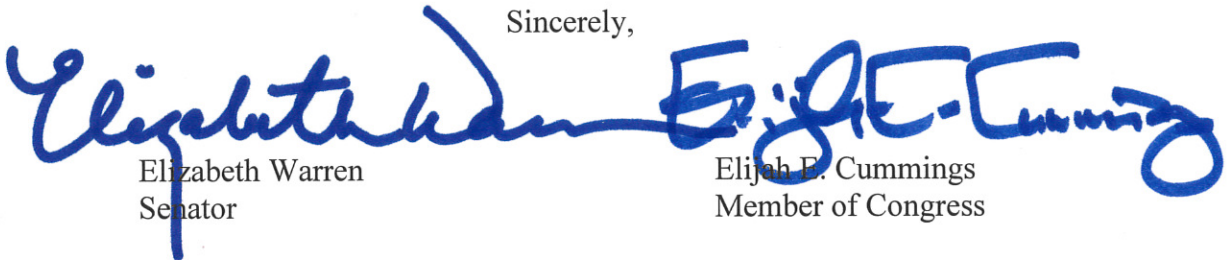
The reviews found critical weaknesses in servicers’ foreclosure governance practices, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys. . . [T]he weaknesses at each servicer, individually or collectively, resulted in unsafe and unsound practices and violations of applicable federal and state law and requirements... The results elevated the agencies’ concern that widespread risks may be presented – to consumers, communities, various market participants and the overall mortgage market. The servicers included in this review represent more than two-thirds of the servicing market. Thus, the agencies consider

problems cited within this report to have widespread consequences for the national housing market and borrowers.<sup>1</sup>

More recently, one press account has reported that during the Independent Foreclosure Review process, your offices discovered that “the nation’s biggest banks wrongfully foreclosed on more than 700 military members during the housing crisis and seized homes from roughly two dozen other borrowers who were current on their mortgage payments.”<sup>2</sup> The article also reported that you identified “about 20 borrowers who never missed a single mortgage payment, but lost their homes nonetheless.” We requested documents in order to conduct our oversight review and take steps appropriate in Congress to protect our constituents in cases precisely like these.

Criminal activity should not be shielded by regulators as if it constitutes proprietary information or trade secrets. We continue to believe transparency is critical around the operations of the review and settlement processes, including the method by which borrower files were reviewed, the violations the servicers are found to have committed, and the scale of those violations. We therefore would like to receive personally the briefing you proposed from your staffs so that we can establish a schedule for the production of the documents we have requested. We propose to meet at 3:00 p.m. on April 9. Please contact Dan Geldon (Warren) or Jedd Bellman (Cummings) to confirm this meeting and thank you for your assistance.

Sincerely,



Elizabeth Warren  
Senator

Elijah E. Cummings  
Member of Congress

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<sup>1</sup> Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision, *Interagency Review of Foreclosure Policies and Practices* (Apr. 13, 2011) (online at [www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf](http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf)).

<sup>2</sup> *Banks Find More Wrongful Foreclosures Among Military Members*, New York Times (March 3, 2013) (online at <http://dealbook.nytimes.com/2013/03/03/banks-find-more-wrongful-foreclosures-among-military-members/>).