

# Lenders Compliance Group

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## OCC: Fixing Deficient Foreclosure Practices

Jonathan Fox  
President & Managing Director  
Lenders Compliance Group

The Office of the Comptroller of the Currency (OCC) issued a report on November 22, 2011 on the actions by 12 national bank and federal savings association mortgage servicers to comply with consent orders issued in April 2011 to correct deficient and unsafe or unsound foreclosure practices.

The report, entitled [Interim Status Report: Foreclosure-Related Consent Orders](#), summarizes progress on activities related to the independent foreclosure review announced November 1, 2011, as well as other activities to enhance mortgage servicing operations, strengthen oversight of third-party service providers and activities related to Mortgage Electronic Registration Systems (MERS), improve management information systems, assess and manage risk, and ensure compliance with applicable laws and regulations.

Based on information in the relevant OCC issuances, much of the work to correct identified weaknesses in policies, operating procedures, various control functions, and audit processes would be substantially complete in the first part of 2012, but other, longer term initiatives will continue through the balance of 2012.

In addition to the interim report, please note that the OCC also released [engagement letters](#) that describe how the independent consultants, retained by the servicers, will conduct their file reviews and claims processes to identify borrowers who suffered financial injury as a result of deficiencies identified in the OCC's consent orders.

For those of you who have not had to respond to and implement a consent order, I would say that the engagement letters are generally *pro forma* and consistent with similar terms and conditions we require in our own commitments and proposals for such audits and due diligence reviews. As a general proposition, the review process being implemented at some companies may differ from that described in the engagement letters because of subsequent coordination with the OCC to ensure a consistent process among the servicers.

The engagement letters identify the names of the independent consultants conducting the reviews and include language stipulating that consultants would take direction from the OCC throughout the reviews. In fact, the terms of engagement specifically prohibit servicers from overseeing, directing, or supervising any of the reviews. Limited proprietary and personal information has been redacted.

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### Interim Report

The 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.

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.

### Engagement Letters

Pursuant to 12 C.F.R. § 4.12(c), the listing order of the engagement letters at the OCC's

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election has no precedential significance.

The engagement letters were submitted by the independent consultants that were retained by servicers regulated by the OCC. These independent consultants will be conducting foreclosure reviews pursuant to the requirements of the April 13, 2011 consent orders.

The engagement letters describe how the independent consultants will conduct their file reviews and claims processes to identify borrowers who suffered financial injury as a result of servicer deficiencies identified in the OCC's consent orders.

Limited proprietary and personal information has been redacted from the engagement letters.

Since the acceptance of the engagement letters in September of this year, the independent consultants have further refined and made adjustments to the processes, procedures, and methodologies outlined in the engagement letters in consultation with OCC supervision staff.

For instance, there were a number of changes made to integrated claims processes to ensure a single, uniform process among the servicers.

### Correcting Foreclosure Deficiencies

#### Independent Foreclosure Review

As part of those consent orders, federal regulators required servicers to engage independent firms to conduct a multi-faceted review of foreclosure actions in process in 2009 and 2010.

Under the orders, independent consultants are charged with evaluating whether borrowers suffered financial injury through errors, misrepresentations, or other deficiencies in foreclosure practices and determining appropriate remediation for those customers. Where a borrower suffered financial injury as a result of such practices, the agencies' orders require financial remediation to be provided.

As part of that program, 14 mortgage servicers covered by the enforcement actions will begin mailings November 1, 2011 that will continue through the end of the year. The mailings are intended to provide information to potentially eligible borrowers on how to request a review of their case if they believe they suffered financial injury as a result of errors, misrepresentations, or other deficiencies in foreclosure proceedings related to their primary residence between January 1, 2009 and December 31, 2010. The mailings will include a request for review form.

Borrowers may also visit the [Independent Foreclosure Review](#) for more information about the review and claim process. Furthermore, assistance with the form and answers to questions about the process are available at 1-888-952-9105, Monday through Friday from 8 a.m. to 10 p.m. (ET) and Saturday from 8 a.m. to 5 p.m. (ET).

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

The third-party consultant will assess whether any errors, misrepresentations, or other deficiencies resulted in financial injury to borrowers. Where a borrower suffered financial injury as a result of such practices, the consent orders require remediation to be provided.

During the review, customers may be contacted by mortgage servicers for additional information at the direction of the independent consultant.

### Professional Assistance

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#### Interim Status Report: Foreclosure-Related Consent Orders

November 2011

#### Interagency Review of Foreclosure Policies and Practices

April 2011



Labels: [Foreclosure](#), [Foreclosure Policies](#), [Foreclosure Practices](#), [FRB](#), [Interagency Guidelines](#), [MERS](#), [Mortgage Loan Servicing](#), [Mortgage Servicing](#), [Mortgage Servicing Practices](#), [OCC](#), [OTS](#), [Servicing](#)

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