

January 31, 2013

The Honorable Ben S. Bernanke, Chairman
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20051

The Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
Independence Square, 250 E Street, SW
Washington, DC 20219

Dear Chairman Bernanke and Comptroller Curry:

I am writing regarding the abrupt end of the Independent Foreclosure Review (IFR) process and the tentative \$8.5 billion settlement that was recently announced between the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (the Board) and ten mortgage servicing companies related to their deficient foreclosure processing practices. Many questions remain about why the IFR was cancelled, how your agencies went about replacing it with a negotiated settlement, and how the 4.4 million estimated eligible universe of borrowers will be evaluated for harm and compensated. Given that many Members of Congress encouraged their constituents to apply for file reviews at your urging, I feel it is necessary to have these questions addressed promptly, and I look forward to your response.

Proposed \$8.5 Billion Settlement

After consistent interaction with your agencies over the IFR process since the consent orders were issued in April 2011, I found the sudden end of the IFR, and the lack of engagement with Members of Congress over your agencies' change in direction, to be troubling. Given that it appears that the OCC and the Board are still in the process of outlining the terms of the settlement, I request that you include the following provisions in any final agreement:

- First, the OCC and the Board must insist that the settlement include provisions establishing an independent monitor, similar to and coordinating with the monitor's office established as part of the settlement reached between five mortgage servicing companies and 49 state attorneys general. Given your agencies' failure to detect in a timely manner the foreclosure processing problems that necessitated the consent orders, as well as the mismanagement of the subsequent IFR process, I feel that having an independent monitor will enhance the public's trust of this remediation effort. Moreover, I feel it is important that the monitor have the ability to intervene on behalf of individual borrower claims, the power to gather detailed and summary data regarding banks' performance under the settlement, and the duty to report the data in a manner that facilitates enforcement of the settlement;

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- I also request that demographic and other data (race, geography, property value) be collected and publicly reported with regard to the distribution of both the direct payments and indirect relief provided under the proposed settlement, for each “bucket” of borrowers receiving direct payments and each type of indirect relief, disaggregated by servicer. Without this information, the public will have no means by which to determine whether relief was provided in a manner that appropriately reflects the overall impact of foreclosures on certain communities and demographic groups;
- The indirect relief provided under the settlement should provide for a minimum amount of remediation to be in the form of principal reductions, and those principal reductions should provide for less than dollar-for-dollar credit in satisfying the proposed settlement. Moreover, the waiving of deficiency judgments should not be considered an appropriate form of indirect remediation;
- If your respective agencies plan to rely upon the previously-released IFR remediation matrix as the basis for compensation under the proposed settlement, I request that you accept the recommendations of consumer groups with regard to reordering certain categories to ensure that borrowers who suffered similar levels of harm are similarly compensated;
- An escalation process must be available for homeowners to address concerns about whether cash payments or indirect relief were provided based on accurate information and were in accordance with established guidelines under any proposed settlement; and
- I request that you make it a priority to prevent avoidable foreclosures among the subset of the 4.4 million eligible borrowers under the proposed settlement who are still in their homes or whose homes are still under the control of their servicer, and immediately require the servicers to take the steps necessary to accomplish this goal.

Transparency

Additionally, I have several requests related to the transparency of both the IFR and the proposed settlement. First, to establish credibility of the settlement, preliminary results of the foreclosure reviews conducted by the independent consultants hired by the mortgage servicers, along with the number of files they have reviewed and a breakdown of how much has been paid to each consultant for their work, must be made available to the public. Only with this information can Congress and the public determine whether the settlement amount, and cancellation of the IFR process, is appropriate. I also request a detailed explanation as to how you arrived at the \$8.5 billion settlement figure, and how it was decided that \$3.3 billion would come in the form of cash payments and \$5.2 billion would come in the form of

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indirect relief. Given that the IFR process did not set a cap on the amount of payments to be potentially paid by the servicers, I have many questions about how you arrived at the proposed settlement amount.

Finally, borrower remediation was only one goal of the IFR process. Inadequate controls and processes at the largest servicers have amplified the economic impact of the financial crisis and may hinder a housing recovery until they are adequately addressed. I would like to know what steps the agencies have taken to ensure that servicing processes have been appropriately reformed and that servicers are now able to accurately and consistently manage loan files.

I look forward to continuing our engagement with your agencies as the settlement is finalized and relief begins to be provided to impacted homeowners, and I eagerly await your response to the requests I've outlined in this letter.

Sincerely,

A handwritten signature in black ink that reads "Maxine Waters". The signature is written in a cursive, flowing style with a large initial "M" and a long, sweeping underline.

MAXINE WATERS
Ranking Member