

United States House of Representatives  
Committee on Financial Services  
Washington, D.C. 20515

November 15, 2013

The Honorable Ben S. Bernanke  
Chairman  
Board of Governors  
of the Federal Reserve System  
20<sup>th</sup> 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:

We write today to follow up on your agencies' assurances that they would release a public report on the Independent Foreclosure Review (IFR) process.

In April 2011, the Board of Governors of the Federal Reserve System (the Board) and the Office of the Comptroller of the Currency (OCC) entered into consent agreements with 14 mortgage servicers regarding their unsafe and unsound residential mortgage loan servicing and foreclosure processing practices. Those consent orders required mortgage servicers to establish Action Plans outlining how they would correct deficiencies in their systems relating to loan modifications, communicating with borrowers, and complying with local, state, and federal foreclosure laws. Additionally, the consent orders established the Independent Foreclosure Review (IFR) process, which required the mortgage servicers to hire outside consultants to examine foreclosures initiated in 2009 and 2010, investigate whether borrowers had been the victims of illegal or improper practices, and remediate issues accordingly.

On January 7, 2013, the Board and the OCC announced settlements with many of the mortgage servicers subject to the April 2011 consent orders, which resulted in a termination of the case-by-case review required under the IFR process.<sup>1</sup> On February 28, 2013, the Board and the OCC executed formal amendments to the consent orders under which these servicers agreed to pay \$9.3 billion in "cash payments and other assistance" to borrowers, including \$3.6 billion in direct payments to borrowers who had homes in foreclosure in 2009 or 2010.<sup>2</sup> Staff for the Board and the OCC indicated that approximately 105,000 out of a possible 4.2 million borrower files had been reviewed at the time that the Board and the OCC finalized the majority of these settlements.

We have raised significant concerns about the decision to conclude the IFR process before all borrower requests for review had been satisfied and randomly selected samples of eligible loan files had been reviewed. Based on the information provided to us at the time of the settlements, we could not assess whether the settlement amount and terms were adequate, whether it was appropriate for the

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<sup>1</sup> Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency, *Joint Press Release* (Jan. 7, 2013) (online at [www.occ.gov/news-issuances/news-releases/2013/nr-ia-2013-3.html](http://www.occ.gov/news-issuances/news-releases/2013/nr-ia-2013-3.html)).

<sup>2</sup> Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency, *Joint Press Release* (Feb. 28, 2013) (online at [www.federalreserve.gov/newsevents/press/enforcement/20130228a.htm](http://www.federalreserve.gov/newsevents/press/enforcement/20130228a.htm)).

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mortgage servicers themselves to decide how to compensate the borrowers they harmed, and whether the outside consultants hired by the servicers collected and analyzed accurate information.

Nonetheless, the Board and the OCC moved forward with the settlement processes and promised Congress that information relating to the IFR process would be forthcoming. In April 2013, Daniel Stipano, Deputy Chief Counsel at the OCC, testified before the Senate Banking Committee that “we do anticipate doing public reporting” on the lessons learned from the IFR.<sup>3</sup> Similarly, Chairman Bernanke testified before the same Committee in July 2013 that “we hope to have a report on this whole thing within the next couple of months that will lay out basically all the information we have” and that “we will try to provide as much transparency as we have.”<sup>4</sup>

Your agencies still have not issued a report on the IFR process. Accordingly, we request that you produce the following information:

- A summary of the financial remediation received by borrowers to date, including the number of borrowers that have received and cashed checks in each of the Remediation Matrix categories. Please also include a description of the number and the amounts of any financial remediation checks that have not been cashed, as well as a description of any patterns the Board and the OCC have identified with borrowers who have not cashed checks. Finally, please provide a description of how the Board and the OCC plan on disbursing any settlement amounts that remain once efforts to reach eligible borrowers are exhausted, and enumerate what methods will be used in that outreach effort;
- A description of information that has been and will be released to borrowers whose foreclosure files were examined as a part of the IFR process and, if applicable, a justification for the withholding of any information that will not be released to borrowers;
- A description of any referrals to the Department of Justice on cases in which criminal violations are suspected, including cases related to the Service members Civil Relief Act;
- The status of mortgage servicers’ compliance with the Action Plans mandated by the April 2011 consent orders, including an explanation of efforts the Board and the OCC have taken to ensure compliance with the Action Plans; and
- A description of the information sharing efforts on mortgage servicing issues between the Board and the OCC and the Consumer Financial Protection Bureau (CFPB) and the Office of the Monitor of the National Mortgage Settlement.

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<sup>3</sup> United States Congress. Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Financial Institutions and Consumer Protection. “Outsourcing Accountability? Examining the Role of Independent Consultants.” (April 11, 2013).

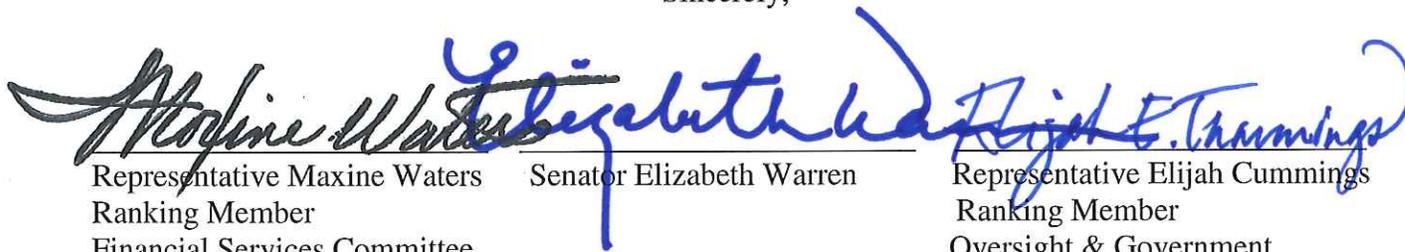
<sup>4</sup> United States Congress. Senate Committee on Banking, Housing and Urban Affairs. “The Semiannual Monetary Policy Report to the Congress.” (July 18, 2013).

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This information is critically important to addressing the continuing foreclosure processing problems in the mortgage servicing industry. An August 2013 CFPB report found that “sloppy account transfers,” “poor payment processing,” and “loss mitigation mistakes” are still harming borrowers.<sup>5</sup> Although the IFR process may be over, there are still many valuable lessons to be learned from it.

We request that you provide this information as soon as possible, but no later than the end of the 2013 calendar year. We look forward to continuing to work with you on this issue and thank you for your consideration of this request.

Sincerely,

  
Representative Maxine Waters    Senator Elizabeth Warren    Representative Elijah Cummings  
Ranking Member    Ranking Member  
Financial Services Committee    Oversight & Government  
Reform Committee

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<sup>5</sup> Consumer Financial Protection Bureau. (2013). “Supervisory Highlights: Summer 2013.” Retrieved from: [http://files.consumerfinance.gov/f/201308\\_cfpb\\_supervisory-highlights\\_august.pdf](http://files.consumerfinance.gov/f/201308_cfpb_supervisory-highlights_august.pdf)