

OCC Foreclosure Review

- Office of the Comptroller of the Currency
- “Independent Foreclosure Review” (IFR)
- Deadline = July 31,2012
- Borrowers must request review on official form
- Must show financial injury as a result of errors in foreclosure actions on their homes in 2009 or 2010

OCC Foreclosure Review

- Covers 14 subsidiary servicers of banks regulated by the OCC
- America's Servicing Company, Aurora Loan Services, BAC Home Loans Servicing, Bank of America, Beneficial, Chase, Citibank, CitiFinancial, CitiMortgage, Countrywide, EMC, Everbank/Everhome Mortgage Company, Financial Freedom, GMAC Mortgage, HFC, HSBC, IndyMac Mortgage Services, MetLife Bank, National City Mortgage, PNC Mortgage, Sovereign Bank, U.S. Bank, Wachovia Mortgage; Washington Mutual, Wells Fargo; Wilshire Credit Corporation.

OCC Foreclosure Review

- Each servicer hired its own “independent” consultant to conduct the reviews
- Call 888-952-9105
- www.federalreserve.gov/consumerinfo/independent-foreclosure-review.htm
- www.occ.gov/independentforeclosurereview

OCC Foreclosure Review

- Wall Street Journal recently reported:
 - 136,000 people have applied (3% of 4.3 million who were in foreclosure in 2009 or 2010)
 - No borrowers have received compensation
 - Officials haven't agreed on penalties
 - Housing counselors said many borrowers were confused by the application forms mailed out by banks; the forms look like scam letters and confuse consumers.

HUD Investigation

- HUD's Office of Inspector General
- March 12, 2012 reports on investigation of 5 largest FHA servicers
 - CitiMortgage
 - Ally Financial
 - fyi, GMAC filed ch. 11 bankruptcy in May 2012
 - J.P. Morgan Chase
 - Bank of America
 - Wells Fargo

HUD Investigation

- Memorandum of Review, Memorandum No.
 - 2012-KC-1801, Citi
 - 2012-PH-1801, Ally
 - 2012-CH-1801, Chase
 - 2012-FW-1801, Bank of America
 - 2012-AT-1801, Wells Fargo

HUD Investigation

- Citi
 - Did not have effective control over its foreclosure process
 - Employees confirmed they signed documents without reviewing/knowing content
 - Notaries did not witness signatures
 - Foreclosure lawyers may have improperly prepared documents

HUD Investigation

- Ally
 - Refused to allow interviews with employees
 - Refused to provide requested documents, subpoena produced only 96 of 113 files
 - Did not have effective control over its foreclosure process
 - Outside evidence confirmed employees signed documents without reviewing/knowing content

HUD Investigation

- Chase
 - Eliminated quality control division in 2008
 - Out of 36 affidavits reviewed for support for amounts claimed due, in only 4 was supporting information found
 - Of the 4 files with supporting information, 3 were inaccurate re late fees & interest compared to info in Chase's servicing system

HUD Investigation

- BoA, Wells
 - More of the same

Forced-Place Insurance

- Bloomberg News: “Look Who’s Pushing Homeowners Off the Foreclosure Cliff”, May 6, 2012
 - loss ratio = \$.20 = insurance companies are charging sky-high premiums
 - Banks receive commissions on the policies
 - Banks make even more money by “reinsuring” – take back some of the risk of payouts, which turn out to be low

Forced-Place Insurance

- American Banker Nov. 9, 2010, “Ties to Insurers Could Land Mortgage Servicers In More Trouble”
 - Cost can be 10 times as much as regular policies, can push borrowers into foreclosure and worsen loss to investors

Forced-Place Insurance

- Servicers outsource all insurance servicing functions, including monitoring loans and deciding when to force place; Insurer charges negligible amount for doing this, benefit is the right to place the insurance
- Coverage often far more than debt balance or property value
- Coverage often retroactive

Forced-Place Insurance

- AG Settlement

- Servicers must continue to pay regular insurance if escrowed but lapse in payment
- Coverage = Greater of replacement value, last known amount of coverage or outstanding loan balance; price = commercially reasonable
- Reasonable efforts to work w/ borrower to continue or reestablish the existing policy if payments are escrowed

Forced-Place Insurance

- Fannie Mae “Servicing Guide Announcement SVC-2012-04”, March 13, 2012
- Coverage amount
 - loans up to 119 days in default, coverage must be last known coverage amount
 - loans 120 days or more in default, coverage must be changed to the lesser of unpaid principal balance or property value
- Refunds must be made within 15 days of receipt of evidence of coverage from the borrower.

Forced-Place Insurance

- Fannie Mae, Cnt.
- Refunds must be made within 15 days of receipt of evidence of coverage from the borrower
- Servicer must exclude from reimbursement request amounts of commissions, costs for insurance tracking or administration, any other costs beyond the actual cost of the premium

Forced-Place Insurance

- New York Department of Financial Services t hearings, May 18-21
- Consumer Financial Protection Bureau
 - Regulations in process
- Class action lawsuits