



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

November 10, 2010

The Honorable Alan Grayson
United States House of Representatives
Washington, DC 20515

Dear Congressman Grayson:

I am writing in response to your letter dated October 6, 2010, concerning the problems that have emerged with foreclosure processes and documentation at some large mortgage servicers. You note that these problems raise legal issues about the chain and documentation for mortgage titles, which could have broad ramifications for mortgage securitizations and pose significant liability for major financial firms. You also note the devastating impact that foreclosures are having on neighborhoods, families and cities.

In light of these concerns, you are requesting that the Financial Stability Oversight Council (FSOC) appoint an emergency task force to assess the potential systemic risks arising from these issues. You further request that the members of the FSOC use their regulatory authority to impose a foreclosure moratorium on all mortgages originated and securitized between 2005-2008, until such a task force is able to understand and mitigate any such systemic risks.

As has been widely publicized, some servicers have failed to adhere to legal requirements essential to the validity of a foreclosure proceeding and to a fair process for troubled borrowers. The OCC shares your concerns about the impact that improper handling of foreclosure documents may have on individual borrowers and on the overall health of our nation and economy. To address this matter, the OCC has taken the following actions:

- When indications of problems in these areas surfaced with respect to Ally Bank, the OCC directed the largest national bank mortgage servicers to conduct an internal review of their foreclosure processes and documentation. We directed these servicers to remedy problems identified and develop and implement policies and procedures to prevent future recurrences.
- In coordination with the Federal Reserve Board and the Federal Deposit Insurance Corporation (FDIC), the OCC is leading onsite examinations of the largest national bank mortgage servicers. Our primary objective is to determine the adequacy of governance over the foreclosure process to ensure compliance with applicable legal requirements. In addition, we want to ascertain whether the bank has underlying mortgage documents that demonstrate the bank has a perfected security interest and legal right to foreclosure. The scope of work to assess governance includes an assessment of foreclosure policies and procedures, organizational structure and staffing, vendor management, quality control and audit, loan

documentation including custodial document management, and foreclosure work flow processes. We also will test and validate the effectiveness of foreclosure governance and adequacy of the bank's self assessment including corrective actions taken or planned. In addition, we will review the nature, volume and resolution of foreclosure-related complaints. This will include a review of foreclosure-related complaints received by the OCC's Customer Assistance Group, as well as a review of complaints received by the bank. Lastly, we will assess, to the extent possible, the financial and reputational impact related to governance and compliance issues that are self identified and/or discovered during the examination.

- In coordination with the Federal Reserve Board, FDIC and the Federal Housing Finance Administration, the OCC is leading an onsite examination of the Mortgage Electronic Registration System (MERS), which operates a system that electronically registers and tracks mortgage ownership interests and servicing rights and may serve as the mortgagee of record as a nominee/agent of the owner of the a loan (the lender or subsequent investor).
- In coordination with the Federal Reserve Board, the OCC will participate in an onsite examination led by the Federal Reserve of Lender Processing Services Inc. (LPS) which provides third party foreclosure services to banks.

Your letter states that improprieties in mortgage documentation are resulting in "foreclosures on people without mortgages or who are on time with their payments." While we do not have evidence that this is occurring, as part of our on-site examinations we are reviewing samples of individual borrower loan files where foreclosures have either been initiated or completed to determine that all applicable laws have been followed. We recognize the devastating impact that foreclosures can have on families and communities. For this reason, we have instructed large national bank servicers that we expect them, wherever reasonable, to seek affordable and sustainable mortgage modifications that would allow individuals to remain in their homes. However, we agree with the Administration and others that a blanket moratorium would introduce unnecessary uncertainty and have unnecessarily adverse affects on the housing markets.

While there is already much coordination underway by Treasury, the OCC, and other federal and state officials, I agree that this situation may warrant consideration by the FSOC. It is our understanding that a briefing for FSOC members is being scheduled.

I trust that this is responsive to your concerns. If you have further questions or need additional information, please contact John Hardage, Director for Congressional Liaison, at 202-874-1881.

Sincerely,



John Walsh
Acting Comptroller of the Currency