FINANCIAL SERVICES COMMITTEE
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October 6, 2010

The Honorable Timothy F. Geithner
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave, NW
Washington, DC 20551

The Honorable Mary Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable John G. Walsh
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
250 E St. SW
Washington, DC 20219

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
1155 21st St. NW
Washington, DC 20581

The Honorable Ed DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

The Honorable Debbie Matz
Chairman
National Credit Union Administration
1775 Duke Street,
Alexandria, VA 22314-3428

Dear Secretary Geithner and members of the Financial Stability Oversight Council (FSOC),

The FSOC is tasked with ensuring the financial stability of the United States, which includes identifying and addressing possible systemic risks. There is a well-documented wave of foreclosure fraud sweeping the country that presents such a risk. Bank of America and JP Morgan Chase have both suspended foreclosures in 23 states where that fraud could be uncovered and stopped by the courts. Connecticut has suspended foreclosures.

I write to encourage the FSOC to appoint an emergency task force on foreclosure fraud as a potential systemic risk. I am also writing to ask the members of the FSOC to use their regulatory authority to impose a foreclosure moratorium on all mortgages originated and securitized between 2005-2008, until this task force is able to understand and mitigate the systemic risk posed by the foreclosure fraud crisis.

So far, banks are claiming that the many forged documents uncovered by courts and attorneys represent a simple 'technical problem' with foreclosure processes. This is not true. What is happening is fraud to cover up fraud.

The mortgage lending boom saw the proliferation of predatory lending and mortgage fraud, what the FBI called at the time 'an epidemic of mortgage fraud.' Much of this was lender-induced.

When lenders - many of whom are now out of business - originally lent money to borrowers, they often did so knowing that the terms of the loans could not possibly be honored. They sought fees, not repayment. These lenders put people in predatory loans, they induced massive amounts of fraud, and Wall Street banks misrepresented these loans to investors when they moved through the securitization chain. They were stealing money from investors, and from homeowners.

Obviously these originators and servicers didn't keep good records of who owed what to whom because the point was never about getting paid back, it was about moving as much loan volume as possible as quickly and as cheaply as possible. The banks didn't keep good records, and there is good reason to believe in many if not virtually all cases during this period, failed to transfer the notes, which is the borrower IOUs in accordance with the requirements of their own pooling and servicing agreements. As a result, the notes may be put out of eligibility for the trust under New York law, which governs these securitizations. Potential cures for the note may, according to certain legal experts, be contrary to IRS rules governing REMICs. As a result, loan servicers and trusts simply lack standing to foreclose. The remedy has been foreclosure fraud, including the widespread fabrication of documents.

There are now trillions of dollars of securitizations of these loans in the hands of investors. The trusts holding these loans are in a legal gray area, as the mortgage titles were never officially transferred to the trusts. The result of this is foreclosure fraud on a massive scale, including foreclosures on people without mortgages or who are on time with their payments.

The liability here for the major banks is potentially enormous, and can lead to a systemic risk. Fortunately, the Dodd-Frank financial reform legislation includes a resolution process for these banks. More importantly, these foreclosures are devastating neighborhoods, families, and cities all over the country. Each foreclosure costs tens of thousands of dollars to a municipality, lowers property values, and makes bank failures more likely.

I appreciate your willingness to assess possible systemic risks to the country, and would again encourage you to suspend foreclosures until this problem is understood and its ramifications dealt with.

Sincerely,

Alan Grayson

Alan Grayson
Member of Congress