JEB HENSARLING, TX, CHAIRMAN

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

MAXINE WATERS, CA, RANKING MEMBER

June 18, 2013

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

The Honorable Thomas J. Curry
Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Dear Chairman Bernanke and Comptroller Curry:

As you are aware, the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve (Fed) recently reached a settlement with 14 servicers based on a review of their foreclosure practices from 2009 to 2010. The Independent Foreclosure Review (IFR), which sought to identify individual harms caused to borrowers, was ended upon agreement to that settlement.

While the IFR was a flawed process, the failure to appropriately administer the Home Affordable Mortgage Program (HAMP) was a central error identified during the time of the reviews. As you know, the OCC and Fed settled HAMP type claims on behalf of borrowers for as little as $300.

It has come to my attention via a June 14th Bloomberg article I have enclosed, that employees at one of the nation's largest servicers are alleged to have "falsified records and were told to delay U.S. loan-assistance applications by requesting paperwork that the (bank) had already received." The goal of the delay, according to the article, was to ensure that rather than receiving a HAMP modification, the borrower would be foreclosed upon. It has been noted in numerous studies that foreclosure is often the most profitable end result for a servicer that does not own the loan they are servicing.[1] It goes without saying that this is an outright abuse of consumers and government mortgage assistance programs.

According to the most recent report of the Special Inspector General of the Troubled Asset Relief Program (SIGTARP), Bank of America has received $992 million in Incentive Payments related to HAMP, making them the second largest beneficiary of such payments. While that figure pales in comparison to the other Troubled Asset Relief Program (TARP) funds that the bank has benefited from, I do think it represents a significant amount of assistance from taxpayers.

[1] Levitin, Adam J. and Twomey, Tara, Mortgage Servicing (December 15, 2010). Yale Journal on Regulation, Vol. 28, No. 1, 2011; Georgetown Public Law Research Paper No. 11-09; Georgetown Law and Economics Research Paper No. 11-01. Available at SSRN: http://ssrn.com/abstract=1324023

The OCC and Fed did not report any violations uncovered by the IFR that match the descriptions in this article and many claims within the scope of the IFR and the National Mortgage Settlement have already been released by the government. However, it is not clear from the report when these alleged activities occurred and whether they would have been covered within the scope of either settlement. I am writing to request that your agencies investigate the claims set forth in the lawsuit to determine whether they were isolated to a single servicer; take whatever actions remain available to your agencies regarding the allegations; and, make appropriate recommendations to the Department of Justice.

Furthermore, any findings should be shared with the Monitor of the National Mortgage Settlement to aid in his ongoing work ensuring compliance with servicing standards set forth by the settlement.

Sincerely,

Maxine Waters

MAXINE WATERS
Ranking Member

Enclosure

Bloomberg

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BofA Gave Bonuses to Foreclose on Clients, Lawsuit Claims

By Hugh Son and David McLaughlin - Jun 14, 2013

Bank of America Corp. (BAC), the second-biggest U.S. lender, rewarded staff with cash bonuses and gift cards for meeting quotas tied to sending distressed homeowners into foreclosure, former employees said in court documents.

Mortgage workers falsified records and were told to delay U.S. loan-assistance applications by requesting paperwork that the **Charlotte**, North Carolina-based bank had already received, according to statements from ex-employees filed last week in federal court in **Boston**. The lender improperly disqualified applicants to the Home Affordable Modification Program, or HAMP, according to a May 23 statement from Simone Gordon, a loss-mitigation specialist who left the company in 2012.

"We were regularly drilled that it was our job to maximize fees for the bank by fostering and extending delay of the HAMP**modification** process by any means we could," Gordon said. Managers instructed staff to "delay modifications by telling homeowners who called in that their documents were 'under review,' when in fact, there had been no review," she said. The bank has denied the plantiffs' allegations.

Bank of America, which has spent more than $45 billion to settle claims tied to its 2008 **takeover** of Countrywide Financial Corp., is being sued by homeowners who didn't receive permanent loan modifications after making payments under trial programs, according to court papers. Statements from seven former loan employees were included in a filing last week as part of plaintiffs' attempt to gain class-action status.

Bank of America has helped the most homeowners under HAMP and is committed to assisting customers at risk of foreclosure, Rick Simon, a company spokesman, said today in an e-mail.

Gift Cards

"At best, these attorneys are painting a false picture of the bank's practices and the dedication of our **employees**,"Simon said. "While we will address the declarations in more depth when we file our opposition to the plaintiffs' motion next month, suffice it to say that each of the declarations is rife with factual inaccuracies."

The lender unsuccessfully tried to dismiss the complaint in 2011. U.S. District Judge Rya Zobel ruled that the case could proceed while dismissing some claims.

Loan collectors who put at least 10 customers into foreclosure, including those who were in trial modifications, were given a $500 bonus, said Gordon, who worked at Bank of America for more than four years. Other rewards included gift cards for retailers including **Target (TGT)** and Bed, Bath and Beyond, she said.

Another former employee, Theresa Terrelonge, said loan officers were given restaurant gift cards and $25 cash awards for denying loan applications. The incentives moved workers to improperly reject applicants, Terrelonge said in a May 15 statement.

Delay Applications

"I witnessed employees and managers change and falsify information in the systems of record, and remove documents from homeowners' files to make the account appear ineligible for a loan modification," said Terrelonge, a loan servicing representative. This allowed managers to meet quotas for closed cases, she said.

Bank of America instructed employees to delay applications and mislead customers "as part of a deliberate practice of stringing homeowners along," lawyers at said in a June 7 filing.

The law firm is in contact with more than 1,000 Bank of America customers who said they completed requirements for a trial and were denied permanent modifications, attorney Steve Berman of Hagens Berman Sobol Shapiro LLP said in a court filing. Lawyers supported their claims with declarations from the seven employees, many of whom said they had access to the bank's software, which allowed them to understand the process.

Private Loans

"I personally reviewed hundreds of files in which the computer systems showed that the homeowner had fulfilled a trial-period plan" before being denied, said William Wilson, a loan manager who left the firm in August. "On many occasions, homeowners who did not receive the permanent modification that they were entitled to ultimately lost their homes."

The bank offered some applicants who should've gotten HAMP modifications a more-expensive private loan that charged as much as 5 percent interest, compared with 2 percent under the U.S. program, said Wilson, a case-management leader overseeing 13 others.

The bank held a twice-monthly "blitz" in which thousands of cases were improperly denied, Wilson said. Employees would certify to the U.S. Treasury Department false reasons for rejections, he said.

New York

Bank of America was among five mortgage servicers that reached a $25 billion settlement last year with the U.S. and states to resolve claims of abusive foreclosure practices. The deal provided monetary relief to homeowners and establishes standards for servicing mortgages.

Those rules restrict banks from foreclosing on a home while a borrower is being considered for a loan modification, and set procedures and timelines for reviewing loan-modification applications from homeowners.