

OCC Consent Orders Concerning Loan Servicing and Foreclosures

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On April 13, 2011, eight national bank mortgage servicers and two third-party servicer providers stipulated to a consent order with the U.S. Comptroller of the Currency (“OCC”). The eight servicers are Bank of America, Citibank, HSBC, JPMorgan Chase, MetLife Bank, PNC, U.S. Bank, and Wells Fargo. The two service providers are Lender Processing Services (LPS) and its subsidiaries DocX, LLC, and LPD Default Solutions, Inc.; and MERSCORP and its wholly owned subsidiary, Mortgage Electronic Registration Systems, Inc. (MERS).

The OCC regulates, charters and supervises all national banks. It is an independent bureau of the U.S. Department of the Treasury. The OCC is primarily funded by assessments on the banks themselves.

The banks and servicers specified above agreed to adopt action plans addressing the following areas: 1) communications with borrowers; 2) not pursuing foreclosures once a mortgage has been approved for modification; 3) establishing a single point of contact for borrowers during the loan modification and foreclosure processes 4) instituting oversight and controls pertaining to third-party vendors that provide default management or foreclosure services; 5) retaining independent consultants to perform reviews of foreclosure actions between January 1, 2009, and December 31, 2010 to determine whether foreclosures were properly conducted; 6) establishing a process for borrowers who believe they have been financially harmed by any improper foreclosures to make submissions to be considered for remediation; and 7) submitting a plan to remediate financial injury to borrowers identified in the independent consultant’s findings.

The banks and servicers will prepare their own action plans in accordance with these areas and submit these plans to the OCC within sixty days from the date of the orders. The banks’ own boards of directors will then oversee and enforce implementation of the action plans subject to review by the OCC.

The OCC’s findings did conclude “based on the sample of files reviewed by OCC examiners, borrowers in the sample were seriously delinquent at the time of foreclosures and servicers held the notes and documents required to foreclose.” U.S. Comptroller of the Currency, “*OCC Takes Enforcement Action Against Eight Servicers for Unsafe and Unsound Foreclosure Practices*” <http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47.html> (April 13, 2011).