

“Helping Homeowners Harmed by Foreclosures: Ensuring Accountability and Transparency in Foreclosure Reviews”

Hearing before the Senate Subcommittee on Housing, Transportation and Community Development of the Senate Committee on Banking, Housing and Urban Affairs

*Testimony of Ann Kenyon, Deloitte & Touche LLP*

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Chairman Menendez, Ranking Member DeMint, other members of the Subcommittee, good afternoon. My name is Ann Kenyon and I lead the Securitization Advisory Group at Deloitte & Touche LLP. My experience, for over 30 years, has been in accounting and finance in both industry and public accounting. Since joining Deloitte in 1997, I have led or worked on many engagements for financial institutions, commercial clients and governmental entities with respect to their issues in dealing with the capital markets.

Deloitte & Touche LLP (“Deloitte”) and its affiliates have over 45,000 people in offices throughout the United States and perform professional services in four key areas – audit, financial advisory, tax and consulting.

In your invitation, you asked me to discuss “the Consent Orders that were reached by the OCC last spring with the major mortgage servicers and the foreclosure reviews that will result from them.” You have heard already today directly from the Office of the Comptroller of the Currency (“OCC”) and will hear more from this panel on the Consent Orders and resulting foreclosure reviews.

As you know, Article VII of the OCC Consent Order creates a foreclosure review process for borrowers with residential mortgages referred to foreclosure during 2009 and 2010 (the “Review”). The Review is set forth in Article VII and is designed to determine whether, among other items:

- a foreclosure action was properly brought, particularly with respect to certain Federal and state laws;
- a foreclosure sale occurred under appropriate circumstances;
- fees and charges assessed were permissible;
- various loss mitigation programs were handled appropriately so that each borrower had an adequate opportunity to apply for such a program, any such application was handled properly, a final decision was made on a reasonable basis, and was communicated to the borrower before the foreclosure sale.

As contemplated by the Consent Order, the objective of the Review is to identify borrowers who have suffered direct financial injury as a result in any deficiencies identified in the servicer’s procedures in the areas noted above.

Article VII calls for the Bank to retain an “independent consultant” to conduct “an independent review of certain residential foreclosure actions regarding individual borrowers with respect to the Bank’s mortgage servicing portfolio.” Deloitte serves as the independent consultant for JPMorgan Chase Bank and I am the engagement partner on that matter. As

required by Article VII, the conduct of the Review is subject to the monitoring, oversight, and direction of the OCC. We have been and are meeting with the OCC regularly to keep OCC officials apprised of the details of our approach and progress.

Deloitte's engagement consists of three stages. In the first stage, Deloitte undertook the planning and coordination necessary to conduct an effective foreclosure file review as described in the Consent Order. The specific procedures to be performed by Deloitte were established based on the requirements of the Consent Order and discussions with independent counsel. The Consent Order contemplates OCC approval of the procedures proposed. As a public accounting firm, we do not practice law, so we are guided by independent counsel, retained solely to advise Deloitte in all matters requiring legal interpretation. These procedures, developed with advice of independent counsel, are generally described in Appendix E to our engagement letter, which appears on the OCC website in redacted form. As a result of these considerations, procedures for review of the loan files within the scope years, data gathering/sample selection processes, and project management routines were established and as indicated previously, are contained within our approved engagement letter.

Concerning data gathering/sample selection, key activities have included information gathering to support the development of the sample methodology and identification of the specific populations and sample size(s) required. In order to arrive at an effective and statistically valid sample of foreclosure files, a sampling methodology was developed that is outlined in Appendix D to our engagement letter. The goal of the sampling methodology, required by the Consent Order, is to confirm that the sample set selected for testing is representative of the characteristics of the total population from which the sample is derived, thus enabling us to produce results that achieve prescribed levels of confidence and precision. Additionally, identification of specific high risk populations of loans was done pursuant to OCC guidance, and these populations include all borrowers who were protected under the U.S. Bankruptcy Code as well as borrowers eligible for protection under the Servicemembers Civil Relief Act.

The second stage focuses on testing of the selected foreclosure files. To execute this task, we have deployed file testing teams to review applicable foreclosure files as a basis for making appropriate recommendations for further action. Each file testing team consists of a team leader, supported by multiple file analysts and certain specialists. The file analysts will be assigned a file workload to execute against the procedures in Appendix E to our engagement letter. The analysts will conduct necessary research and will obtain additional information as necessary for each to form a sufficient basis of conclusion with respect to the results of the procedures performed. Finally, the analysts will recommend a file for further review, for possible remediation activity or closure. Throughout the process, the analysts will document the research, recommendations and basis for conclusions, and, if the analyst recommends a case for further review or for possible remediation activity, the basis for the recommendation will be documented and reported to engagement leadership. In addition, Deloitte will conduct quality assurance procedures on the work performed by our team.

Finally, the third stage consists of the review, approval, and issuance of the results of the foreclosure file testing. Among other tasks, a written report will be prepared by Deloitte and

submitted to the OCC detailing the process, testing methodology followed, and results of the procedures performed by Deloitte in the Review.

Our engagement letter was approved by the OCC in September, and our work is well under way. As outlined in our engagement letter, we anticipate delivery in late 2012 of the final report based on the Review.

Additionally, and pursuant to guidance from the OCC, Deloitte has worked actively in the servicers' effort to initiate a borrower outreach program. This program, as described in Appendix C to our engagement letter, was established so that borrowers were provided a fair opportunity to file claims or complaints due to errors, misrepresentations, or other deficiencies associated with foreclosures initiated or completed during the review period. All servicers agreed to work through a single claims processing firm, Rust Consulting, with experience in setting up integrated claims processes, conducting outreach, and processing claims requests. The program was launched on November 1, 2011, and we are actively reviewing the responses that have been received thus far.

I assure you that we at Deloitte take our responsibilities as an independent consultant very seriously. We are working hard to complete the foreclosure review in a timely and effective manner so that the results of our work can be reported to the OCC as promptly as possible. I am satisfied with our progress to date and I am confident in the quality of the work performed. However, there is much more to accomplish.

I thank you for providing me with this opportunity to testify and would be happy to answer any questions you have.