

Testimony of

Paul Leonard

Vice President

Housing Policy Council/The Financial Services Roundtable

Before the Senate Banking, Housing and Urban Affairs Committee

Subcommittee on Housing, Transportation and Community Development

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

Dec. 13, 2011

Chairman Menendez, Ranking Member DeMint and members of the committee, my name is Paul Leonard and I am Vice President of Government Affairs for the Housing Policy Council of the Financial Services Roundtable. I thank you for the opportunity to testify regarding the Independent Foreclosure Review process.

The goal of the reviews is to assess whether an eligible borrower incurred financial injury and should receive compensation or another remedy due to servicer errors, misrepresentations, or other deficiencies in the foreclosure process on their primary residence in 2009 and 2010. Everyone involved in this process – the residential mortgage loan servicers, consultants and the regulators – has the desire to get it right.

Importantly, these independent reviews supplement other ongoing measures the industry has underway to help identify and assist at-risk homeowners.

I would like to make five main points about the Independent Foreclosure Review effort:

- First, the reviews are designed to determine if errors in the foreclosure process caused financial injury to borrowers.
- Second, the reviews of the borrower information are independent of the servicers, as verified by the joint regulators.
- Third, the review process includes a robust outreach campaign that includes direct mail, paid advertising and other steps to reach potential eligible borrowers.
- Fourth, it will take time to receive and complete the reviews, as the outreach efforts just began November 1.
- And fifth, the information provided to the regulators on the Independent Foreclosure Reviews throughout the process is intended to be comprehensive and complete.

All involved fully appreciate the importance of this process, and are working to ensure the reviews are conducted exactly as prescribed. In this spirit, the servicers have specifically followed the direction within the consent orders. They have worked closely with the regulators to create a consistent process for eligible borrowers to be contacted and have an opportunity for a thorough, independent review of their foreclosure case. Additionally, the servicers have added senior leadership and internal staffing to successfully execute this effort for the benefit of their respective borrowers.

Equally as important, the experience and information gained through the reviews will be used to further strengthen industry practices.

While much of the public focus has been on the outreach campaign, it is important to note that the Independent Foreclosure Review actually contains two components:

- a borrower complaint process that enables eligible borrowers who believe they may have been financially injured in the foreclosure process to request an independent review of their files, and
- a required file look-back of a valid statistical sampling of borrower accounts, including a review of 100 percent of borrowers with certain characteristics – like those who may have been eligible for protection under SCRA.

Eligible borrowers – as described previously – must meet one of four conditions during the applicable timeframe:

- Their primary residence was sold due to a foreclosure judgment.
- Their mortgage loan was referred into foreclosure, but was removed from the process because payments were brought up-to-date or the borrower entered a payment plan or modification program.
- Their mortgage loan was referred into foreclosure, but the borrower sold the home or participated in a short sale or deed-in-lieu.
- Or, their mortgage loan was referred into foreclosure, remains delinquent at this time and has not gone to foreclosure sale.

Industry-wide, the joint regulators determined that the population eligible for reviews includes about 4 million borrowers. This *does not mean* all of these borrowers were financially harmed. This is simply the total universe of borrowers eligible for review.

At the direction of the regulators and under the consent orders, a robust public education campaign to inform borrowers about the borrower complaint process has been launched. It includes direct mail, national paid advertising, and earned media. Servicers also are working to inform nonprofits and consumer advocates about the process to further help borrowers.

For both borrower complaints and the statistical sampling look-back, the servicers will provide the necessary files – including all data and documents – to enable the independent consultants to determine if a borrower suffered financial injury. The regulators provided 22 potential financial injury scenarios. Here are three examples:

- There is evidence that the borrower did everything the modification agreement required, but the foreclosure sale still happened.
- The servicer initiated foreclosure or completed a foreclosure sale without providing adequate notice as required under applicable state law.
- Or, inaccurate fees may have been charged or mortgage payments were inaccurately calculated, processed or applied.

The review process is underway. To ensure the process is operating effectively, senior leaders from the participating servicers and their regulators are meeting frequently – often daily – to discuss the details of what is occurring and to cooperatively institute continuous improvements in order to make the Independent Foreclosure Reviews successful. The servicers are fully cooperating with their regulators ensuring all information provided is comprehensive and complete.

This is an unprecedented undertaking that has required multiple residential mortgage loan servicers, consultants and the regulators to develop a consistent process for the review effort, while maintaining the independent nature of the reviews.

And as I mentioned earlier, it takes place alongside other important work underway to help borrowers facing financial hardships to avert foreclosure – including many borrowers who are a part of the eligible population for reviews.

Ultimately, we believe these collective efforts will address concerns about the foreclosure process and will increase borrower confidence. Thank you for the opportunity to speak today and I will be glad to answer any questions you have.