



## Mortgage Industry Bulletin

# Regulators Issue Cease and Desist Orders

*April 13, 2011* — Late yesterday the Federal Reserve Bank (FRB) reported enforcement actions against 10 banking organizations to address a pattern of misconduct and negligence in mortgage loan servicing and foreclosure processing. [1] These practices were labeled unsafe and unsound.

Included in the group was Bank of America; Citigroup; Ally Financial; HSBC; JP Morgan Chase; MetLife; PNC; SunTrust Banks; U.S. Bancorp; and Wells Fargo. All 10 actions require the parent holding company oversight of servicing and foreclosure processes by subsidiaries. Also included in the enforcement actions is the requirement that all previous deficiencies uncovered by examiners during compliance reviews conducted in late 2010 be corrected.

Although no monetary sanctions were announced, the FRB indicated penalties could be in addition to the corrective actions required. In the release, the FRB clearly stated that the enforcement actions would not preclude other agencies from separate legal proceedings.

As a result of the actions taken against the 10 banking organizations, significant modifications in residential mortgage loan servicing and foreclosure processes will be required. Each servicer will be required to submit for review plans (including the timing, metrics and staffing proposed to fulfill the requirements) that address the following deficiencies:

- Strengthen coordination of communications by providing borrowers with the name of a singular person who is their primary point for all contact;
- Prohibit foreclosure proceedings once a mortgage loan has been approved for loan modification, unless payments under the plan are not made as agreed;
- Establish robust controls and oversight over the activities of third-party vendors that provide foreclosure support to mortgage servicers;
- Provide remediation to borrowers who suffered financial injury as the result of wrongful foreclosures or other deficiencies identified in the examiners review process; and
- Strengthen programs to ensure compliance with state and federal laws and regulations regarding mortgage servicing, especially foreclosure processing.

In addition to the 10 banking organizations, the FRB also reported a formal enforcement action against Lender Processing Services (LPS), a provider of default-management and other services related to foreclosures and against Merscorp (MERS) a firm that provides tracking and other residential registration processes in the mortgage industry on behalf of lenders and servicers. Both organizations will be required to address deficient practices and weaknesses.

Regulators also released an 18-page report [2] with results of the investigation that detailed the deficiencies throughout the foreclosure and mitigation process. Servicers failed to accurately complete or validate itemized borrower accounts, raising a concern about internal controls. Although regulators reported documentation errors, they did not uncover proof that institutions had wrongfully foreclosed on seriously delinquent or troubled borrowers.

To ensure that corrections are completed, servicers must retain independent consultants to manage the process or conduct confirming look-back reviews for the years 2009 and 2010.

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**[1]**  
**<http://www.federalreserve.gov/newsevents/press/enforcement/20110413a.htm>**

**[2]** **[http://www.ots.treas.gov/\\_files/490070.pdf](http://www.ots.treas.gov/_files/490070.pdf)**

This information offers speculative insight into possible controls impacting the mortgage servicing industry. Loan Protector provides this information as a service to our clients. A link is provided to a URL for the indicated materials.

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