



Audit Report



OIG-18-046

FINANCIAL REGULATION AND OVERSIGHT

Review of Circumstances Surrounding Citibank's Exclusion of In-Scope Borrowers

July 10, 2018

Office of
Inspector General

Department of the Treasury

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Abbreviations

Ally	Ally Financial Inc.
Aurora	Aurora Bank, FSB
BCFP	Bureau of Consumer Financial Protection
Board	Board of Governors of the Federal Reserve System
CAG	Customer Assistance Group
Citibank	Citibank N.A.
CitiResidential	CitiResidential Lending, Inc.
Epiq	Epiq Class Action & Claims Solutions, Inc.
IFR	independent foreclosure review
OCC	Office of the Comptroller of the Currency
OIG	Office of Inspector General

OTS	Office of Thrift Supervision
PNC	PNC Bank, N.A.
Rust	Rust Consulting, Incorporated
SCRA	Servicemembers Civil Relief Act
SunTrust	SunTrust Banks, Inc., SunTrust Bank, and SunTrust Mortgage
US Bank	U.S. Bank, N.A. and U.S. Bank N.A., ND
Wells Fargo	Wells Fargo Bank, N.A.

*The Department of the Treasury
Office of Inspector General*

July 10, 2018

Joseph M. Otting
Comptroller of the Currency

This report presents the results of our review of the Office of the Comptroller of the Currency's (OCC) oversight of the determination of the population of in-scope borrowers¹ related to the foreclosure consent orders issued in April 2011, and subsequently amended in February 2013.² We performed this review at the request of the Ranking Member of the House Committee on Financial Services.³ The request letter is provided in appendix 1.

Consistent with the Congressional request, our objectives were to determine: (1) the facts and circumstances surrounding the increase in the population of Citibank, N.A.'s⁴ (hereinafter Citibank) in-scope borrowers; (2) the methodology used and procedures performed by OCC to test and validate the universe of in-scope

¹ Borrowers who were in the foreclosure process in 2009 and 2010.

² In February 2013, OCC and the Board of Governors of the Federal Reserve System (Board) entered into amended consent orders with Bank of America, N.A.; Citibank, N.A. (Citibank); Goldman Sachs Group, Inc.; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; Morgan Stanley; PNC Bank, N.A. (PNC); U.S. Bank, N.A. and U.S. Bank N.A., ND (collectively U.S. Bank); Wells Fargo Bank, N.A. (Wells Fargo); Aurora Bank, FSB (Aurora); Sovereign Bank, N.A.; and, SunTrust Banks, Inc., SunTrust Bank, and SunTrust Mortgage (hereinafter SunTrust). Ally Financial Inc. (Ally) entered into an amended consent order with the Board in July 2013. Similarly, EverBank entered into an amended consent order with the OCC in August 2013.

³ The Office of Inspector General (OIG) of the Board and the Bureau of Consumer Financial Protection received the same request. The results of its review of the Board's oversight of the determination of the population of in-scope borrowers was issued under separate cover on September 30, 2015 entitled *Congressional Request Related to the In-Scope Borrower Population of Independent Foreclosure Review and the Subsequent Payment Agreement*.

⁴ Citibank includes CitiMortgage, Inc. and CitiFinancial Credit Corporation and its subsidiaries as these were the only two Citibank entities engaged in mortgage servicing operations in the United States during the consent order period. CitiMortgage, Inc. serviced loans on behalf of itself and its affiliates including Citibank, N.A., Citicorp USA, Citicorp Trust Bank, Citigroup Global Markets Realty Corporation, CitiResidential Lending, Inc., and CitiFinancial Credit Corporation and its subsidiaries.

borrowers and whether such borrowers were appropriately sent checks for the five servicers not covered in the prior Office of Inspector General (OIG) review⁵ (Citibank; PNC Bank, N.A. (PNC); U.S. Bank, N.A. and U.S. Bank, N.A., ND (collectively U.S. Bank); Wells Fargo Bank, N.A. (Wells Fargo); and EverBank⁶); (3) OCC's process for vetting any individual questions, complaints, or requests for appeal related to the in-scope population from borrowers; (4) any direction that OCC has provided to servicers outlining how the servicer should process questions, complaints, or requests to appeal the determination of the in-scope population that they receive from borrowers; and (5) what data gaps existed within servicers' systems that made it difficult to identify in-scope borrowers and whether such data gaps or system integration issues have been fixed.

To accomplish these objectives, we interviewed OCC officials including the Director of the Customer Assistance Group (CAG), the organization within OCC that is responsible for managing OCC's complaint process. In addition, we reviewed OCC's documentation of the circumstances surrounding Citibank's omission of in-scope borrowers, the determination of the in-scope population for the five servicers not covered in prior OIG reviews, and the processing of borrowers' in-scope related complaints. Appendix 2 contains a more detailed description of our objectives, scope, and methodology.

In brief, we found that OCC took immediate action to determine the total borrowers omitted from Citibank's in-scope population once the error was discovered and ensured checks were mailed to the affected borrowers in accordance with the Independent Foreclosure Review (IFR) payment agreement. We found that OCC's process for determining the in-scope population of

⁵ We reviewed the following servicers: Bank of America, N.A.; JPMorgan Chase, N.A.; HSBC Bank USA, N.A.; MetLife Bank, N.A. and Sovereign Bank, N.A. in our prior audit entitled *OCC Needs to Ensure Servicers Implement Amended Foreclosure Consent Orders and Act on Identified Weaknesses* (OIG-14-044; August 6, 2014).

⁶ Aurora was one of the original servicers who agreed to the settlement in January 2013. Per the congressional request, we included Aurora in our engagement letter sent to OCC since it was one of the servicers not reviewed in the prior audit of amended foreclosure consent orders. After being told by OCC officials that Aurora had surrendered its charter in March 2013 and its consent order had been terminated, we removed it from the list of servicers under review and replaced it with EverBank, who joined the settlement in late August 2013.

borrowers was reasonable and consistent with the process reviewed in our prior audit of the amended consent orders (OIG-14-044; August 6, 2014). OCC identified system errors during its oversight of this process and directed the respective servicers to take corrective action. We also found that OCC had a borrower complaint process that sought to address borrowers' concerns regarding their in-scope status in a reasonable manner. Further, we found that all servicers reviewed by OCC had identified data gaps and/or system integration issues and took corrective actions to mitigate those issues.

We are not making any recommendations to OCC as a result of our audit. We provided a draft of this report to OCC management for its review. In a written response, which is included as appendix 3, OCC thanked our office for the opportunity to review the report and advised that it had no comments.

Background

In April 2011, OCC, the former Office of Thrift Supervision⁷ (OTS), and the Board of Governors of the Federal Reserve System (Board) issued foreclosure related consent orders against 14 major mortgage servicers (8 supervised by OCC, 4 supervised by OTS, and 2 by the Board)⁸ for unsafe and unsound practices in residential mortgage servicing and foreclosure processing. Additionally, the Board issued consent orders against Goldman Sachs Group, Inc., in September 2011, and Morgan Stanley in April 2012, which brought the total number of servicers subject to foreclosure related consent orders to 16. These unsafe and unsound practices were identified during a horizontal review⁹ performed by the regulators in 2010. Pursuant to these orders, the servicers engaged independent consultants to perform IFRs to

⁷ Effective July 21, 2011, in accordance with Public Law 111-203, the functions of OTS were transferred to the Board, the Federal Deposit Insurance Corporation, and OCC. The foreclosure related consent Orders issued by OTS prior to transfer remained in effect and enforceable by OCC.

⁸ The 8 OCC supervised servicers were Bank of America, N.A.; Citibank; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; PNC; U.S. Bank; and Wells Fargo. The 4 OTS supervised servicers were Aurora; EverBank; OneWest Bank, FSB; and Sovereign Bank, N.A. The 2 Board supervised servicers were Ally and SunTrust.

⁹ The term horizontal review refers to a bank examination in which the regulator simultaneously performs the same examination procedures across a group of institutions.

identify and remediate financial injury to borrowers who were in the foreclosure process in 2009 and 2010.¹⁰ These reviews were performed during 2011 and 2012. The consent orders also required that servicers develop and implement various corrective action plans to address the unsafe and unsound practices that had been identified.

In November 2012, OCC officials concluded that the IFR process was taking longer than anticipated and delaying the compensation to harmed borrowers. Working in conjunction with the Board, OCC began negotiating changes to the original consent orders with the servicers. In January 2013, new terms, which included payment agreements, were agreed to and in February 2013 OCC and the Board amended the existing foreclosure consent orders to incorporate the new terms for 13 of the 16 servicers subjected to the original consent orders issued in April and September 2011 and April 2012 (10 supervised by OCC and 3 supervised by the Board).¹¹ Two of the remaining three servicers ultimately entered into an amended consent order, Ally in July 2013 and EverBank in August 2013, while OneWest Bank, FSB never entered into an amended consent order. The payment agreements required the servicers to provide payments to in-scope borrowers based on possible harm.

For the participating servicers, the amended orders required them to immediately cease most IFR activity, make cash deposits to a Qualified Settlement Fund established to make payments to potentially harmed borrowers, and initiate a range of foreclosure prevention actions. Under the amended orders, servicers were required to categorize borrowers according to the most likely type of potential financial harm suffered as a result of the servicer's foreclosure practices. The category in which a potentially harmed borrower was placed determined the cash payment amount. OCC and the Board developed the categories and associated payment amounts. OCC officials told us that if a borrower fell into more

¹⁰ These borrowers became known as in-scope borrowers.

¹¹ The 10 OCC supervised servicers are Aurora ; Bank of America, N.A.; Citibank; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; PNC; Sovereign Bank, N.A.; U.S. Bank; and Wells Fargo (As discussed in Footnote 7, Aurora and Sovereign Bank, N.A. were transferred to OCC). The 3 Board supervised servicers are Goldman Sachs Group, Inc.; Morgan Stanley; and SunTrust.

than one category, the borrower was placed in the category that yielded the highest payment.

The servicers engaged Rust Consulting, Incorporated (Rust), as the paying agent to manage the distribution process.¹² Previously, Rust served as the single integrated claims processor for the April 2011 foreclosure related consent orders. Rust was responsible for setting up and administering the Qualified Settlement Funds and performing operational activities to distribute cash payments to eligible borrowers.¹³ These operational activities included issuing and reissuing checks, following up on undeliverable mail, providing a call center and customer support, and providing activity reporting. Payments to potentially harmed borrowers began in April 2013.

Results of Audit

Borrowers Initially Omitted from Citibank's In-Scope Population Were Later Discovered and Checks Were Mailed

We reviewed documentation of the circumstances surrounding the omission of the Citibank borrowers from the in-scope population and were able to confirm that the information gathered during interviews with OCC officials accurately represented the facts of the omission.

Citibank initially identified approximately 24,000 CitiResidential Lending, Inc. (hereinafter CitiResidential) loans¹⁴ in the population

¹² Rust provides project management, data management, notification, contact center, claims processing, and distribution reporting to customers in the public, legal, and business sectors.

¹³ There are four Qualified Settlement Funds for the amended consent orders: Fund 1 for 11 of the OCC and Board-supervised institutions (Aurora; Bank of America, N.A.; Citibank; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; MetLife Bank, N.A.; PNC; Sovereign Bank, N.A.; SunTrust; U.S. Bank; and Wells Fargo); Fund 2 for the Board-supervised institutions (Goldman Sachs Group, Inc. and Morgan Stanley); and Fund 3 for the Board-supervised Ally. A separate fund, or Fund 4, for EverBank was administered by Epiq Class Action & Claims Solutions, Inc. (Epiq).

¹⁴ CitiResidential, an affiliate of Citibank, sold a portion of its residential mortgage loan portfolio to American Home Mortgage Servicing and CitiMortgage in February 2009, approximately 41 days into the foreclosure period covered by the consent orders of 2011. These "first-lien" loans were serviced by CitiResidential and considered in-scope for Citibank for IFR purposes.

of in-scope borrowers at the onset of the IFR process according to its engagement letter, dated September 23, 2011, with PricewaterhouseCoopers, its independent consultant. In August 2011, a CitiMortgage official questioned OCC as to whether such loans held by Citibank, but not in its primary mortgage service line were subject to the consent order. An OCC official responded to the servicer that *"we in the end chose to target only foreclosure actions initiated or completed on owner-occupied, 1-4 family dwellings by divisions of the institution that process first lien foreclosures."* This response to the servicer prompted the bank officials to exclude these CitiResidential loans from the in-scope population for IFR.

In April 2013, a private citizen filed a complaint with OCC that uncovered this omission of borrowers and prompted a review by OCC. The same citizen had filed a complaint regarding the same matter with the Bureau of Consumer Financial Protection (BCFP) in 2012, but there was no reference in the complaint to the IFR process. We determined that Citibank responded directly to the borrower, stating in essence that the loan was "out-of-scope" of the IFR process. OCC became aware of the complaint filed with the BCFP and the servicer's decision after OCC had begun its review in 2013. OCC officials took responsibility for the omission of these loans from the in-scope population as they believed it was caused by a misinterpretation of the guidance provided by an OCC official to the servicer in August 2011.

As a result, OCC required Citibank to include these loans in its in-scope population and to treat the borrowers as if they had filed a Request for Review, as a concession.¹⁵ This class of borrowers was compensated higher than those who did not file a Request for Review under the IFR process. The final total number of loans omitted from Citibank's population of in-scope borrowers was 24,239, and they were categorized¹⁶ as follows:

¹⁵ The original foreclosure related consent orders required that, as part of the IFR process, each servicer establish a process for borrowers who believed they had been financially harmed by the servicer's foreclosure related deficiencies to make submissions to be considered for remediation. These submissions were known as Requests for Review.

¹⁶ OCC and the Board developed 11 categories that in-scope borrowers would be placed into according to the most likely type of potential financial harm suffered as a result of the servicer's foreclosure practices.

-
- Foreclosure while in Bankruptcy – 436
 - Performing Forbearance Plan - 3
 - Modification Approvals - 747
 - No Loss Mitigation Engagement - 22,103
 - Other - 950

Over 90 percent of these loans were slotted¹⁷ into the “No Loss Mitigation Engagement” category. This category consists of borrowers where the servicer did not engage in a loan modification or other loss mitigation action. A little over 95 percent of these borrowers were paid \$500-\$600. As of April 6, 2017, all borrowers represented by the 24,239 loans had been mailed checks, with several being re-issued for various reasons, and 19,720 loans (81 percent) had checks completely cashed¹⁸ totaling approximately \$15.7 million.

The remaining 4,519 loans have been closed after multiple attempts to contact the borrowers and the approximately \$3.5 million in uncashed checks were escheated to the state of the borrower’s last known address. The same step is being taken with the remaining loans where borrowers have uncashed checks for the other OCC regulated servicers.

OCC Relied on Servicers to Validate the Universe of In-Scope Borrowers

OCC Relied on Servicers to Validate Borrower Categories, As Noted in Our Prior Audit of Amended Foreclosure Consent Orders

In January 2013, OCC provided servicers with instructions for slotting borrowers into 11 categories according to the most likely type of potential harm suffered as a result of the servicers’ foreclosure practices. The categorization was primarily a data driven exercise. In addition, OCC provided its examination teams with validation procedures to follow in order to gain reasonable

¹⁷ Slotting or the slotting process refers to the identification and placement of borrowers into one of the 11 categories.

¹⁸ A loan with completely cashed checks is where a check or checks totaling the entire payment to the borrower or borrowers had been cashed. Some loans had multiple borrowers which necessitated the issuance of more than one check.

assurance of the accuracy of the servicers' identification and categorization of the in-scope borrowers.

OCC officials told us that OCC headquarters personnel and resident examination team members maintained an ongoing dialogue with servicer personnel to address questions and concerns throughout the categorization process. We also learned that OCC primarily relied on the testing performed by the servicers' independent consultants and/or internal audit groups to gain comfort in the slotting process and the resulting categorization. OCC officials told us that they also gained comfort through ongoing communications with the servicers' personnel to address questions and concerns throughout the categorization process. This ongoing communication sometimes resulted in corrective actions by the servicers. We noted during our review of relevant documentation that OCC's oversight of the categorization process for the five servicers included in the scope of this audit did not vary from the steps taken by OCC to verify the categorizing by the servicers reviewed in our prior audit of the amended foreclosure consent orders.

OCC examiners concluded that the categorizing of borrowers for the five servicers we reviewed was reasonably accurate or satisfactory. While we did not perform independent testing of the precision with which the loans were identified and categorized, we believe that OCC's supervision of this process was reasonable and consistent.

All Checks Have Been Mailed to Borrowers for Servicers Reviewed

We reviewed the check mailing reports for the five servicers to determine if borrowers were appropriately sent checks. As of April 2016, all checks for borrowers of OCC-regulated institutions have been mailed, including those reissued for various reasons. The only checks not reissued were those returned as undeliverable where the additional skip tracing¹⁹ did not result in an updated address. Approximately 70 percent of the total checks issued have been cashed. The check status totals are as follows (as of dates were September 2016 for all servicers except CitiResidential which was

¹⁹ Skip tracing is a term used to describe the process of locating a person's whereabouts.

as of July 2016 and EverBank which was as of May 2016 for Checks Paid and September 2016 for Checks Issued):

- Checks Issued – 1,483,908
- Checks Re-Issued – 412,757
- Checks Cashed – 1,048,205

We reviewed 5 of the 11 categories for 4 of the 5 servicers reviewed (Citibank, PNC, U.S. Bank, and Wells Fargo) to verify that the total number of borrowers in each of the categories matched the total borrowers for the corresponding loan classifications by Rust. We performed this test to gain reasonable assurance that borrowers in the “in-scope” population were properly placed and accounted for by Rust. The servicers’ categories and the Rust loan classifications were not a one-to-one relationship because Rust’s check mailing process required the data to be in a more granular format. Thus, one category equated to multiple corresponding Rust loan classifications. EverBank followed a slightly different categorization process and engaged a different paying agent, Epiq Class Action & Claims Solutions, Inc. (Epiq), to handle check mailing; therefore, our verification of EverBank’s data required the review of a different set of documents.

We noted one discrepancy during our comparison of OCC’s data to Rust’s data and that involved PNC’s reported totals for the Servicemembers Civil Relief Act²⁰ (SCRA) 527 category. PNC’s independent consultant performed a limited review of the SCRA 527 loans and identified 17 loans in the SCRA 527 1a category²¹

²⁰ The Servicemembers Civil Relief Act (Public Law 108 – 189; Dec. 2003) is a federal law that provides legal and property protections for military members while they are on active duty and less able to timely respond to and participate in proceedings. It covers a broad range of issues including rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments. The types of relief provided under the law include: limitations on the rate of interest for debts incurred before military service; protection against default judgments, evictions, foreclosures, and repossessions of property; and the ability to terminate residential and automobile leases due to military orders.

²¹ The SCRA 527 1a category applies only to rescinded or completed foreclosures where the servicer foreclosed on borrowers eligible for SCRA protection. If the foreclosure was completed, a borrower was eligible for a \$125,000 payment. If the foreclosure was rescinded, a borrower was eligible for a \$15,000 payment.

(\$125,000 or \$15,000 payment) and none for category 1b²² (\$300 payment or the amount overcharged and paid by the borrower, whichever is greater). The discrepancy occurred when PNC reported these 17 SCRA 527 loans in category 1b while Rust's data reported the 17 loans in category 1a. However, we found that these 17 SCRA 527 loans were appropriately reported by Rust in category 1a for payment purposes.

Also, we noted a difference of seven borrowers between EverBank's borrower category totals submitted in early 2013 and its approved Consent Order Distribution Plan, submitted in late 2013. The category totals populated the Distribution Plan and, therefore, should equal. OCC told us that the earlier total came from the draft settlement discussion and did not contain the final EverBank IFR loan-slotting or the final EverBank IFR in-scope population. EverBank's totals have remained unchanged since the finalization of its Distribution Plan which we verified to EverBank's subsequent check mailing report.

Based on our review of the categories for those servicers selected for review, we are reasonably assured that in-scope borrowers were properly accounted for and were placed into the categories that most likely related to the type of potential financial harm suffered as a result of the servicers' foreclosure practices.

OCC's Process for Tracking and Vetting Questions, Complaints, and Appeals Was Reasonable

The borrower complaint process was comprised of several stages and the activities of each stage varied depending on the time period of the IFR initiative. The complaint process was managed collaboratively by Rust and OCC's CAG team, each with distinctive responsibilities. OCC told us that from the inception of the IFR process in November 2011 through December 2012, Rust was primarily responsible for mailing Request for Review forms to the borrowers, collaborating with the independent consultants to

²² The SCRA 527 1b category applies to in process or completed foreclosures where the servicer charged servicemembers interest rates that exceed SCRA Section 527 limits. Servicemembers who were charged interest rates higher than limits allowed by SCRA Section 527 were eligible for payments of \$300 or the amount overcharged and paid by the borrower, whichever is greater.

confirm borrowers' in-scope or out-of-scope status, and coordinating with servicers and/or independent consultants in responding to consumer inquiries regarding such communication. OCC's CAG team forwarded all pending mortgage-related CAG complaints in Remedy²³, CAG's complaint database, through December 2012, to the servicers to confirm the borrowers' in-scope or out-of-scope status. Subsequently, all of the in-scope borrowers were notified that their CAG case would be closed and that their complaint would be reviewed under the IFR. The CAG letter also advised borrowers to contact CAG if they did not receive a response through the IFR process.

OCC officials told us that after the settlement agreements between the servicers and OCC were signed in January 2013, borrowers were advised to contact Rust if they thought they might be eligible to receive payment under the IFR. Rust mailed postcards to in-scope borrowers advising them of the new settlement agreement. In addition, OCC used other marketing campaigns and public service announcements to increase awareness of the IFR and the settlement agreement to potentially eligible borrowers.

If a borrower contacted Rust and was told they were not part of the in-scope population, Rust advised the borrower of their right to file a complaint with OCC's CAG. Borrowers who were referred by Rust to CAG, or who called CAG directly, to complain that they should have been part of the in-scope population were advised to submit an online or written CAG complaint. Once received, these complaints were assigned a case number and logged into Remedy for tracking purposes. CAG would forward the complaint to the respective servicer for reply as to whether the borrower was in-scope or out-of-scope. CAG reviewed the servicer's responses and replied to borrowers using a resolution letter with the servicer's response as the basis supporting their in-scope or out-of-scope status. The borrower had the right to appeal this status through the CAG appeal process noted in the resolution letter. This letter directed the borrower to submit a written appeal identifying all

²³ Remedy is an "off-the-shelf" call center application used to enter, store and track information related to consumer complaints involving financial institutions and provide access to documents related to consumer complaints; store institutional data; provide data for reporting purposes; provide the data used by banks and federal savings associations to resolve consumer complaints; and archive information related to cases.

relevant or new facts that they believe were not considered in the initial review.

In cases where CAG disagreed with the servicer's out-of-scope determination or where a borrower provided information on appeal that contradicted the servicer's response, CAG would reach out to OCC's Enforcement, Compliance and Supervision Office for additional assistance to resolve the issue. It was through a private citizen's use of this appeal process that OCC discovered the CitiResidential portfolio, the catalyst for this audit, which should have been included in Citibank's in-scope population.

In order to assess OCC's complaint process from initiation to resolution, we requested that OCC query its Remedy database to identify borrowers who complained that they should have been included in the in-scope population. OCC was able to identify these complaints by searching the code "EWT" as this code was assigned to borrowers who specifically complained about their out-of-scope status. EWT stands for Early Warning Tracking, a term used by OCC to track potential emerging issues or possible risk items. This query generated 100 hits for the five servicers under review.²⁴ OCC was not able to confirm that this number represents the entire universe of borrowers who raised this complaint, as there could only be one EWT code assigned per CAG complaint and each complaint could potentially have multiple related issues raised by the same consumer.

We reviewed 25 of the 100 cases to determine if the OCC complaint process was followed. We did not evaluate the adequacy of the resolutions. We selected cases from each of the five servicers. The breakdown of our selection of complaints by servicer is as follows:

²⁴ OCC identified a total of 327 "EWT" complaints for all servicers that related to the January 2013 settlement with OCC.

Servicer	Number of Cases Identified	Number of Cases Reviewed
Citibank	25	8
EverBank	2	2
PNC	8	4
U.S. Bank	1	1
Wells Fargo	64	10
TOTALS	100	25

For the 25 cases, we reviewed borrowers' complaint letters, OCC's acknowledgement letters, servicer correspondence, and CAG notes contained in the Remedy database as of late June 2016. Of the 25 cases reviewed, 9 resulted in an IFR payment, 14 were deemed as out-of-scope, and 2 were inconclusive as borrowers did not submit requested additional information. In all 25 cases, the borrower was notified of the complaint's resolution or the need for additional information. The selected cases reviewed were opened between November 2012 and September 2014, and closed as late as November 2015. Of the 9 cases that resulted in remediation payments, 8 checks have cleared and 1 was voided, the funds of which were escheated to the state of the borrowers' last known residence in June 2016. Although we were able to ascertain that the 25 selected cases were tracked in Remedy, and OCC and/or the servicer communicated with the borrower the results of their findings, we could not attest that all of the steps in the complaint process outlined above were followed as the cases reviewed did not necessarily process through each step (for example, if a complaint was deemed as out-of-scope and the borrower never appealed that decision, the case would not proceed to the next step in the complaint process). Because we used a non-statistical sampling technique to select the cases, we did not project the results of our testing to the total universe of cases with the code EWT.

We noted that several cases had multiple related case numbers which OCC officials explained occurs because each separate source for a complaint receives a new CAG case complaint number even if CAG has the same complaint from another source already in Remedy (same complaint, same borrower, different source). OCC has a process for assigning related case numbers and/or closing

related cases depending on the status of the original case when the related case is received.

We believe that OCC had an adequate process to handle complaints from borrowers as to their in-scope status.

OCC Provided Guidance to the Paying Agents in the Form of a Telephone Script for Processing Questions, Complaints, and Appeals

We reviewed the guidance that OCC provided to Rust and Epiq, the paying agents, regarding how they should process questions, complaints, and requests to appeal the determination of the in-scope status. We also interviewed OCC officials to gather details of how such inquiries/complaints were handled from initiation through resolution.

OCC provided guidance to Rust and Epiq in the form of a telephone script. The script was broken down into 16 sections; each section containing a group of questions and answers specific to that topic. According to OCC, this script was a living document adopted by both OCC and the Board, and used by Rust's and Epiq's customer service representatives, "in-takers", to address inquiries received from borrowers and/or stakeholders during the IFR process. It was updated periodically as new issues arose that warranted modifications to the document. If inquiries were beyond the scope of the prescribed questions/answers, the issues were either escalated to the next level of supervision or the caller was given OCC CAG's website for further assistance with resolving their issue.

Based on our review of the telephone script guidance and interviews with OCC officials, we believe the guidance provided by OCC was useful in helping the Rust and Epiq customer service representatives resolve issues raised by borrowers and/or stakeholders.

OCC Monitored the Identification of In-Scope Borrowers and Noted Concerns, and Corrective Actions Were Taken by the Servicers

We reviewed OCC's validation of the servicers' identification of in-scope borrowers and their respective category documentation to determine what data gaps may have existed within the servicers' systems that made it difficult to identify in-scope borrowers and what, if any, corrective actions were taken. We found that all servicers reviewed by OCC identified data gaps and/or system issues during the categorization process and took corrective actions to mitigate those issues. Two examples of such issues are:

- One servicer identified an issue with the bankruptcy category whereby the bankruptcy end date was not consistently populated in the system. The missing date led to an overstatement of borrowers for this category. The servicer corrected the issue by changing the bankruptcy logic to assume an end date in the future (e.g. 1/1/3000), for those cases with missing end dates.
- Another servicer identified an issue with the Denied Modification category. The system of record did not hold fields for systemically recording Loan Modification Denials until May 2012. Consequently, this issue was identified during the validation of the In-Scope population. The servicer used ad-hoc spreadsheets to identify as many of these loans as possible.

Conclusion

Based on our inquiries and review, we found that OCC took immediate action to determine the total borrowers omitted from Citibank's in-scope population once the error was discovered and ensured checks were mailed to the affected borrowers in accordance with the IFR payment agreement. We found that OCC's process for determining the in-scope population of borrowers was reasonable and consistent with the process reviewed in our prior audit of the amended consent orders. We also found that OCC had a borrower complaint process that sought to address borrowers' concerns regarding their in-scope status in a reasonable manner. Further, we found that all servicers reviewed by OCC identified

data gaps and/or system integration issues and took corrective actions to mitigate those issues.

We are not making any recommendations to OCC as a result of our audit. We provided a draft of this report to OCC management. OCC reviewed the report and had no comments.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 927-0384 or Andrew Morgan, Audit Manager, at (202) 927-8121. Major contributors to this report are listed in appendix 4. A distribution list for this report is provided in appendix 5.

/s/

Jeffrey Dye
Audit Director

Appendix 1
Request to Treasury OIG for Report on Circumstances Surrounding Citibank's
Exclusion of In-Scope Borrowers

JEB HENSARLING, TX, CHAIRMAN

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

MAXINE WATERS, CA, RANKING MEMBER

March 20, 2015

Inspector General Eric M. Thorson
U.S. Department of the Treasury
Office of Inspector General
1500 Pennsylvania Avenue, N.W.
Room 4463
Washington, DC 20220

Inspector General Mark Bialek
Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection
20th and C Streets., N.W.
Mail Stop 300
Washington, DC 20551

Dear Inspectors General Thorson and Bialek:

Recently it has come to my attention that Citibank,¹ one of the banks subject to a payment agreement entered into upon the cancellation of the Office of the Comptroller of the Currency (OCC) and Federal Reserve Board's (Board) Independent Foreclosure Review (IFR), improperly failed to send remediation checks to approximately 24,000 borrowers that rightfully ought to have received such checks nearly two years ago.²

Thankfully, this error was discovered, and the OCC required Citibank to send out those checks.

However, I was troubled to recently learn that these 24,000 previously-excluded borrowers were only identified and determined to be rightfully owed cash settlements due to the efforts of a private citizen who contacted the OCC's Customer Assistance Group (CAG). This revelation has raised questions as to whether there are other borrowers who have not been properly compensated by other servicers.

Therefore, given that an individual consumer was able to discover, in Citibank's and in the OCC's own determination, an undercounting of approximately seven percent of the number of Citibank borrowers eligible for payouts,³ I am requesting that your offices undertake an inquiry into the following issues:

¹ "Citibank" herein encompasses the following entities: Citigroup Inc.; Citibank; CitiMortgage, Inc.; and CitiFinancial Credit Co.

² Note that the payment agreements were signed by the Board and the OCC and 13 servicers in January 2013, and required such servicers to provide approximately \$3.67 billion in payments to approximately 4.2 million borrowers based on possible harm. These payments agreements called an end to the Independent Foreclosure Review, an effort conducted in 2011 and 2012 which sought to identify how deficient mortgage loan servicing and foreclosure processing practices harmed borrowers whose primary residence was in any stage of the foreclosure process in 2009 or 2010. The first checks owed pursuant to the payment agreements were mailed in April 2013.

³ Per Table A.2, Citibank's in-scope population, prior to discovering this error, encompassed approximately 357,000 borrowers. See Board, *Independent Foreclosure Review Report* (Washington, D.C.: July 2014).

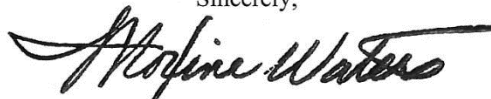
Appendix 1
Request to Treasury OIG for Report on Circumstances Surrounding Citibank's
Exclusion of In-Scope Borrowers

Inspector General Eric M. Thorson
Inspector General Mark Bialek
Page 2
March 20, 2015

- The facts and circumstances underlying how an individual private citizen's complaint could lead to the in-scope population of borrowers at one servicer expanding by 24,000, or seven percent;
- Whether the OCC and the Board properly supervised the servicers' identification of the universe of in-scope borrowers at each servicer covered by a payment agreement, and whether such borrowers were appropriately sent checks;⁴
- Whether additional, heretofore unidentified borrowers ought to be deemed part of the in-scope population under the payment agreements;
- Whether the OCC and the Board properly processed any and all other individual questions, complaints, or requests to appeal the determination of the in-scope population from borrowers (including any direction that the OCC or the Board has provided to servicers covered by a payment agreement, outlining how the servicer should process any and all questions, complaints or requests to appeal the determination of the in-scope population that they receive from borrowers); and
- What data gaps may have existed within servicers' systems that made it difficult to identify borrowers that were in some stage of the foreclosure process in 2009 and 2010, and whether such data gaps or system integration issues have been fixed on a forward-looking basis.

I appreciate the multiple evaluations of the IFR, and the subsequent payment agreements that replaced it, that have already been undertaken by your offices. However, given the additional information that has recently come to my attention, I believe that additional scrutiny of the specific issues I mention above is needed. I thank you for your consideration of this request, and I look forward to working with your offices in the future.

Sincerely,



MAXINE WATERS
Ranking Member

⁴ I understand that, as articulated in a report from August 2014, the Office of the Inspector General of the Department of the Treasury (Treasury IG) reviewed the OCC's validation of servicers' determinations of in-scope borrowers at five of ten OCC-regulated servicers. However, the discussion of this process in the August 2014 report is limited. See Treasury IG, *Safety and Soundness: OCC Needs to Ensure Servicers Implement Amended Foreclosure Consent Orders and Act on Identified Weaknesses* (Washington, D.C.: August 2014). As such, I request that the Treasury IG provide further elaboration on how your office validated these determinations at the five aforementioned servicers. Further, I request that the Treasury IG review the validation process at the five other servicers not covered in your August 2014 review. I ask that the Office of the Inspector General at the Board of Governors of the Federal Reserve System and Bureau of Consumer Financial Protection similarly provide further elaboration on their review of the Board's validation of servicers' determinations of their in-scope populations.

Consistent with the request of the Ranking Member of the House Committee on Financial Services, our objectives were to determine: (1) the facts and circumstances surrounding the increase in the population of Citibank, N.A.'s (hereinafter Citibank) in-scope borrowers²⁵; (2) the methodology used and procedures performed by the Office of the Comptroller of the Currency (OCC) to test and validate the universe of in-scope borrowers and whether such borrowers were appropriately sent checks for the five servicers²⁶ not covered in prior Office of Inspector General (OIG) reviews (Citibank; PNC Bank, N.A. (PNC); U.S. Bank, N.A. and U.S. Bank, N.A., ND (collectively U.S. Bank); Wells Fargo Bank, N.A. (Wells Fargo); and EverBank); (3) OCC's process for vetting any individual questions, complaints, or requests for appeal related to the in-scope population from borrowers; (4) any direction that OCC has provided to servicers outlining how the servicer should process questions, complaints, or requests to appeal the determination of the in-scope population that they receive from borrowers; and (5) what data gaps existed within servicers' systems that made it difficult to identify in-scope borrowers and whether such data gaps or system integration issues have been fixed.

To accomplish these objectives, we took the following actions:

- Interviewed OCC officials, including the Deputy Comptroller of Large Bank Supervision, Senior Deputy Comptroller for Enterprise Governance and Ombudsman, Deputy Chief Counsel, Assistant Director of Enforcement and Compliance, Counsel for Enforcement and Compliance, and Director of the Customer Assistance Group (CAG) to gain an understanding of the (1) facts and circumstances surrounding Citibank's omission of borrowers from its initial determination of the in-scope population; (2) methodology used to test and validate the population of borrowers for the five servicers not covered in our prior report on amended consent orders entitled *OCC Needs to Ensure Servicers Implement Amended Foreclosure Consent Orders and Act on*

²⁵ In-scope borrowers refers to borrowers eligible for payment under the Independent Foreclosure Review process whose homes were in any stage of the foreclosure process in 2009 or 2010.

²⁶ Servicers refers to mortgage servicers who entered into consent order agreements with the OCC, the former Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System for unsafe and unsound practices in residential mortgage servicing and foreclosure processing.

Identified Weaknesses (OIG-14-044; August 6, 2014); (3) process for vetting any individual questions, complaints, or requests for appeal related to in-scope population from borrowers; and (4) guidance provided to servicers for handling such inquiries.

- Selected a sample of 5 out of 11 in-scope borrower categories for 4 of the 5 servicers reviewed (Citibank, PNC, U.S. Bank, and Wells Fargo) to verify that the total number of borrowers in each of the categories matched the total borrowers for the corresponding loan classifications by Rust Consulting, Incorporated. EverBank followed a slightly different categorization process than the other servicers reviewed therefore, we reviewed EverBank's Waterfall Report and reconciled it to the Consent Order Distribution Plan and to subsequent check mailing reports to verify the categorization process followed by EverBank. The sample selected was non-statistical. Non-statistical sample results were not projected to the total universe.
- Reviewed documentation of OCC's validation of the servicer's identification of in-scope borrowers and their respective category documentation to determine what data gaps may have existed within the servicers' systems and if any corrective actions were taken.
- Reviewed the guidance (Telephone Script) that OCC provided to Rust Consulting, Incorporated (Rust) and Epiq Class Action & Claims Solutions, Inc. (Epiq), the paying agents, regarding how they should process questions, complaints and requests to appeal the determination of the in-scope status. We also interviewed OCC officials to gather details of how such inquiries/complaints were handled from initiation to resolution.
- Sampled and reviewed 25 of the 100 population of cases generated through a query of OCC's Remedy database for the five servicers under review (Citibank, EverBank, PNC, U.S. Bank, and Wells Fargo), to determine if the OCC's complaint process was followed. We reviewed borrowers' complaint letters, OCC's acknowledgement letters, servicer

correspondence, and CAG notes contained in the Remedy database as of late June 2016. The sample selected was non-statistical. Non-statistical sample results were not projected to the total universe.

- Reviewed the paying agents' (Rust and Epiq) check mailing reports for the five servicers under review to determine if borrowers were appropriately sent checks.

We performed our audit fieldwork from April 2015 through July 2016 with subsequent follow up made from January 2017 to April 2017.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



Office of the Comptroller of the Currency

Washington, DC 20219

May 24, 2018

Jeffrey Dye
Director, Banking Audits
Office of Inspector General
Department of the Treasury
Washington, DC 20220

Subject: Response to OIG Formal Draft Report: "Review of Circumstances Surrounding Citibank's Exclusion of In-Scope Borrowers"

Dear Mr. Dye:

Please be advised that we have no comments on the formal draft report entitled "Review of Circumstances Surrounding Citibank's Exclusion of In-Scope Borrowers." Thank you for the opportunity to review.

If you need additional information, please contact me at 202-649-6049 or Tom Melo, Associate Deputy Comptroller for Enterprise Governance Operations and OIG Liaison, at 202-649-6942.

Sincerely,

A handwritten signature in blue ink that reads "Frank Spasoff".

Frank Spasoff
Manager, Enterprise Governance Operations

Cc: Tom Melo

Appendix 4
Major Contributors to This Report

Andrew Morgan, Audit Manager
Vicki Preston, Audit Manager
Adelia Gonzales, Auditor
Virginia Shirley, Program Analyst
Angela Brice, Auditor
Kevin Guishard, Referencer

Department of the Treasury

Counselor to the Secretary
Office of Strategic Planning and Performance Improvement
Office of the Deputy Chief Financial Officer, Risk and Control
Group

Office of the Comptroller of the Currency

Comptroller of the Currency
Liaison Officer

Office of Management and Budget

OIG Budget Examiner

United States Senate

Chairman and Ranking Member
Committee on Banking, Housing, and Urban Affairs

Chairman and Ranking Member
Committee on Finance

U.S. House of Representatives

Chairman and Ranking Member
Committee on Financial Services

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