

**FOR IMMEDIATE RELEASE**

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**MENENDEZ, REPRESENTATIVES CALL ON GAO TO REPORT ON FORECLOSURE REVIEWS**

*Housing Chairman has expressed serious concerns that reviews may not be truly independent*

**WASHINGTON, DC** – As Chairman of the Senate Subcommittee on Housing, Transportation and Community Development, Senator Robert Menendez (D-NJ) along with Representatives Maxine Waters (D-CA), Brad Miller (D-NC) and Luis Gutierrez (D-IL) have called on the non-partisan Government Accountability Office (GAO) to examine and investigate the design, implementation and eventual results of the foreclosure review process that the Office of the Comptroller of the Currency (OCC) and Federal Reserve are currently carrying out. Last month, Menendez presided over a hearing where he raised concerns over the fact that regulators were allowing banks under review to pick their own third party consultants to conduct the audits.

"A toothless foreclosure review is simply not enough. We need the GAO's independent

assessment to ensure the process is fair to homeowners - especially since regulators are letting the big banks pick their own auditors. That's like letting the fox watch the henhouse," said Menendez. "The process must be fair, transparent and consistent and that's what we're asking the GAO to determine. These banks and mortgage servicers who participated in illegal foreclosure activities must be held accountable to the homeowners they harmed by charging illegal fees or even worse, taking away their homes. "

"Unfortunately, the history of the last few years is that banking regulators have put the interests of the firms they regulate before the interests of consumers. That's why I think it's crucial that the GAO look over the shoulder of the OCC and the Federal Reserve, to make sure that they're not letting servicers paper over years of wrongful foreclosures," said Representative Waters.

"The OCC should never have let servicers pick their own auditors. It can't be a surprise to anyone that servicers picked very indulgent auditors. Homeowners really deserve a tough, independent review of foreclosures, and that's not what they're getting from servicers and the OCC," said Representative Miller.

"I'm concerned that borrowers who suffered financial harm due to illegal foreclosures still don't know that they can request a review. Even if they do, it's unclear whether the banks and their hand-picked auditors are going to give those borrowers a fair deal. The same people who were abused in the first place are the people the banks are hoping to sweep under the rug now. Since we know that the banks aren't going to look out for consumers, we have to, which is why we are calling on GAO to act. We must make sure that the foreclosure reviews have absolute transparency, accountability, and integrity," said Representative Gutierrez.

The foreclosure review process is being done because of the ["robo-signing" scandal](#) from 2010 that showed many banks and mortgage servicers wrongfully foreclosing on homeowners and not following existing foreclosure procedures and laws. Robo-signing is when banks falsely sign property documents during the foreclosure process without properly reviewing them. As a result of this scandal, the Federal Reserve and OCC ordered banks and mortgage servicers – the same ones that made the mistakes in the first place – to review as many as 4.6 million homeowners who may have been wrongly foreclosed on. The foreclosure reviews themselves, though, will be conducted by third-party consultants, which were selected by the banks and servicers. In other words, the banks and servicers who have wrongly foreclosed on some homeowners were allowed to pick the companies that will be reviewing them.

Because of this and other issues, many fundamental questions remain about the program's independence, transparency, and accountability to homeowners.

The letter asks the GAO to look at the selection process and any conflicts of interest with the third-party consultants; any possible alternatives to this selection process; whether the Federal Reserve and OCC should release full guidelines when determining if homeowners were harmed; the oversight and capacity of the third-party consultants; whether the penalties imposed on the banks and mortgage servicers are appropriate; what type of uniformity standards are being implemented for homeowners and several other aspects of the reviews.

Senator Menendez has been a leader on this issue:

- Chaired a Housing Subcommittee hearing in December 2011 that strongly questioned the procedures the Federal Reserve and OCC had put into place, as well as the third-party consultants and their selection process.
  
- Led a letter with colleagues in July 2011 urging regulators to publicly release information regarding these foreclosure reviews.
  
- Commissioned an earlier GAO report in May 2011 on robo-signing and what can be done to prevent it.
  
- Wrote a letter immediately after robo-signing allegations were revealed in October 2010 to more than 120 banks and mortgage servicers asking them to review their existing procedures to prevent it from occurring.

[Click Here](#) to see download a PDF of the letter to the GAO. Full text is below:

January 13, 2012

Dear Comptroller General Dodaro:

Under the enforcement action taken in April 2011 by the Office of Comptroller of the Currency ("OCC") and the Federal Reserve Bank ("FRB"), several large mortgage servicers were required to correct deficiencies in their servicing and foreclosure processes and to engage third-party consultants to conduct a multi-faceted review of foreclosure actions that occurred in 2009 and 2010. The foreclosure reviews will largely be conducted by third-party consultants upon request by borrowers who faced some type of foreclosure action on their primary residence. The consultants are charged with evaluating whether borrowers suffered financial injury as a result of servicer errors, misrepresentations or other deficiencies in the foreclosure process and determining appropriate remedies such as compensation for those borrowers. The foreclosure review program could potentially impact about 4.6 million homeowners who are eligible for review.

We are pleased that the OCC and FRB are taking steps to evaluate wrongful foreclosure processes and provide recourse for homeowners who have been harmed by deficient foreclosure actions. However, it is imperative that this program receive the necessary oversight and evaluation it needs to ensure its success.

Accordingly, we request that GAO assess the independence, transparency, accountability, and consistency of this foreclosure review process in its design, implementation, and results. We request that this GAO assessment include, among other things:

***Independence***

- Should the OCC and FRB have allowed mortgage servicers found responsible for wrongdoing in foreclosures to pick the third party consultants that would review those same servicers' foreclosure cases?
  
- Were there any alternatives to the OCC and FRB's approach to allowing mortgage servicers to choose third party consultants? If so, what are the tradeoffs between the various approaches that were available to the OCC and FRB?
  
- Were the conflict of interest standards used by the OCC and FRB to approve or disapprove of the third party consultants fair to both servicers and homeowners?
  
- As part of the information gathering process during foreclosure reviews, should the third party consultants be required or permitted to speak directly to homeowners without getting permission from or notifying servicers of such direct communication?

### ***Transparency***

- Should the OCC and FRB release the full guidelines (more than just examples) to the public for what constitutes "financial harm" to a borrower?
  
- Should the OCC and FRB release full guidelines on the escalation process for imminent foreclosure? Should the foreclosure process be temporarily stopped for homeowners with imminent foreclosures until the review is completed?
  
- Should the OCC and FRB release the full guidelines on what standards are being used to provide relief or compensation for people whose foreclosures were not handled properly?

### ***Accountability***

- How will the OCC and FRB conduct oversight of both the third party consultants' work and the responsiveness of servicers? What actions should regulators take if they find performance of third party consultants or servicers lacking?
  
- Does each of the third party consultants have adequate capacity and expertise to perform the reviews in an accurate and timely manner?
  
- Are the outreach procedures and advertising to homeowners that are being adopted adequate to effectively reach all eligible households? What should constitute "success" in terms of a borrower response rate?
  
- Is April 30, 2012 an appropriate deadline for when eligible homeowners must submit claims related to deficient mortgage servicing?
  
- Are the penalties the OCC and FRB ultimately impose on servicers for illegal or improper foreclosure practices fair given the need for both compensation and deterrence?

### ***Consistency***

- What procedures are being established for both the foreclosure reviews and the remediation process to ensure uniformity so that borrowers get the same treatment no matter which servicers or consultants they have? Will these be uniform for all of the affected servicers, both those regulated by the OCC and those regulated by the FRB?
  - What standards for relief should be used to provide compensation for people who were foreclosed upon improperly in various ways?

In closing, the foreclosure review program is extremely important to our nation's homeowners, especially those who have been harmed by illegal foreclosure practices. As we attempt to correct for past illegal foreclosure practices, the federal government must ensure independence, transparency, accountability, and consistency in all aspects of the foreclosure review program. After being hard-hit by the foreclosure crisis and other economic woes, American homeowners expect and deserve a fair review and compensation where appropriate.

Thank you for your prompt attention and consideration.

Sincerely,

Senator Robert Menendez

Congresswoman Maxine Waters

Congressman Brad Miller

Congressman Luis Gutierrez