Statement of

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Chairman Conyers, Ranking Member Smith and members of the Committee, I appreciate this opportunity to appear today to discuss recent events concerning the mortgage foreclosure process and the actions that the Office of the Comptroller of the Currency (OCC) is taking in response.

The occurrences of improperly executed documents and attestations that have come to light raise concerns about the overall integrity of the foreclosure process. Laws in each state establish the requirements and process by which that action may be taken. When that due process is not followed, it is not a technicality; it goes to the propriety of the foreclosure itself.

The improprieties that have been identified in the past several months are unacceptable practices that warrant the thorough investigation that is now underway by the OCC and other agencies, and appropriate and vigorous responses.

The OCC supervises all national banks and their operating subsidiaries, including their mortgage servicing operations. In recent years, as problem loans surged, the OCC's primary focus was to prevent avoidable foreclosures by directing national banks to take steps that would increase the volume and sustainability of loan modifications.

When we saw, using data from our Mortgage Metrics system, that an inordinate number of modifications initiated in 2008 were re-defaulting, we directed national bank mortgage servicers to take corrective action. Since then, we have seen a sharp increase in modifications that lowered monthly payments and fewer re-defaults.

While these efforts are preventing foreclosures, many families are still struggling and face the prospect of losing their homes.

In this regard, questions have arisen about the practice of continuing foreclosure proceedings even when a trial modification has been negotiated and is in force. We agree that this "dual track" is unnecessarily confusing for distressed homeowners, and risks them receiving mixed or contradictory information.

HAMP requirements contain a model for suspending foreclosure proceedings when a borrower is successfully performing in a trial modification program – but most modifications today are not HAMP modifications. Therefore, yesterday, Acting Comptroller John Walsh announced that the OCC will direct national bank servicers to suspend foreclosure proceedings for borrowers in all types of successfully performing trial modifications where the servicer has the legal ability to do so.

It is important to remember, however, that GSEs and private investors dictate the terms for non-HAMP modifications, so this flexibility may not always be available to servicers.

The OCC reviews a national bank's foreclosure governance process to determine if it has appropriate policies, procedures, and internal controls necessary to ensure the accuracy of information relied upon in the foreclosure process and compliance with federal and state laws. We expect banks to test these processes through their internal audit and on-going quality control functions.

Unfortunately, neither banks' internal quality control tests, internal audits, nor OCC consumer complaint data suggested foreclosure document processing was an area of systemic concern.

However, when problems were identified at Ally Bank – which is not a national bank – we immediately directed the eight largest national bank mortgage servicers to review their operations and take corrective action.

In concert with other regulatory agencies, OCC examiners are now reviewing samples of individual loan files where foreclosures have either been initiated or completed, to test the validity of bank self-assessments and corrective actions, whether foreclosed borrowers were appropriately considered for loss mitigation alternatives such as loan modifications, and whether fees charged were appropriate, documents were accurate and appropriately reviewed, proper signatures were obtained, and documents necessary to support a legal foreclosure proceeding were provided.

We have likewise instructed examiners to be alert to, and document, any practices such as misapplied payments, padded fees, and inappropriate application of forced placed insurance as part of these file reviews.

The OCC also is heading an on-site interagency examination of the Mortgage Electronic Registration System, or MERS, in coordination with the Federal Reserve, the FDIC, and Federal Housing Finance Agency, and we are participating in an examination led by the Federal Reserve of Lender Processing Services, Inc., which provides third-party foreclosure services to banks.

Where we find errors or deficiencies, we are directing national banks to take immediate corrective action, and we will not hesitate to take an enforcement action or impose civil money penalties, removals from banking, and criminal referrals, if warranted.

We expect to complete our examinations by mid to late December, and to determine by the end of January what additional supervisory or enforcement actions are needed.

Thank you again for the opportunity to appear today. I will be happy to answer your questions.