

OFFICE OF MORTGAGE SETTLEMENT OVERSIGHT
BANKRUPTCY FILINGS REVIEW FOR CITIMORTGAGE¹
August 31, 2015

The following report summarizes the scope and outcomes of efforts by the Office of Mortgage Settlement Oversight (“OMSO”) and the Executive Office for United States Trustees of the United States Department of Justice (“USTP”) to monitor and confirm compliance by CitiMortgage, Inc. (“CitiMortgage” or “Servicer”) with various bankruptcy-related provisions of the National Mortgage Settlement (“NMS” or “Settlement”), including provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) and Official Bankruptcy Forms (“Bankruptcy Forms”) (collectively, “Bankruptcy Law”).

BACKGROUND

In 2013, I was notified by the USTP of a coordinated review effort it had initiated through multiple field offices to ascertain compliance by the Settling Servicers² with NMS bankruptcy-related servicing standards, including Bankruptcy Law provisions. The review focused on three specific Chapter 13 filings: the Proof of Claim (“POC”), the Notice of Payment Change (“NPC”), and the Notice of Post-Petition Mortgage Fees, Expenses and Charges (“NPFC”).

The USTP’s comprehensive review of the Settling Servicers included more than ten thousand filings from various jurisdictions around the country with filing dates predominantly during 2013. The USTP’s review documented a material number of facial deficiencies relating to bankruptcy-specific servicing standards and Bankruptcy Law in all three filing types by the Settling Servicers. The USTP deemed the nature and scope of these facial deficiencies as presenting a risk of harm to homeowners who had sought protection under the Bankruptcy Code. As a result, the USTP requested confirmation and further investigation of its findings by OEMSO.

The USTP’s review identified issues that were covered by the NMS standards but not covered by the quarterly NMS metrics testing detailed in Exhibit E of the Settling Servicers’ individual Consent Judgments. The NMS bankruptcy-specific metrics test the accuracy of: (1) data in POCs against the applicable servicing system of record, (2) the post-petition default amount as stated on a Motion for Relief from Stay against the applicable servicing system of record and (3) fee or expense waivers as of the date of dismissal or discharge of a debtor’s Chapter 13 bankruptcy case. Results of the NMS metrics compliance testing for each Settling Servicer can be found on the OEMSO website at the following link: <https://www.jasmithmonitoring.com/omso/reports/>.

¹ The Consent Judgment under the National Mortgage Settlement was entered with Citigroup Inc., Citibank, N.A., and CitiMortgage, Inc. although other parties are encompassed in the settlement.

² Settling Servicers included Bank of America Corporation, Bank of America, N.A., and BAC Home Loans Servicing, LP; Citigroup Inc., Citibank, N.A., and CitiMortgage Inc.; J.P. Morgan Chase & Company and J.P. Morgan Chase Bank, N.A.; and Wells Fargo & Company and Wells Fargo Bank, N.A.

After the USTP shared its results with me, I authorized BDO Consulting (“BDO”) to design and perform confirmatory testing of the USTP’s adverse findings. Using statistical sampling parameters similar to those used for metrics testing under the NMS, BDO selected and tested a statistically significant sample of filings drawn from POCs, NPCs and NPFCs alleged to be deficient in the USTP’s review. Most of the filings reviewed by BDO had been filed during 2013. All filings selected for testing were independently downloaded by BDO directly from the website of federal court filings maintained by the Administrative Office of the U.S. Courts called “PACER”, or Public Access to Court Electronic Records, based on case information provided in the USTP review. BDO’s testing, completed in 2014, confirmed the number and type of facial deficiencies found by the USTP. I notified the Servicers of these results of the USTP review and OMSO’s confirmatory testing.

As a result of the USTP’s review and BDO’s subsequent confirmation of the USTP’s adverse findings, the USTP, my team and I had numerous individual in-person and telephonic meetings with each Servicer to discuss these findings and ensure that appropriate enhancements, process improvements, corrective action or remediation, as applicable, had been completed or were in the process of completion to achieve compliant servicing practices in the context of Chapter 13 bankruptcy proceedings as required under both Bankruptcy Law and the NMS.

These discussions with each Servicer and the USTP led to a follow-up review by BDO, on behalf of OMSO, of each Servicer’s evidence that such specific enhancements, process improvements, corrective actions or remediation, as applicable, had been implemented or were in the process of being implemented. BDO’s review of each Servicer’s internal evidence concluded in late spring of 2015.

In numerous areas described below, the Servicer had taken steps to strengthen its bankruptcy-related servicing practices, including those that were the subject of the facial deficiencies identified in the USTP’s review, prior to the conclusion of OMSO’s confirmatory testing due to ongoing dialogue between each Servicer and the USTP. The Servicers cooperated with OMSO during and after the review process as OMSO sought to review internal documents evidencing enhanced procedures, processes, training and internal quality testing of Chapter 13 filings.

The following sections outline actions taken by CitiMortgage to improve its bankruptcy servicing practices subsequent to the 4th quarter of 2013, as communicated to OMSO during our confirmation of these improvements.

BANKRUPTCY FILING FACIAL DEFICIENCIES IDENTIFIED BY THE USTP AND CONFIRMED BY OMSO

The USTP categorized facial deficiencies found in its review of POCs, NPCs and NPFCs as follows:

POC:

- Missing, incomplete or inaccurate attachments to POC;
- Excessive or unreasonable loan default fees and charges in POC; and
- Missing, incomplete, or inaccurate information or data in the POC or Attachment A.

NPC:

- Untimely filing; and
- Missing, incomplete, or inaccurate documentation attached to NPC.

NPFC:

- Excessive or unreasonable loan default fees and charges in NPFC.

BANKRUPTCY SERVICING IMPROVEMENTS AND ENHANCEMENTS

Actions taken by CitiMortgage to address its POC processes include the following:

- Implementation of enhanced policies and procedures to ensure timely access to loan documents that must be attached to POCs, supported by the creation of a centralized team whose function is the collection and assembly of required supporting documentation for bankruptcy filings by working with internal resources within CitiMortgage as well as investors, trustees, or document custodians to more timely access original collateral files;
- Development of standard POC language to include in incomplete POC filings when original loan documentation cannot be located that defines and clearly states a timeframe within which an amended POC will be filed with the omitted documents;
- Enhancement of its POC preparation and review procedures to ensure that duplicate late fees are not claimed or appear to be claimed on POCs by directing employees to capture late fees based on assessment date of the late charge and not the transaction or payment date;
- Implementation of procedures to ensure loan modification agreements and other required supporting documents are filed with POCs and amended POCs; and
- Increased number of employees proportional to filing volume who perform pre-filing quality control ("QC") reviews of POCs, increased the number of employees performing quality assurance ("QA") reviews, enhanced the QC training for bankruptcy filings, bankruptcy procedures, and POC review procedures.

Actions taken by CitiMortgage to address its NPC processes³ include the following:

- Implementation of automated processing, data feeds, and work flow improvements to enhance communication between bankruptcy and escrow teams to ensure timely notification of escrow-driven payment changes, as well as a quality control review and remediation process focusing on accuracy of escrow detail in the NPC;
- Implementation of automation for the completion of NPCs as well as routine controls over employee access to systems and data, eliminating the potential for manual overrides of system checks and automated data input; and
- Correction of programming and strengthened system controls to bar manual overrides.

³ CitiMortgage had identified a group of late NPCs and self-remediated with disclosure and account corrections. Before and during the time of the OMSO information sharing and discussions, the USTP and CitiMortgage separately agreed to additional account corrections.

Actions taken by CitiMortgage to address its NPFC processes include the following:

- Beginning July 2013, CitiMortgage discontinued filing NPFCs because it ceased charging borrowers in bankruptcy for post-petition inspection fees, broker price opinions (“BPOs”), and non-sufficient funds fees. From that date forward, CitiMortgage will not charge borrowers in bankruptcy these specific loan default fees regardless of the outcome of the case.
- For NPFCs filed after April 4, 2012, CitiMortgage initiated a Corrective Action Plan in which it withdrew NPFCs filed for property inspection and BPO fees assessed to borrowers in bankruptcy between November 2011 and May 2013, waived these charges, and credited debtor accounts in those cases where such fees were charged to debtors who were current with their Chapter 13 plans.

MONITOR REVIEW OF BANKRUPTCY SERVICING IMPROVEMENTS AND ENHANCEMENTS

OMSO has reviewed information that shows CitiMortgage has taken steps to implement the various actions and process improvements described above. OMSO has obtained and reviewed internal organizational and operations documentation, policies and procedures, quality control and quality assurance (“QA”) testing documents (with QA completed independently of CitiMortgage’s operations and lines of business) substantiating the implementation of the foregoing actions and process improvements and has reviewed these actions and improvements with CitiMortgage.

To substantiate the efficacy of the changes and improvements addressing the facial deficiencies, OMSO reviewed the results of CitiMortgage’s internal quality assurance reviews. Those internal quality assurance reviews were based on a statistical sample of Chapter 13 POCs and NPCs filed between February 2014 and January 2015, and NPFCs filed between October 2014 and February 2015. OMSO noted that the testing was conducted by compliance reviewers independent of the line of business being tested and gained an understanding of the test attributes used in conducting reviews to determine whether those reviews are comprehensive. As a result of its efforts, OMSO has confirmed that CitiMortgage’s improvements and enhancements to its bankruptcy servicing practices, as represented by the bank, address the facial deficiencies highlighted herein. OMSO has reasonable assurance that CitiMortgage’s compliance efforts with the bankruptcy-specific servicing requirements of the NMS are ongoing.