GAO Highlights

Highlights of GAO-14-376, a report to congressional requesters

April 2014

FORECLOSURE REVIEW

Regulators Could Strengthen Oversight and Improve Transparency of the Process

Why GAO Did This Study

In 2011 and 2012, OCC and the Federal Reserve signed consent orders with 16 mortgage servicers that required the servicers to hire consultants to review foreclosure files for errors and remediate harm to borrowers. In 2013, regulators amended the consent orders for all but one servicer, ending the file reviews and requiring servicers to provide $3.9 billion in cash payments to about 4.4 million borrowers and $6 billion in foreclosure prevention actions, such as loan modifications. One servicer continued file review activities. GAO was asked to examine the amended consent order process. This report addresses (1) factors considered during cash payment negotiations between regulators and servicers and regulators' goals for the payments, (2) the objectives of foreclosure prevention actions and how well regulators designed and are overseeing those actions to achieve objectives, and (3) regulators' actions to share information from the file review and amended consent order processes and transparency of the processes. GAO analyzed regulators' negotiation documents, oversight memorandums, and information provided to borrowers and the public about the file review and amended consent orders. GAO also interviewed representatives of regulators, servicers, and consultants.

What GAO Recommends

OCC and the Federal Reserve should define testing activities to oversee foreclosure prevention principles and include information on processes in public documents. In their comment letters, the regulators agreed to consider the recommendations.

View GAO-14-376. For more information, contact Lawrance L. Evans, Jr. at (202) 512-8678 or evansl@gao.gov.

What GAO Found

To negotiate the $3.9 billion cash payment amount in servicers' amended consent orders, the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (Federal Reserve) considered information from the incomplete foreclosure review, including factors such as projected costs for completing the file reviews and remediation amounts that would have been paid to borrowers. To evaluate the final cash payment amount, GAO tested regulators' major assumptions and found that the final negotiated amount generally fell within a reasonable range. Regulators generally met their goals for timeliness and amount of the cash payments. By December 2013, cash payments of between $300 and $125,000 had been distributed to most eligible borrowers.

Rather than defining specific objectives for the $6 billion in foreclosure prevention actions regulators negotiated with servicers, regulators identified broad principles, including that actions be meaningful and that borrowers be kept in their homes. To inform the design of the actions, regulators did not analyze available data, such as servicers' recent volume of foreclosure prevention actions, and did not analyze various approaches by which servicers' actions could be credited toward the total of $6 billion. Most servicers GAO spoke with said they anticipated they would be able to meet their obligation using their existing level of foreclosure prevention activity. In their oversight of the principles, OCC and the Federal Reserve are verifying servicers' foreclosure prevention policies, but are not testing policy implementation. Most Federal Reserve examination teams have not begun their verification activities and the extent to which these activities will incorporate additional evaluation or testing of servicers' implementation of the principles is unclear. Regulators' manuals and federal internal control standards note that policy verification includes targeted testing. Without specific procedures, regulators cannot assess implementation of the principles and may miss opportunities to protect borrowers.

Regulators are sharing findings from the file reviews and amended consent order activities among supervisory staff and plan to issue public reports on results, but they have not determined the content of those reports. The file reviews generally confirmed servicing weaknesses identified by regulators in 2010. Regulators are sharing information among examination teams that oversee servicers, and some regulator staff GAO spoke with are taking steps to address weaknesses identified. Regulators also have promoted transparency by releasing publicly information on the status of cash payments. However, these efforts provided limited information on the processes used, such as how decisions about borrower payments were made. Federal internal control standards and GAO's prior work (GAO-03-102 and GAO-03-669) highlight the importance of providing relevant information on the processes used to obtain results. According to regulators, borrowers could obtain information from other sources, such as the payment administrator, but information on how decisions were made is not available from these sources. In the absence of information on the processes, regulators face risks to public confidence in the mortgage market, the restoration of which was one of the goals of the file review process.