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FOR IMMEDIATE RELEASE
April 13, 2011

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FDIC Statement on Enforcement Orders Against Large Servicers Related to Foreclosure Practices

The Federal Deposit Insurance Corporation (FDIC) today issued the following statement commenting on the enforcement orders against large servicers related to their foreclosure practices:

"Today, the three primary federal regulators of the nation's 14 largest mortgage servicers published final enforcement orders against these institutions based on the findings of a review of their foreclosure policies and practices. While the FDIC is not the primary federal regulator for any of the largest mortgage servicers, the FDIC participated in this interagency horizontal review, at the invitation of the primary regulators, as the back-up regulator to protect the interests of the deposit insurance fund and to provide resources and support for this important review. The FDIC was also a signatory to one of the orders as the primary federal regulator of an insured depository whose loans were serviced by an affiliated servicer under the holding company. The effect of this order is to require the bank to ensure that its affiliated servicer takes corrective measures to fully address deficiencies identified in the interagency review."

"The findings of the interagency review clearly show that the largest mortgage servicers had significant deficiencies in numerous aspects of their foreclosure processing. These deficiencies included the filing of inaccurate affidavits and other documentation in foreclosure proceedings (so-called "robo-signing"), inadequate oversight of attorneys and other third parties involved in the foreclosure process, inadequate staffing and training of employees, and the failure to effectively coordinate the loan modification and foreclosure process to ensure effective communications to borrowers seeking to avoid foreclosures. The interagency review was limited to the management of foreclosure practices and procedures, and was not, by its nature, a full scope review of the loan modification or other loss-mitigation efforts of these servicers. A thorough regulatory review of loss mitigation efforts is needed to ensure processes are sufficiently robust to prevent wrongful foreclosure actions and to ensure servicers have identified the extent to which individual homeowners have been harmed."

"In its role as the primary federal regulator of a large number of state nonmember banks, which collectively service less than four percent of residential mortgages, the FDIC has been reviewing and conducting targeted exams to determine whether any of these institutions have engaged in the types of practices identified at the major servicers. To date, the review has not identified "robo-signing" or any other deficiencies that would warrant formal enforcement actions. The FDIC will continue to monitor these servicers, as well as the performance of institutions servicing loans through FDIC securitizations or resolution programs."

"The enforcement orders incorporate some important requirements that, if fully implemented, will help prevent a recurrence of the serious problems with foreclosure processing revealed by the regulators' review. In particular, the FDIC supports the inclusion in these orders of a single point of contact for homeowners to give homeowners a single person to work with throughout the stressful and often confusing loan modification and foreclosure process. Assigning a single point of contact will also provide for greater servicer employee accountability and, as such, will serve as an important quality control to ensure that modification and foreclosure activity are conducted in full compliance with applicable federal and state laws. Having a single point of contact will not prevent all foreclosures, but it will reduce the numbers of avoidable foreclosures as well as operational risks associated with foreclosure processes that violate the servicers' legal obligations. It is essential that the implementation of the orders require specific, measurable actions of these servicers to address the deficiencies identified in the interagency review. The FDIC will continue to work with the primary federal regulators of these servicers to promote this result."

"The enforcement orders issued today are important, but they are only a first step in setting out a framework for these large institutions to remedy these deficiencies and to identify homeowners harmed as a result of servicer errors. While today's orders put these large servicers on a path to improving their management of the foreclosure process, they do not purport to fully identify and remedy past errors in mortgage-servicing operations of large institutions. Much work remains to ensure that the servicing process functions effectively, efficiently, and fairly going forward. Importantly, these enforcement orders do not contain monetary remedial measures. There is evidence that some level of wrongful foreclosures has occurred. It is important that servicers identify any harmed homeowners and provide appropriate remedies. This is essential to managing litigation and reputation risk, as well as fairness to borrowers. In addition, the FDIC continues to fully support the separate federal and state collaboration between the State Attorneys General and federal regulators led by the U.S. Department of Justice. The enforcement orders announced today complement, rather than preempt or impede, this ongoing collaboration."