



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D. C. 20551

BEN S. BERNANKE  
CHAIRMAN

December 16, 2013

The Honorable Elizabeth Warren  
United States Senate  
Washington, D.C. 20510

The Honorable Elijah E. Cummings  
House of Representatives  
Washington, D.C. 20515

Dear Senator and Congressman:

This is in response to your letter dated September 23, 2013, requesting additional information about the Federal Reserve Board's (the "Board") standard process for bringing and resolving enforcement actions and, in particular, the process by which the Board entered into the April 2011 Consent Orders with several large residential mortgage servicers addressing deficiencies in servicing and foreclosure procedures and the February 2013 amendments to those Consent Orders.

Under the Board's Rules Regarding Delegation of Authority and 12 U.S.C. § 248(k), the Board has delegated authority to the Board's General Counsel (or the General Counsel's delegee), with the concurrence of the Director of the Board's Division of Banking Supervision and Regulation ("BS&R") (or the Director's delegee), to enter into cease-and-desist orders and modifications to these orders, when the enforcement order or amendment is agreed to by the offending institution or individual. 12 C.F.R. §§ 265.6(e)(1) and (e)(2). Under the Board's Rules, any Board member may request Board review of any delegated action. 12 C.F.R. § 265.3(a). As contemplated by those rules, the Board's General Counsel has delegated to the Deputy General Counsel for Enforcement the General Counsel's authority to enter into such orders and modifications. The Director of BS&R has similarly delegated the Director's authority to subordinate staff in the Division. The Board's Secretary executes the enforcement actions approved under delegated authority consistent with the Board's Rules of Operating Procedure, 66 Federal Register 37686 (July 19, 2001), which set forth the Secretary's functions, including "coordinat[ing] and handl[ing] items requiring Board action, including actions under delegated authority[.]"

In many cases, including matters involving significant enforcement actions, staff with delegated approval authority consult with members of the Board prior to exercising that authority to obtain their views on whether consideration by the Board is appropriate.



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The views of the Board members expressed in these consultations guide the staff's decision with regard to whether a particular consent action should be approved under delegated authority. The process followed in notifying the Board when taking delegated action to implement the Board's enforcement authority varies depending on the nature of the enforcement action. The degree of consultation and notice involving Board members depends on the circumstances of each case. There are no written guidelines or procedures relating to this process.

With respect to addressing deficiencies in servicing and foreclosure procedures at the major mortgage servicing organizations, the Federal Reserve took three separate types of enforcement actions. Initially, in conjunction with the Office of the Comptroller of the Currency ("OCC"), which regulates most of the major servicers, the Federal Reserve issued consent orders against Federal Reserve-regulated servicers and the holding companies of all of the servicers. Among other things, these Consent Orders required the servicers to conduct an independent review of the files of borrowers in foreclosure to determine financial injury. Second, during 2013, with the OCC taking the lead in negotiations to reach a final settlement with the servicers it regulated, the Federal Reserve entered into agreements with the servicers to replace the independent foreclosure review with a requirement to make payments to all borrowers covered by the review, regardless of actual financial injury, and to provide additional loss mitigation or other foreclosure prevention assistance. Finally, the Federal Reserve amended the original Consent Orders to incorporate the provisions of the payment agreements.

Each of these actions was entered into in accordance with the procedures prescribed in the Board's Rules Regarding Delegation of Authority. In each case, prior to exercising delegated authority to enter into these enforcement actions, Board staff frequently consulted with Board members. These consultations included discussions with individual Board members subject to the Board member's availability. Based on these consultations, the Board's General Counsel approved entering into these actions, with the concurrence of the appropriate delegee of the Director of BS&R. Consistent with the General Counsel's approval, the Deputy General Counsel signed the documentation memorializing that approval.

All formal enforcement actions issued by the Board since 1997, including all of those approved by Board delegees, may be found on the Board's website at <http://www.federalreserve.gov/apps/enforcementactions/default.aspx>. As noted in our testimony last year before the House Financial Services Committee, of the nearly 1,000 formal, public enforcement actions the Federal Reserve has taken over the past 10 years, all but 11 were entered into by consent. All of these consent actions were approved under delegated authority in accordance with the procedures described above and in the Board's Rules Regarding Delegation of Authority. Of the 11 actions that were not approved under delegated authority, seven were entered by decision of the Board

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members after completion of a contested administrative hearing. The remaining four actions were issued by vote of the Board in contested administrative proceedings with the consent of the party involved where a settlement was reached after initiation of the proceedings but prior to the issuance of a final decision by the Board. These four actions are the orders issued against Dominique Bazy (February 4, 2004), Jean Peyrelevade (January 19, 2006), Max Grunhof (September 27, 2011), and Bryan Posey (November 16, 2011).

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to be 'AP' followed by a flourish.

cc: The Honorable Tim Johnson  
The Honorable Mike Crapo  
The Honorable Sherrod Brown  
The Honorable Pat Toomey  
The Honorable Robert Menendez  
The Honorable Darrell E. Issa  
The Honorable Jeb Hensarling  
The Honorable Maxine Waters