Office of Inspector General

Executive Summary

Audit of OneWest Bank's Loan Modification Program

Report No. EVAL-11-004
July 2011

Why We Did The Audit

Former FDIC Chairman Sheila Bair requested that the FDIC Office of Inspector General (OIG) assist in reviewing allegations in a letter dated January 10, 2011 addressed to her and other regulators, government officials, and media outlets purportedly from a group of OneWest Bank, FSB (OneWest) employees. The letter alleged that OneWest executives had instructed employees to reject as many loan modification applications as possible and created an environment that encouraged loan modification staff to misinform borrowers about their eligibility status, routinely shred loan modification applications, and inappropriately deny loan modifications. The letter also stated that the terms of the FDIC's agreement with OneWest created a financial incentive for OneWest to foreclose rather than modify loans.

Our objectives were to determine whether evidence exists to substantiate the allegations in the January 10, 2011 letter, and OneWest is administering loan modifications in accordance with the Home Affordable Modification Program (HAMP) and/or other FDIC-approved loan modification programs adopted under the *Shared Loss Agreement Between the FDIC as Receiver for IndyMac Federal Bank, FSB and OneWest Bank, FSB* dated March 19, 2009 (SLA).

Background

On July 11, 2008, the Office of Thrift Supervision (OTS) closed IndyMac Bank, FSB, Pasadena, California, and named the FDIC conservator. Substantially all of IndyMac Bank's assets transferred to IndyMac Federal Bank, FSB, which the FDIC operated to maximize the value of the institution for a future sale and to maintain banking services in the communities formerly served by IndyMac Bank, FSB. On March 19, 2009, the FDIC completed the sale of IndyMac Federal Bank, FSB, to OneWest, a newly formed federal savings bank organized by IMB HoldCo LLC. OneWest purchased more than $6 billion of deposits and approximately $20.7 billion in assets at a discount of $4.7 billion. Among the assets OneWest purchased was $12.8 billion in single-family mortgage loans.

The FDIC and OneWest entered into the SLA on the single-family mortgage loan portfolio. The FDIC conducts periodic reviews to monitor compliance with the SLA and to review claims for reimbursement. The SLA also requires OneWest to provide regular reports to enable the FDIC to ensure compliance with the SLA and to monitor performance of the covered assets.

Treasury initiated HAMP as part of the Making Home Affordable Program to provide eligible borrowers the opportunity to modify their first lien mortgage loans to make them more affordable. Under HAMP, servicers apply a uniform loan modification process to provide eligible borrowers with affordable and sustainable monthly payments for their first lien mortgage loans. HAMP achieves affordability through interest rate reduction, term extension, principal forbearance, and principal forgiveness.

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Audit Results

We did not find evidence to support the allegations in the January 10, 2011 letter, and we determined that several statements made in the letter about OneWest officials and the loan modification process were factually inaccurate.

OneWest paid a $4.7 billion discount for the IndyMac assets, and the FDIC will reimburse OneWest for losses based on the full book value of those assets, which has been viewed by some to create an incentive for OneWest to foreclose on loans rather than modify them. In fact, OneWest must incur cumulative losses of more than $2.5 billion before the FDIC begins reimbursing OneWest for any losses. The FDIC competitively bid IndyMac assets, and FDIC officials advised us that OneWest's acquisition represented the least cost transaction to the Deposit Insurance Fund. Further, we determined that there were compensating controls that mitigate the risk that OneWest would pursue foreclosures over loan modifications and ensure that OneWest pursues actions under the SLA that minimize losses to the FDIC.

We did identify borrower communication issues that might have resulted in borrower misunderstanding or confusion, and fueled perceptions that OneWest favors foreclosures over loan modifications. OneWest has taken steps to address those issues. In addition, we noted that the quality of the IndyMac loan portfolio that OneWest acquired made it difficult for borrowers to qualify for loan modifications and likely contributed to the perception that OneWest denies many loan modifications.

With respect to our second objective, we determined that OneWest administered loan modifications in accordance with HAMP. OneWest appropriately solicited borrowers for and processed loan modifications more than 98 percent of the time based on our review of a random sample of 260 loans. We found four exceptions: one related to the HAMP loan modification solicitation process, which establishes a reasonable effort standard for soliciting borrower interest; in three instances, OneWest incorrectly denied modifications. OneWest took corrective action either before or as a result of this audit to address all four cases. In addition, we noted that OneWest provides borrowers with other alternatives to help them remain in their homes when HAMP loan modification is not available.

Management Comments

This report makes no recommendations, so a management response was not required. FDIC management had no comments. Also, FDIC management provided a copy of the draft report to OneWest for its feedback. OneWest advised management that it had no comments.

Because this report includes confidential commercial information from OneWest, we do not intend to publicly release the report in its entirety.