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## **Manhattan U.S. Attorney Settles Civil Fraud Claims Against HSBC Bank For Failure To Monitor Fees Submitted For Foreclosure-Related Services**

### **HSBC Admits To Misconduct And Agrees To Pay \$10 Million To U.S.**

Preet Bharara, the United States Attorney for the Southern District of New York, and Michael P. Stephens, Acting Inspector General for the Federal Housing Finance Agency Office of Inspector General ("FHFA-OIG"), announced today that the United States has settled civil fraud claims under the False Claims Act against HSBC BANK USA, N.A., HSBC FINANCE CORPORATION, HSBC MORTGAGE CORPORATION (USA), and HSBC MORTGAGE SERVICES, INC. (collectively, "HSBC"), related to HSBC's failure to oversee the reasonableness of foreclosure-related charges HSBC submitted to HUD's Federal Housing Administration ("FHA") and the Federal National Mortgage Association ("Fannie Mae") for reimbursement, contrary to program requirements and HSBC's certifications that it had done so.

In the settlement, approved for release yesterday in Manhattan federal court by U.S. District Judge Thomas P. Griesa, HSBC accepted responsibility for failing to create or maintain systems to review fees and charges submitted by outside counsel and other third-party providers to HSBC during 2009 and 2010, fees and charges which HSBC then submitted to FHA and Fannie Mae for reimbursement without the requisite oversight and review. HSBC agreed to pay the Government \$10 million to resolve its liability to the United States for this conduct.

Manhattan U.S. Attorney Preet Bharara said: "HSBC failed to live up to its legal obligation to monitor and review fees and expenses it was submitting to FHA and Fannie Mae for reimbursement, and in the process, cost the public millions of dollars. With today's settlement, HSBC publicly admits to its failures and agrees to pay the Government \$10 million. Civil actions like these serve as an important tool that our Office can and will continue to use in holding financial institutions responsible for misconduct."

FHFA-OIG Acting Inspector General Michael P. Stephens: "HSBC had a responsibility, as a servicer, to have controls in place which ensured the fees and charges submitted to Fannie Mae were appropriate and reasonable. Their lack of controls showed gross neglect and an abject failure to serve their customers, FHA and Fannie Mae, and therefore the taxpayers. We are proud to have worked with our partners on this case."

According to the settlement filed in Manhattan federal court:

As a residential mortgage loan servicer, HSBC performs or oversees the performance of certain administrative activities in connection with residential mortgage loans, such as collecting mortgage payments and pursuing foreclosure when borrowers become delinquent. In pursuing foreclosure on behalf of HSBC, outside counsel and other third-party providers of foreclosure-related services, such as title companies and process servers, incur fees and expenses. HSBC has routinely submitted reimbursement requests to FHA and Fannie Mae for these foreclosure-related fees and expenses.

Pursuant to the National Housing Act, FHA offers mortgage insurance programs whereby it insures lenders against losses on mortgage loans, including expenses related to mortgage servicing, and specifically, expenses incurred in foreclosure proceedings. HSBC has been an approved servicer of FHA-insured loans for many years. In order to obtain and maintain FHA approval to service FHA-insured loans, HSBC was required to submit and did submit annual certifications stating that it adhered to all FHA handbooks, regulations and policies. One such handbook requires servicers to create and maintain a quality control program that reviews all aspects of servicing operations, including foreclosure fees and charges.

HSBC has also been an approved servicer of loans held by Fannie Mae. Fannie Mae is a government sponsored enterprise that purchases mortgage loans as part of its mission to promote liquidity in the housing market. Fannie Mae has been under the conservatorship of the Federal Housing Finance Agency since September 2008. As part of its obligations as a loan servicer for Fannie Mae, HSBC was required to create and implement audit and control systems to ensure compliance with Fannie Mae's requirements. Specifically, as a servicer of Fannie Mae loans, HSBC was required to ensure that all costs submitted to Fannie Mae for reimbursement were reasonable, customary and necessary.

As set forth in the settlement, during certain years, contrary to program requirements and HSBC's certifications, HSBC failed to implement and maintain the requisite quality controls, failed to oversee the foreclosure-related charges it submitted to FHA and Fannie Mae for reimbursement, and caused millions of dollars in losses to FHA and Fannie Mae as a result.

Specifically, as part of the settlement, HSBC admitted, acknowledged, and accepted responsibility for the following conduct:

- Notwithstanding HUD requirements and HSBC's annual certifications to FHA, prior to 2011, HSBC failed to create or maintain an adequate FHA quality control program to review the fees and charges submitted by outside counsel and other third-party providers to HSBC, which HSBC then submitted to FHA for reimbursement.
- Because, prior to 2011, HSBC lacked an adequate quality control program to oversee the fees and charges charged by outside counsel and other third party providers handling foreclosure-related services for FHA-insured mortgages, it failed to sufficiently oversee these fees and charges, despite certifying to FHA that it had done so.
- Between May 1, 2009, and December 31, 2010, HSBC failed to create or maintain Fannie Mae audit and control systems sufficient to ensure that the fees and expenses submitted by outside counsel and other third-party providers to HSBC, which HSBC then submitted to Fannie Mae for reimbursement, were reasonable, customary, or necessary.

- Because, between May 1, 2009, and December 31, 2010, it lacked sufficient audit and control systems to oversee the fees and expenses charged by outside counsel and other third party providers handling foreclosure-related services for HSBC as to Fannie Mae mortgages, HSBC failed to sufficiently oversee these fees and expenses, despite being required by Fannie Mae to do so.

In the settlement agreement, HSBC also agreed to comply with all rules applicable to servicers of mortgage loans insured by FHA and to servicers of loans held or securitized by Fannie Mae and the Federal National Mortgage Corporation (“Freddie Mac”). This includes compliance with all rules, requirements, or guidelines regarding implementation and maintenance of quality control programs, oversight of outside counsel and other third-party vendors, and submissions of fees and expenses for reimbursement by FHA, Fannie Mae, and/or Freddie Mac.

In connection with this settlement, the Government joined a private whistleblower lawsuit that had previously been filed under seal pursuant to the False Claims Act. The whistleblower suit remains under seal as the Government continues its investigation.

Mr. Bharara thanked the FHFA-OIG and the U.S. Department of Housing and Urban Development for their support and assistance with the case.

The case is being handled by the Office’s Civil Frauds Unit. Assistant United States Attorneys Cristine Irvin Phillips and Andrew E. Krause are in charge of the case.

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