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SECOND LIENS AND OTHER BARRIERS TO PRINCIPAL REDUCTION AS AN EFFECTIVE FORECLOSURE MITIGATION PROGRAM

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

APRIL 13, 2010

Printed for the use of the Committee on Financial Services

Serial No. 111–120

U.S. GOVERNMENT PRINTING OFFICE

57–738 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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SECOND LIENS AND OTHER BARRIERS TO PRINCIPAL REDUCTION AS AN EFFECTIVE FORECLOSURE MITIGATION PROGRAM

Tuesday, April 13, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 12 p.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the committee] presiding.

Members present: Representatives Frank, Kanjorski, Moore of Kansas, Hinojosa, Miller of North Carolina, Green, Cleaver, Bean, Perlmutter, Carson, Adler; Bachus, Biggert, Hensarling, and Neugebauer.

The CHAIRMAN. The hearing will come to order. I apologize for the slight delay. The ongoing question of how do we deal with the foreclosure crisis is before us. And I should be clear: Our major motivation here is the extent to which the ongoing problem of mortgage foreclosure damages the national economy. This is a fundamental problem that we have, and it is a consensus that one of the obstacles through the fullest recovery that is possible is the overhanging in the housing area. We have no magic wands to wave or buttons to push. There are a series of efforts.

One of the things that became clear to us as we talked about it is the question of the interrelationship of first mortgages and second mortgages. And we have been talking to investors who hold first mortgages to servicers. The institutions here have a significant number of second mortgages that they own. And we would like to find out what can be done to help resolve this crisis with regard to second mortgages, and in particular, we are interested to know what people plan to do about them, and if there are obstacles to doing something, how can we be either helpful or maybe persuade people to do more?

I will now reserve the balance of my time, and recognize the gentleman from Alabama.

Mr. BACHUS. Thank you, Mr. Chairman.

I thank you for holding this important hearing on the issue of modifying mortgages on properties having multiple debt obligations or second liens. I would also like to thank our witnesses for being here today. We look forward to hearing your testimony.

Preventing avoidable foreclosures is a serious issue for homeowners that has a great impact on our economy and on the communities in which those homes are located. A leading credit research

provider estimates that the 4 institutions testifying before the committee today hold $423 billion in home equity loans, including $151 billion in loans to borrowers, who are either underwater or close to it. Further research shows that at least 51 percent of first liens also have a second or subsequent liens. This presents real problems for homeowners with multiple liens on their property, as well as for bank balance sheets and securitization markets. It also impacts our prospects for housing market recovery, as the chairman mentioned.

Mr. Chairman, many of the well intentioned foreclosure mitigation programs have already failed to accomplish their mission. And many believe that this latest attempt by the Administration to "fix" the HAMP program will do little to stem foreclosures and help troubled homeowners. Constant shifts in policy directions have created uncertainty in the market and encouraged homeowners and servicers to wait for the next best offer rather than take action to address problems related to distressed mortgages.

Additionally, many Americans continue to be concerned about the inherent moral hazards of these foreclosure mitigation programs. Is it fair to provide taxpayer funds to overextended homeowners who have fallen behind on their mortgages while homeowners who have been struggling to stay current and meet their commitments receive no help? I think not. Also, I think that ignores the problem that many homeowners do not even have a mortgage or second liens. Most do not have second liens. And it is inherently unfair to ask them to guarantee or participate in programs to help others.

Critics of the HAMP program argue that mocks the hard work and foresight of those who have made larger downpayments or took out smaller mortgages to buy more affordable homes and now struggle to make their monthly payments. Now these responsible homeowners are forced as taxpayers to foot the bill for rescuing their less prudent neighbors. And once again, the Administration intends to use TARP funds to pay for these newly announced initiatives designed to pressure banks to modify troubling loans.

Unending government interference, intervention, and bailouts must end. It is particularly troubling to me that banks are being told to forgive principal when many of them have said they would rather reduce the interest rates. And when the government gets into that detail of trying to force banks or coerce them into forgiving principal, I think that is a slippery slope.

Instead of new programs and new bailouts, Congress should focus on job creation policies as the best way to help homeowners make their payments, prevent more foreclosures, and get our economy back on track. That includes reducing our debt, which will keep interest rates low. The market needs to find its own footing, free of government intervention and manipulation, so we can revive our economy and get on with a full housing market recovery. And I know it won't be easy.

I thank, again, the witness for being here, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from North Carolina is recognized for 3 minutes.

Mr. MILLER OF NORTH CAROLINA. Thank you, Mr. Chairman.

The 4 banks represented today service about two-thirds of all distressed home mortgage loans. The same 4 banks own between $400 billion and $500 billion in second mortgages secured by the same distressed assets, the value of which will be directly affected by decisions to modify the first mortgage or to foreclose or to extend and pretend.

It is hard to understand why servicing a first mortgage on behalf of investors while holding a second lien on the same property is not an irreconcilable conflict of interest between servicers and investors. Why is this not a breach of fiduciary duty, which is fraud under the common law?

It makes no sense, as the testimony today will tell us, that second mortgages are performing better than first mortgages. That makes no sense for the homeowner. Are servicers telling homeowners to pay the second mortgage before they pay the first if they can only pay one?

Congress and the industry investors should begin by asking whether there is any plausible reason to continue to permit servicers to own debts secured by a home that secures a mortgage that they also service.

Hearing none so far, I have introduced with Mr. Ellison legislation to prohibit one bank, one entity, from doing both. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas.

Mr. HENSARLING. Thank you, Mr. Chairman.

Today, we will examine the 5th or 6th iteration of the same failed foreclosure mitigation plan offered by the Obama Administration and Congress. It is a policy that still throws mud on the wall to see what sticks. It is very expensive mud. It belongs to someone else. And by the way, none of it is sticking.

We still have one of the highest default rates in our Nation's history. By the Administration's own admission, the HAMP and HARP program have now restructured 169,000 permanent modifications out of their stated goal of 3 to 4 million. Most studies and empirical evidence show that at least 50 percent of those who have their mortgages modified will again redefault.

Besides being a highly ineffective program, it is an unfair program. It is yet another chapter in "America the Bailout Nation," as co-authored by the President and by Speaker Pelosi. It takes $50 billion from the taxpayer or borrows the money from the Chinese to bail out banks that made bad loans and to bail out many who bought more home than they could afford, speculated in residential real estate, or used their home equity as an ATM machine.

We must remember that 94 percent of Americans own their home outright; they rent or they are current on their mortgage; and they are being asked to bail out the other 6 percent. It is a policy that says to the citizens who work hard, who live within their means, who save for a rainy day, "You are a sucker." When you are struggling to pay your own mortgage, you shouldn't be forced to pay your neighbor's as well.

The program is unfair to taxpayers. According to the Congressional Budget Office and the Government Accountability Office, they say that HAMP and the TARP $50 billion program will lose 100 percent of the taxpayer investment. Although I curiously note

under the Majority memo for this hearing, under the subchapter entitled, "Who Will Absorb Losses," curiously the word "taxpayer" is never mentioned.

Finally, the program hurts our economy. It fails to recognize that the only effective foreclosure mitigation plan is a good job with a steady paycheck and a bright future. Unfortunately, under the policies of this Administration and of this Congress, over 7 million of these jobs have now been lost. By creating an unpredictable artificial market, investment capital remains on the sidelines; thus, HAMP is hampering economic recovery.

Finally, as our Nation drowns in a sea of debt, I think we can better use the $50 billion to put forth a plan to pay down the debt and put the Nation on the road to fiscal sanity. That would create jobs and thus have effective foreclosure mitigation for the Nation.

I yield back the balance of my time.

The CHAIRMAN. I will yield myself 30 seconds, and then yield for his final statement the gentleman from Texas.

I would just say that when the gentleman from Texas talked about the bailout partnership between the President and Nancy Pelosi, I gather he was chronicling a George Bush/Nancy Pelosi cooperative arrangement since every single bailout as it is described now began, of course, at the request of President Bush; although they are being continued by President Obama.

Mr. HENSARLING. Will the gentleman yield?

The CHAIRMAN. Yes.

Mr. HENSARLING. Has not the President continued these policies?

The CHAIRMAN. Excuse me, I just said continued by President Obama. I apologize. The gentleman was apparently preparing his response without listening to what he was going to respond to, so I will repeat it, and give myself another 15 seconds. Every single bailout in America that is undergoing now was begun at the request of and, in some cases, the unilateral decision of President Bush. What we then have is President Obama continuing those bailouts, that is what I was saying.

Mr. BACHUS. Mr. Chairman, could I have 30 seconds?

The CHAIRMAN. I will yield to the gentleman.

Mr. BACHUS. Mr. Chairman, I think the American people, at this time, are really not interested in whether it was President Bush, whether it was President Obama, whether it was Democrats, whether it was Republicans, whether it was the Congress, whether it was the Administration, or even whether it was Wall Street. I think their main concern is, where do we go from here? And so I think we ought to focus—

The CHAIRMAN. I will yield myself some time to say, I would have been more impressed with that if the gentleman had said it after the gentleman from Texas blamed the President, meaning President Obama and Speaker Pelosi. Yes, I agree. I did not get into it until the gentleman from Texas said, this is the President, I assumed meaning President Obama and Speaker Pelosi. So I appreciate the gentleman's comments. It came just a little bit too late.

Mr. BACHUS. I believe the reason he did that—

The CHAIRMAN. I am sorry, the gentleman's time has expired.

The gentleman from Texas.

Mr. GREEN. Having been here, Mr. Chairman, when the request was made for a toxic assets program to be implemented and having seen the Capital Purchase Program implemented, I do have some degree of institutional knowledge in terms of what actually occurred. And my hope is that we can get beyond the finger pointing, but my sincerest thought is that we will not, hence the truth has to be told.

And it is only by telling the truth that we will make it clear to future generations what exactly occurred. Two points: One, we do have to concern ourselves with what we call moral hazard, but we also have to concern ourselves with the immoral hazard. The moral hazard has to do with the possibility of persons taking advantage of a program specifically designed to help persons in times of need. The immoral hazard has to do with doing nothing after having seen millions, more than six, go into foreclosure, do nothing and watch millions more go into foreclosure. That is an immoral hazard.

We have a great challenge before us. If we do nothing, the impact on the economy can be devastating. If we do nothing, the moral hazard will be secondary to the immoral hazard of having done nothing at a time when we are called upon to do much. I think we have to simply understand that we are here for a purpose. We are here to make sure that moral hazards are avoided and to make sure that we don't engage in the immoral hazard of doing nothing.

I will yield back the balance of my time.

The CHAIRMAN. All time has expired.

We will begin with the statements. And we begin here with Barbara Desoer, who is president of Bank of America Home Loans.

STATEMENT OF BARBARA DESOER, PRESIDENT, BANK OF AMERICA HOME LOANS, ACCOMPANIED BY JACK SCHAKETT, CREDIT LOSS MITIGATION STRATEGIES EXECUTIVE

Ms. DESOER. Thank you, Chairman Frank, Ranking Member Bachus, and members of the committee. Thank you for the opportunity to discuss Bank of America's loan modification performance.

Providing solutions to distressed borrowers remains a critical focus, and in the past 2 years, we have helped more than 560,000 customers with a permanent modification, including 33,000 under the Home Affordable Modification Program. Modification efforts have been successful in helping many customers stay in their homes, but there is a limit to what the current programs can accomplish.

Today, I would like to discuss the number of customers that we believe we can still assist with HAMP, as well as focus on the role of principal reduction and second liens. In our total portfolio of 14 million loans, Bank of America has 1.4 million first mortgage customers who are more than 60 days delinquent. Of that number, 621,000 customers are eligible for mortgage modification through HAMP. We arrive at that number by subtracting customers for whom HAMP was not intended. This includes non-owner-occupied or vacant homes, the unemployed, and customers with a debt-to-income ratio less than 31 percent. For those customers who fall outside the scope of HAMP, Bank of America continues to offer proprietary modification solutions.

To date, we have made HAMP trial offers to 391,000 customers. However, despite aggressive outreach, including face-to-face visits to customers' homes, we have not experienced the kind of response rate we anticipated. In addition, a significant number of customers in the trial modification period are not completing the requirements to obtain permanent modifications.

We continue to look at ways to evolve the programs to achieve higher customer acceptance rates. Recent efforts on principal reduction and second liens are examples of those. Bank of America is supportive of principal reduction for customers who are experiencing hardship and have extremely high loan-to-value ratios. We recently announced enhancements to our own proprietary national homeownership retention program that includes an innovative earned principal forgiveness approach which strikes, we believe, the necessary balance between customer and investor interests.

We understand that there are questions about the impact of second liens on loan modifications and the use of principal reduction. Second liens need to be a part of the modification process. However, we believe broad-scale extinguishment is not the solution because the majority of seconds do in fact have value. Out of 2.2 million second loans in Bank of America's held-for-investment portfolio, only 91,000 are delinquent, and also behind a delinquent first and not supported by any equity. It is important to note that in our first mortgage held for investment portfolio, we have already been modifying firsts including principal reduction, regardless of whether or not there is a second lien behind it. We have also modified many second lien loans and written down a significant number of second lien loans as well.

We recognize that more needs to be done, particularly when the first lien is held by a different investor. And we believe a solution is contained within the Treasury's second lien program, known as 2MP. With 2MP, the holder of the second lien is required to forebear a similar percentage as the first lienholder. We would advocate working on a similar industry-wide process that would require the second lienholder to take a principal balance reduction proportionate to the first lienholder. Bank of America is a proud participant in 2MP and, on April 1st, became the first major loan servicer to begin mailing trial modification offers to home equity customers under the program.

Despite these considerable efforts, not everyone will be able to afford to stay in their homes. Given the depth of the Nation's recession, a considerable number of customers will need to move from homeownership to rental and other housing solutions. Bank of America is committed to passionately and responsibly helping our customers make this transition. We recently launched the Treasury's Home Affordable Foreclosure Alternatives program on April 5th and have implemented our own expanded short-sale program to help customers avoid the stigma of foreclosure and reduce the damage done to their credit.

For those not interested in the short-sale process as an alternative, we are stepping up efforts to provide incremental funding for our Cash for Keys program and Deed in Lieu program. We will continue to partner with public policy officials, community groups,

and, most importantly, our customers to provide a dignified transition where required.

At Bank of America, we are working to balance the needs of customers, investors, shareholders, and the communities we serve. We take very seriously our role in helping customers, as well as restoring confidence in the U.S. housing market. We appreciate the leadership of this committee and will continue to work with you to develop solutions on these critical issues. Thank you.

[The prepared statement of Ms. Desoer can be found on page 39 of the appendix.]

The CHAIRMAN. Thank you.

I should explain that we have asked the four large banks here to send a high-ranking official and, if they wish, to bring with them someone who can do technical back-up. We in this committee are well aware of the importance of—I was just explaining that we are going to be calling on every other witness because we have high-ranking executives, and they are accompanied by other executives who have the kind of knowledge that will be helpful together in answering the questions.

So our next witness is Mr. Sanjiv Das, who is president and chief executive officer of CitiMortgage.

STATEMENT OF SANJIV DAS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CITIMORTGAGE, INC., ACCOMPANIED BY STEVE HEMPERLY, EXECUTIVE VICE PRESIDENT

Mr. DAS. Chairman Frank, Ranking Member Bachus, and members of the committee, thank you for the opportunity to discuss Citi's efforts to help families stay in their homes.

I am Sanjiv Das, CEO of CitiMortgage. Joining me is Steve Hemperly, head of Citi's default servicing operations, and I am honored to be given the chance today to describe our efforts.

As Citi CEO Vikram Pandit has said, we owe a debt of gratitude to the American taxpayer, and we believe it is our responsibility to help American families in financial distress and, in particular, to help families stay in their homes. We are committed to modifying loans to borrowers facing hardship, while providing new loans to help Americans in this difficult time.

I joined Citi in July of 2008, and in my role as head of CitiMortgage, I manage Citi's efforts to help families pursue their dreams of buying a home, making their homes more affordable, or assisting those families who may be facing financial hardship.

CitiMortgage has a long history of helping homeowners. Just last year, we originated mortgages to approximately 336,000 homeowners, totalling $80.5 billion. Also, last year, we helped approximately 270,000 borrowers refinance their primary mortgages. And in the midst of this housing crisis, we have put considerable resources towards helping our customers who are facing financial challenges remain in their homes.

We describe our lending and foreclosure prevention efforts in detail in a quarterly report that we release publicly and post on our Web site. Citi has worked closely with the U.S. Treasury in developing and executing their Making Home Affordable programs. Since 2007, we have helped more than 825,000 families in their efforts to avoid foreclosure. We now have over 1,400 new employees

dedicated to supporting our foreclosure prevention efforts and have trained more than 4,000 employees to assist borrowers.

Our focus has paid off. We are pleased to be ranked consistently among the top, if not at the top, of Treasury's rankings for HAMP, and in the fourth quarter of 2009, we were able to help families in their efforts to avoid foreclosure by a ratio of 15 to 1. Our goal is to work with our customers to find the most affordable solution and to assist those who are in need.

At Citi, we have addressed affordability with programs which go beyond HAMP. We believe these programs are responsible, timely and, most importantly, effective. Our programs address core issues which borrowers face, such as unemployment, imminent risk of default, and the need for alternatives to foreclosure for those not able to afford owning a home.

We have used and continue to use principal reduction as a solution. To date, we have been able to address the needs of our borrowers on a case-by-case basis, tailoring solutions for a family's unique needs and to deliver an outcome that is affordable and lasting. We do not believe there is a one-size-fits-all approach to affordability. The proof of this is in our low default rates, which continue to rank significantly lower than industry averages.

We caution that applying principal reductions on a broad scale could raise issues of fairness among consumers. We have also signed for the Treasury's second lien program and support recent changes to HAMP's first lien program. We expect these changes to result in more principal reductions going forward, and we will continue to be thoughtful in how we implement these programs.

Just as HAMP is not the only solution for all consumers, we believe principal reduction is not the only solution for those who are experiencing financial hardship. While we have made progress, I fully appreciate there is more work to be done. We are staunch supporters of the Treasury's programs to help consumers because we believe that action among all banks will prove to be more powerful and ultimately more effective than individual bank actions in addressing consumer financial hardship.

Let me conclude by restating our unwavering commitment to helping American families during these challenging times. All of us at Citi remain focused on achieving affordability in a responsible manner while helping families stay in their homes. Thank you, Mr. Chairman and Ranking Member Bachus, for the opportunity to speak before you and the members of the committee. I would be happy to answer any questions you might have.

[The prepared statement of Mr. Das can be found on page 34 of the appendix.]

The CHAIRMAN. Next, we have Mr. David Lowman, who is the chief executive officer of JPMorgan Chase Home Lending.

STATEMENT OF DAVID LOWMAN, CHIEF EXECUTIVE OFFICER, JPMORGAN CHASE HOME LENDING, ACCOMPANIED BY MOLLY SHEEHAN, SENIOR VICE PRESIDENT, HOUSING POLICY

Mr. LOWMAN. Chairman Frank, Ranking Member Bachus, and members of the committee, thank you for the opportunity to appear before you today.

My name is Dave Lowman, and I am the chief executive officer of the home lending businesses of JPMorgan Chase. I am joined today by my colleague, Molly Sheehan.

JPMorgan Chase shares your commitment to helping homeowners and stabilizing our Nation's housing market. At Chase, we are working hard to help families meet their mortgage obligations and keep them in their homes by making their home payments affordable. To date, we have helped to prevent over 965,000 foreclosures through HAMP, our own proprietary modification programs, and other programs. In addition, we have refinanced nearly $16 billion of loans under HARP. HAMP modification performance has been strong, helping hundreds of thousands of homeowners achieve affordable mortgage payments.

At Chase, we are now completing more than 10,000 permanent modifications per month, and on average, homeowners are receiving a monthly payment reduction of $548 through their HAMP modification. That represents, on average, a payment reduction of 29 percent.

In addition, we are adopting and implementing the Home Affordable Foreclosure Alternative Program and a second lien modification program to help more borrowers. We actively use temporary forbearance agreements for unemployed borrowers, similar to the program being contemplated by the Administration.

You have asked us to focus our testimony on second liens and principal forgiveness, and I would like to make a few points on these topics. We have given these issues a great deal of thought, and my written testimony contains the results of our extensive analysis. There have been many questions about the role of second liens in the process of helping borrowers. We estimate that 70 percent of the first liens in our servicing portfolio are unencumbered by a junior lien; 95 percent of our second lien borrowers continue to pay as agreed. Even among loans that are underwater, 95 percent continue to pay as agreed. More than 90 percent of customers with loan to values greater than 125 percent continue to pay as agreed.

In our experience, second liens are not an impediment to first lien modifications. Our HAMP first lien modification completion rate is virtually the same, whether or not we are aware of the existence of a second lien.

It is important to distinguish between payment priority and lien priority. In almost all scenarios, second lienholders have rights equal to a first lienholder with respect to a borrower's cash flow. The same is true with respect to other secured or unsecured debt, such as credit cards or car loans. Generally, consumers can decide how they want to manage their monthly payments. It is only at liquidation or property disposition that the first lien investors have priority.

We routinely modify our second liens, whether or not we own the first mortgage. We have offered almost 54,000 second lien modifications over the last 14 months, 12,000 of which have been made permanent. Approximately 45 percent of these were on loans where we did not service the first lien.

On the topic of principal reduction, there are certainly individual cases or even segments of borrowers where principal reduction may

be appropriate. Last year, we began testing targeted principal reduction programs for certain high-risk borrowers to see if a principal reduction program could be effective. Once we see the results of these tests, we will be able to better evaluate the effectiveness of a broader principal reduction program.

But we are concerned about large-scale, broadbased principal reduction programs for both first and second lien mortgage loans and particularly for current borrowers with an ability to repay their obligations. Our first concern is that such programs could be harmful to consumers, investors, and future mortgage market conditions, and should not be undertaken without first attempting other solutions, including more targeted modification efforts.

Broadbased principal reduction could result in decreased access to credit and higher cost for consumers because lenders will price for principal forgiveness risk. Less affluent borrowers will likely be harmed disproportionately.

There is also an important issue of cost. A broadbased principal reduction program could have an industry-wide cost of $700 billion to $900 billion, by our estimates. The cost of Fannie Mae, Freddie Mac, and FHA alone would be in the neighborhood of $150 billion.

In addition, let me emphasize that we have contractual obligations to investors, including Fannie Mae and Freddie Mac, that generally do not permit principal reductions. Responsible lenders and major servicers are offering programs that incorporate principal reduction features for borrowers who most need that type of assistance, based on the characteristics of the particular portfolio of loans. We believe these types of targeted solutions are more appropriate.

Thank you for your attention, and I would be happy to answer any questions you may have.

[The prepared statement of Mr. Lowman can be found on page 52 of the appendix.]

The CHAIRMAN. Next, we will hear from Mr. Mike Heid, who is co-president of Wells Fargo Home Mortgage.

STATEMENT OF MICHAEL J. HEID, CO-PRESIDENT, WELLS FARGO HOME MORTGAGE, ACCOMPANIED BY KEVIN MOSS, EXECUTIVE VICE PRESIDENT, WELLS FARGO HOME EQUITY GROUP

Mr. HEID. Chairman Frank, Ranking Member Bachus, and members of the committee, I am Mike Heid, co-president of Wells Fargo Home Mortgage,and I am here today with Kevin Moss, executive vice president of the Wells Fargo Home Equity Group.

I would like to begin by stating what we, Wells Fargo, believe is an overarching issue that requires constant consideration. While very difficult to achieve, the needs and interests of homeowners in financial distress must be balanced with those who have remained current in their mortgage payments. While much focus deservedly is directed to consumers behind on payments, we cannot lose sight of the 91 percent of our mortgage customers current on their loans and the fact that just 3 percent of our home equity customers were 2 or more payments past due as of the end of 2009.

With that perspective in mind, let me address the assistance programs already under way and the program announced in concept

on March 26th. First, for years, we have offered a short-term relief option that, since January of 2009, has helped more than 100,000 customers who have experienced unemployment or underemployment. It appears that Treasury's new temporary assistance program is consistent with our own. If that proves to be true when the details are released, we could put this enhancement into practice in a matter of weeks.

Second, more than a year ago, we began using principal forgiveness as an element of our Wells Fargo loan modification program for certain portfolio assets. In 2009, we completed more than 50,000 such modifications, with a total reduction of principal of more than $2.6 billion granting immediate and permanent principal forgiveness, not an earnout over time. On average, customers received a 15 percent principal reduction amounting to more than $50,000 and, when combined with rate reductions and term extensions, dropped their monthly payments by 25 percent.

Principal forgiveness is not an across-the-board solution. Not every homeowner with a loan balance that exceeds the value of their home falls behind on their payments. Most homeowners are doing what is necessary to stay current on their payment obligations and, in so doing, protecting their credit standing.

For this reason, principal forgiveness needs to be used in a very careful and focused manner. Through experience, we have found that it is best to use to assist customers in areas with severe price declines where there is little prospect for full recovery of home values. Further, they have suffered financial hardships, but continue to have sufficient incomes to afford a lower modified home payment and want to remain in the home.

In 2009, the redefault rates on these loans were less than half the rate for similar loans in our industry. In 2010, we expect to use principal forgiveness on the same basic tenants. In addition, when available, we will review the new HAMP program details to confirm our conceptual understanding. Absent any unexpected legal, regulatory, or accounting issues, we plan to implement the HAMP enhancements for first and second lien modifications as rapidly as possible.

With respect to HAMP in general, from the very beginning, we have said it is only part of the story when it comes to helping homeowners. Since the beginning of 2009, we have initiated or completed more than half a million mortgage modifications, three-quarters of which were done outside of the HAMP program. Wells Fargo is now doing three modifications for every completed foreclosure. As a standing practice, before we move a home to foreclosure sale, we ensure all other options are exhausted.

With respect to HUD's new FHA refinance program, also announced in concept on March 26th, implementation will require significant work. As one of the two largest FHA lenders, we intend to offer these refinance opportunities and plan to closely follow the guidelines set by first lien investors, including Fannie Mae and Freddie Mac. In our home equity portfolio, we stand committed to ensuring second liens do not prevent such refinances from occurring.

In closing, our efforts to assist customers today are very different than they were a year ago. For instance, we have assigned one per-

son to manage a loan modification, so by June, a customer will know who he or she is dealing with from start to finish. We have hired 10,000 home preservation staff for a total of 17,400. We have expanded 2,700 preservation centers to provide face-to-face help, and we have instituted a 5-day credit decision turnaround for customers who provide all of the required documents.

Wells Fargo remains committed to working with this committee and others on balanced initiatives that consider the needs of all customers, our investors, and our country. Thank you and I look forward to your questions.

[The prepared statement of Mr. Heid can be found on page 47 of the appendix.]

The CHAIRMAN. Thank you.

Mr. BACHUS. Mr. Chairman?

The CHAIRMAN. Yes.

Mr. BACHUS. Prior to the 5 minutes each, I want to say this, and I want to compliment you. I am not sure it was an intentional thing, but we had this hearing at 12:00 instead of 10:00. The testimony usually comes in at night or late afternoon, as it did yesterday. We were able, many of us, to read the testimony this morning prior to the hearing, which was a great help, and I think it makes for a better hearing.

The CHAIRMAN. Well, I appreciate that. And I don't know if we want to set the precedent of members having to read the testimony. But I was able to—that clearly was something intentional. We were able to do it, in part, and look, we have a lot of requests for hearings. We have a hard time accommodating them all, and they put a lot of strain on the people who work for us.

What I did today was, we are not voting until 6:30, so that is one reason we were able to do this at noon; we are not going to be interrupted. As members know, I feel terribly guilty when very busy people, private sector or public sector, nonprofit, profit, volunteers, when they sit for an hour while we commemorate the winning of some baseball game over on the Floor of the House. And so I was able to move it to that time, which I agree is a better time. And we will work together, as we have done, maybe to pick some other days when members are coming, and we start a little early. But that was made possible on the fact that we wouldn't have any votes.

Let me just begin with an agreement that, yes, not everybody who is in default is going to get help or should be helped. There are people who made mistakes and misjudgments. And I have long felt that we were pushing too many people into homeownership and not doing enough for rental housing, so that was no favor to anybody.

I also believe, yes, when you are talking about people who had a loan and then took out a home equity loan and enjoyed the fruits of that, those are not great objects of sympathy in every case where people cashed out the ability. On the other hand, there are some categories of people whom I very much want to help.

Let me talk in particular, do any of you differentiate based on the unemployed? That is one of the things I think that we should do, which is, yes, you can talk about people who were, either because they were persuaded to or they made misjudgments or some

combination of fault, that is one thing, but there are people who are unemployed, and you can't pay your mortgage out of unemployment. Those are the people who seem to me no one should be arguing would be, I don't think it is moral hazard. I don't think anybody is going to get unemployed just so he can get a mortgage reduction.

Let me go down the list, starting with Ms. Desoer. Do you differentiate at all based on whether or not people have been unemployed through no fault of their own?

Ms. DESOER. Yes, we do. And, as you know, under the new Treasury guidelines as well, there is a standard of 3 to 6 months of forbearance of payments.

The CHAIRMAN. Three months does not—I wish I could say that unemployment was so transitory that 3 months made a difference. I am disappointed in the Obama Administration here. I think that is insufficient. Do you go beyond that? In your own judgments, do you take that into account?

Ms. DESOER. Each one is really a very customized solution, so it depends on the state of delinquency when the request was initiated and that sort of thing. So occasionally, we do. But usually, it is within that timeframe.

The CHAIRMAN. I understand some of what you said, but I don't see any reason for not being very sympathetic to people who are unemployed.

Mr. Das?

Mr. DAS. Chairman Frank, I think you raise a very important point. The unemployed group of people are essentially the ones who are getting hit by a double whammy here, not only with house prices coming down but also losing their jobs. Citi had the perspective of a year's advantage, because we launched an unemployment assist last March. So we learned a few more things prior to the Administration's new program.

What we learned, sir, was that 3 months, between 3 months and 6 months, to the point that you made earlier, we didn't want a program to be so long that it would change people's employment-seeking behaviors and so what we learned is it actually doesn't change their employment behavior.

The CHAIRMAN. It is very hard to find that someone is going to just not try and get back to work.

Mr. DAS. Correct. And that was our experience as well. We found that people looked for work, and many of them found work. But more importantly, many of them found an alternative solution in terms of HAMP with us. And so I would strongly recommend that we look at that.

The CHAIRMAN. Mr. Lowman?

Mr. LOWMAN. Chairman Frank, as I mentioned in my testimony, we have had a program that provided forbearance to unemployed borrowers. It has been a part of our practices for a while. And we, obviously, embrace new changes in the HAMP program that provide the same.

The CHAIRMAN. Mr. Heid?

Mr. HEID. Yes, we have done this for years. And I think in addition to what has been said, the key is to make sure the customer has the desire to remain in the home.

The CHAIRMAN. I agree. And I would think the question of fairness to people paying their mortgages and the question of moral hazard, it would seem to me, substantially to recede when you are talking about people who are unemployed. And I also agree, with regard to public money, we do give money to people who are unemployed, called unemployment insurance. We do other things. I would hope we would be forthcoming about that.

Let me ask quickly. As in a lot of circumstances, if the holder of the first mortgage is ready to do some principal reduction and you hold the second mortgage separately from that, are you prepared to do a proportional reduction? Let me start with Mr. Heid.

Mr. HEID. Yes, especially under the 2MP program, which has been mentioned earlier.

The CHAIRMAN. You would do proportional reductions?

Mr. HEID. That would be required. The other thing I would say is, in the 50,000 principal forgiveness modifications that we did as a first lienholder, we did not condition that based upon what any second lienholder might—

The CHAIRMAN. But as second lien, not everybody is as nice as you, maybe. So you would accept a proportional on the second if there was going to be a reduction on the first?

Mr. HEID. Yes.

The CHAIRMAN. Mr. Lowman?

Mr. LOWMAN. Yes, as a part of the 2MP program, we would consider the same.

The CHAIRMAN. Mr. Das?

Mr. DAS. Actually, we were using the FDIC program prior to the 2MP program, so, obviously, with the 2MP program, we will. But in the FDIC program, when we modified a first that was on our books, we automatically modified a second.

The CHAIRMAN. Sir, I know Bank of America is doing that, you have informed me, but my time is expiring.

I would ask you all in writing to let me know of any circumstances in which there was a reduction that was going to be made on the first but you would not accept a proportional reduction on the second because that becomes an obstacle. I would like to know if there is any category of cases where—obviously, if you are the owner of both, it is not as much of an issue—but where there is separate ownership of the first and the second, where you own the second and don't own the first, are there cases or categories where you would resist a proportional reduction? Because I will be honest, if there were, that would trouble me.

The gentleman from Alabama.

Mr. BACHUS. Thank you, Mr. Chairman.

Mr. Chairman, and I will say this to the panelists, what we are talking about is forgiveness, or what we are talking about is a benefit or really a modification of the contract. And I think it is important for all of us to know that any time you create a benefit or an entitlement, whatever you call it, you create a need.

Mr. Hensarling, Congressman Hensarling, often says, if you build it, they will come. And that is one of my concerns here.

Mr. Lowman said 95 percent of borrowers are current. So my first concern is the social cost. Are people going to say, it is not fair to me, somewhere down the line I have to pay for this? So that

would be one of my concerns, equal treatment, or is it going to create more really late payments and things of that nature?

The second is, the cost of mortgages going forward are going to be greater. It is impossible to start modifying contracts without that showing up in subsequent contracts because people are going to protect themselves from the risk that wasn't there before.

And a lot of this, actually, JPMorgan Chase's testimony, Ms. Sheehan and Mr. Lowman, was very good, and I think it was a thoughtful analysis. There is going to be a cost to everyone else in this.

The third one, and this is something that we ought to all be concerned about, I think the greatest cost is going to fall on those with less than perfect credit in the future because it is going to raise their downpayment. Some of that may be good, but some of it may make it very hard for them. It is going to increase cost to those with less than perfect credit going forward because, sooner or later, they are going to have to shoulder the benefit. And these are people who probably would not have defaulted.

So my questions are going to kind of concern those things. First, Mr. Lowman, you talked about an industry-wide cost of $700 billion to $900 billion, and that is a large cost. How will the industry work through its underwater borrowers in the near term? Or really maybe a better question, will this cost necessarily be incurred or passed down to other borrowers in the future? How will it be made up?

Mr. LOWMAN. Well, I think the cost obviously is great for everybody that holds loans, right, every type of investor, whether banks or private investors or what have you. To the extent we were required to forgive those loans, it certainly would be a hazard and a risk that we would have to bear in the future, and as a result, we would either do one of two things. We would increase the downpayment requirements to protect ourselves from that in the future or raise the prices or both. So I think the cost of homeownership in the future would be greatly increased as a result.

Mr. BACHUS. Do the other three institutions agree with that analysis?

Ms. DESOER. Yes, I would agree if there were wholesale reductions, but I think that is the total amount, and I view that as hypothetical because of constraints that exist that I believe would stand in the way of ever reaching the number of making 100 percent of the borrowers whole.

Mr. DAS. I would agree with that. I would say that the only other issue, I agree with Barbara, that it is in fact hypothetical, but I would expect it to increase. I think in trying to solve low redefaults, it might actually increase the number of defaults if we do things like this. The costs could actually be higher.

Mr. HEID. All the risks described are very real and need to be taken into account.

Mr. BACHUS. Thank you.

I also would like to hear from the regulators. I don't know that bank regulators would want lenders to take such risks, some of the risks that may be associated with this type of program. It certainly will have an impact on the finances of the company.

Let me ask all of you this in conclusion. The rollout of this 2MP program will not be effective until September of this year. But under this program, a servicer cannot execute a foreclosure until all available modification options have been tried. And I know the chairman has asked you all to write a letter basically saying that you will agree to that. Does this cause, particularly with the September intent rollout, does this basically really operate almost like a 6-month mortgage foreclosure moratorium?

Ms. DESOER. I will take that one. The 2MP operates as a modification of the second deed of trust after the first mortgage has been modified to a permanent modification. So the foreclosure event is passed as long as that first mortgage modification continues to perform. And then it is just a difference in timing between the modification of the first and the second, but there—

Mr. BACHUS. As a practical matter, do you think that this will be sort of viewed as a mortgage foreclosure moratorium?

Ms. DESOER. I don't believe so, no.

Mr. BACHUS. How about the other institutions?

Mr. HEID. I think the one piece that is getting lost in some of these broad sweeping delays on foreclosures is that there are a number of vacant properties that are also getting swept up in that. So communities are being harmed by the fact that there is a vacant property sitting there, can't move the process forward. And I don't believe that was the intent, but that is one of the casualties of the process that is now unfolding.

Mr. BACHUS. So it does have a tendency to slow the foreclosures?

Mr. HEID. Yes.

The CHAIRMAN. Will the gentleman yield to me because I just want to make clear. I wasn't calling for any over—mine was contingent. I want to know, in cases where the first is modified, if they were also modifying the second. That doesn't impose a requirement to modify the first where someone is in—they can do that in or out of the 2MP program. There is nothing stopping it.

Mr. BACHUS. So it would still be voluntary on everyone's part, is that correct?

The CHAIRMAN. Well, as I understand it, unless we change the law, yes, it is voluntary. I voted for bankruptcy, but it didn't win.

Mr. BACHUS. We have a tendency to all of a sudden say, you have made a commitment to do something, and I didn't know whether these letters would—when you say assurances, I don't know what that means going forward.

The CHAIRMAN. The gentleman from Pennsylvania.

Mr. KANJORSKI. Thank you, Mr. Chairman.

I am sitting here asking myself the question of, why are we here today? It seems you all are very happy with what is happening in 64 percent of the market that you control, and I have not heard anybody make a suggestion that you have a plan or you are able to put a plan together better than what is presently being implemented. Is that a correct hearing of what your testimony is?

Ms. DESOER. Sir, I would disagree with that. And the kinds of recommendations are to embrace the programs that have just recently been announced and launch 2MP. We started mailing our first trial modifications under that program April 1st. The home affordable foreclosure alternative short sale program just went into

effect April 5th, so there is new performance that will indicate whether in fact there is further impact that can have. And then, finally, the principal reduction and things like the FHA refinance that has been recommended won't go into effect in the fall. So I think there is certainly more that needs to be done. I think in our testimony what we—

Mr. KANJORSKI. Well, that is the question. If I may, I am limited on my time, do we have to do the extra work here in the Congress, or is the private sector able to come up with the solutions to this? It seems to me that if just the four institutions at that table cannot get together and conspire, but you came up with good ideas and implemented them, it would not require the Congress to take any action.

Mr. HEID. I would say much of that is already occurring. Each of us have stated the number of loan modifications that are happening outside of the various government programs. So I would say the private sector is already stepping forward.

Mr. KANJORSKI. Very good.

In listening to the testimony, it does not seem that the numbers are very high with what is being done as of this present time. There are a lot more potential foreclosures out there that may be caused or may come about because we have not quite arranged things. Is that a correct impression on my part, or do you think you are at the absolute optimum level, and we have nothing more to do? Is what you are doing going to satisfy the market? I want to make the observation—you know that we have talked about the fact that certainly, we want to help homeowners stay in their homes if they want to and are disposed to do so.

However, let us not miss the fact that we are trying to get the economy stimulated. If we can get homes being sold again and financed again, we can change the recession to a recovery, and we can be on our way to some good times. However, I am getting the impression from the testimony of the witnesses thus far that everything is hunky dory, and we do not have to really do anything; therefore, I am wondering why the chairman got me back so early today for this hearing.

The CHAIRMAN. If the gentleman would yield. It is because I sometimes find that having called a hearing, things get hunkier and dorier between the time that the hearing is called and the time that we hear the testimony.

Mr. KANJORSKI. Good observation, Mr. Chairman.

I heard one part that does disturb me. Mr. Miller, in his introduction, talked about the internal conflict between a servicer and an owner of a lien position. Quite frankly, maybe you are marvelous in your approach in the private sector that that conflict never arises, but I have a hard time believing that, and I am wondering, do you see a need for us to address the issue of separating and taking away that conflict of interest that either you can be an owner of a lien or you can be a servicer of a mortgage, but you cannot be both? Can I just have your expressions on that?

Ms. DESOER. I do not believe that is required. When you look at our portfolio of first mortgages, about 30 percent of them have a second lien behind them. About half of those are on us; half of that is other investors. And I think I heard another competitor saying

a similar statistic. But as I mentioned in my oral testimony and our written testimony, we are doing modifications. But the issue is that a holder of a first, an investor, would not want to make a principal reduction that could benefit the cash flow of the borrower if that borrower turned around and used that cash flow to pay a second. And that is why our recommendation in the testimony is to further advance 2MP from principal forbearance on a shared percentage basis across the first and the second to principal forgiveness across the first and the second, and a similar percentage would help resolve that.

Mr. HEID. I would add that we all have requirements on us to service the first mortgage appropriately, so that I think that topic and that issue is getting lost in the mix. I would not—I do not believe it is appropriate to legislate this matter. And I think the customer choice is really the missing piece in terms of where the cash is being sent. It is not because there is a shifting of cash between first and second lien portfolios or anything of the sort.

Mr. KANJORSKI. Mr. Heid, do you really think the customer has anything to do with who is servicing his mortgage?

Mr. HEID. No. What I am saying is the customer is choosing which bills to pay.

Mr. KANJORSKI. Oh, on paying the bill, but that is not under the advice from the servicer or not with any coercion or any thought process?

Mr. HEID. That is my belief.

Mr. DAS. Congressman, I would attest to that. I would say that the modification on the first mortgage, which happens to be the single biggest debt for most consumers, has been the one that we have led with, as opposed to what the investors might want in this case. But I think that what we have really tried to solve for here is solving the greatest source of distress for people and so help keep them in their own homes.

The issue in separating the two is that, as we know, there is about $440-odd billion that is there in second mortgages and there just wouldn't be enough liquidity if we didn't have the same servicers service both the first and the second. So I think there is a certain amount of liquidity and capacity that really also needs to be looked at. But there is no conflict.

The CHAIRMAN. The gentleman from Texas, Mr. Neugebauer.

Mr. NEUGEBAUER. So when I listened to your testimony, as you went down the line there, I heard you talk about how some of you participated in the HAMP program, and then others have done things in-house, and I think you used the word proprietary. What I also heard was, the HAMP program has not been overwhelmingly received or effective up to this point. So I guess the question, just to kind of go down the road there is, why isn't the HAMP program working, and are your proprietary solutions better than the HAMP program?

Ms. DESOER. It very much depends on the circumstances of the borrowers. I think the advantages of the HAMP program and what it has done for the industry in establishing standards that enable us to apply programs across the portfolio has been a real advantage.

But there is no question that there are certain borrowers, a jumbo mortgage as an example for that, a non-owner-occupied property, an FHA loan, where HAMP was not built to modify those loans, and that determines the need for special FHA programs or special proprietary programs. So the two work in complement. And I think as an industry, we are just trying to get the message across that both are effective for whom they are targeted.

We agree that we are disappointed in the pull through rates for permanent modifications under HAMP for our performance so far, and that is what we have been working on fixing. But both are required because the portfolio is broad.

Mr. NEUGEBAUER. Mr. Das?

Mr. DAS. Congressman, I have a different view on HAMP. If you recall, at this time last year, there were a lot of proprietary programs that all of us banks had, and consumers were very confused. This is a large-scale problem, and consumers needed to know what options were available to them, and so I think HAMP provided the standard view of what a consumer could expect when they called their bank.

And so we took it very seriously and so when we walked out of the Treasury offices after designing the program, we decided that we would adopt it in spirit and ended up with 52 percent of our eligible portfolio on an active HAMP trial. And what we are finding is that we now compare to 20 percent for the rest of the industry so it really depends on how you adopt it.

I will give you an example. Thirty-three percent of all the portfolio loans have been HAMP'd by Citi compared to a 4½ percent share of portfolio loans that we have and our experience on booking mods are actually pretty good. We have been constantly contacting our customers to make sure that they understood what they were signing up for and the documents needed to come in. And I will say that with respect to unoccupied is that is our number one priority; we need to keep people in their homes, and I think that HAMP's focus was good. So I think it gets an unfair share of negative publicity, but I think I actually applaud the Treasury for having come up with it.

Mr. NEUGEBAUER. Mr. Lowman?

Mr. LOWMAN. We believe HAMP is a good program. I think one thing that we just need to remind ourselves of, we put a program in, in lightning speed from the time it was announced to the time we implemented, it took a lot of systems, processes, new sites for people to sit in, and thousands of people. We learned a lot along the way, and I think we continue to be able to shape the future of HAMP. I think the new requirements that were just announced that require the documentation of the borrower's situation prior to the commencement of the trial will prove to be really effective.

Mr. NEUGEBAUER. Mr. Heid?

Mr. HEID. I think what the discussion around HAMP has also done is encouraged consumers to reach out, make contact with their servicer for assistance. I think that has been a very positive development in addition to the standardization. If anything is getting lost in the discussion, I think the piece that is getting lost is the fact that the industry is doing a substantially greater number

of loan modifications and outreach efforts and providing assistance in ways that go well beyond the HAMP program itself.

Mr. NEUGEBAUER. I think that was part of my point. My final point is, my time is going to run out, here is the whole scenario, I don't know that the government needs to be sending the signal out there when politicians get up and say, no one should lose their home and so that raises an expectation level that, gosh, all I have to do is call my lender because I heard the President say last night no one should lose their home. Here is the thing I want you to think about. When that customer calls you, and he and his neighbor bought the house at the same time, paid the same amount, and that neighbor started saving money, put some money behind and now their neighbor has leveraged up their house, bought a boat, charged up a bunch of stuff, put a second loan on their home, and now they are going to get a participation from at a reduction in equity, created equity by either a Federal program or your lending and the guy next door is out of a job as well, but he is using his savings to make his payment.

And again, we are going down this road where we keep having the government pick winners and losers, and unfortunately in this case, the people who are making their mortgage payment are going to be the losers and there is something wrong with the system that supports that.

The CHAIRMAN. The gentleman from Kansas.

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman. I understand some are concerned about the "moral hazard" of reducing principal on a mortgage, but it also seems unfair to blame millions of homeowners for a housing bubble they didn't create that artificially inflated home values. Many recent foreclosures are due to unemployment, but we wouldn't have millions of unemployed Americans in the first place if it weren't for the subprime lending crisis that was at the center of the financial crisis.

I offered an amendment to H.R. 1728, which was later incorporated into the House-passed regulatory reform bill to strengthen our mortgage underwriting practices. My amendment requires a borrower's income to be verified so we can put an end to the dangerous products like no-doc loans that created so much damage in our housing market. For each of the four banks represented here, do you support income verification requirements, and instead of depending on housing prices to go up forever, how have your firms changed your underwriting practices to focus more on a borrower's ability to repay? Ms. Desoer?

Ms. DESOER. Yes, we do believe in income verification as part of the full documentation process, and as you know, most of the production being done in the market today is with the GSEs or FHA which have those requirements as well but we also do it for our own portfolio.

Mr. MOORE OF KANSAS. Mr. Das?

Mr. DAS. We do the same, verify income, and we continue to do that for all new originations.

Mr. LOWMAN. We began requiring full documentation in late 2008, so we have no programs that don't require it. We fully support it.

Mr. HEID. We published our responsible lending principles on our Web site back in 2004. We believe very strongly in ability to repay and fully support documented cases.

Mr. MOORE OF KANSAS. Thank you. In an article in American Banker last week, Bank of America's spokesman said, "We support the idea of a consumer protection entity, consistent with the principles of Federal preemption, and believe that any new regulations should focus on activities that would apply evenly to all, rather than be focused on particular entities."

I share that view, which is why I support an independent CFPA and worked with Representative Mel Watt and others in our committee to return us to a pre-2004 preemption standard, balancing the need for State support in enforcing consumer protection laws and a fair, uniform standard that provides some clarity across the country. Representative Melissa Bean further clarified that standard before the full House approved the bill. To confirm your spokesman's statement, Ms. Desoer, does Bank of America support the House-passed and Senate Banking-approved consumer protection provisions coupled with a pre-2004 Federal preemption standard? And will stronger consumer protections help mitigate against a future wave of foreclosures and tamp down housing bubbles?

Ms. DESOER. I agree with the statement that our spokesperson made from Bank of America about the support, and I do believe that a level playing field of regulation in the consumer space would help avoid problems in the future, yes.

Mr. MOORE OF KANSAS. Any other comments?

Mr. DAS. Congressman, we feel the same way at Citi. We believe the concept of a central authority with national standards is very important, however, we also feel it is very important for us as an institution as every institution should do, to take our responsibilities very carefully, which has been laid out by our CEO, Mr. Pandit, as in the context of responsible finance theme within the company.

Mr. MOORE OF KANSAS. Thank you, sir.

Mr. LOWMAN. Our chairman has also spoken extensively on the need for regulatory reform. And so we would support comprehensive reform. Obviously, he has also reiterated the details or what are key.

Mr. HEID. We believe that national access to financial products is critical. We think the best way to achieve that is through national standards and relative to the regulation, I think the key needs to be to make sure that the regulation applies to what is today unregulated entities.

Mr. MOORE OF KANSAS. Finally, one of my ongoing concerns is some homeowners may not be aware of foreclosure mitigation opportunities either offered voluntarily by financial institutions or through government programs like HAMP. And I think maybe some of you have spoken to this before, but to the four banks represented here, what steps has your bank taken, anything you can add to what you have already said to make people aware of this opportunity? Please?

Ms. DESOER. Extensive contact and creative ways to go to establish that contact, using local community nonprofit organizations where someone might be more familiar and feel more comfortable

in responding to someone, participating in housing events across the country, we have participated in over 250 last year as ways to attract consumers and borrowers to a place where we have representation to support those. Telephone contact, e-mail contact, texting contact. We are trying to be as creative as we possibly can.

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman, I see my time has expired.

The CHAIRMAN. The gentlewoman from Illinois.

Mrs. BIGGERT. Thank you, Mr. Chairman. I have two questions. First of all, I would like to know what, we are hearing about the regulators coming in and saying to the banks that you have to write down certain loans because they will not be good in a year or two. And I wondered how this affects the—or if you are hearing from regulators, about the potential write-downs associated with the second lien program? Is there concern to your bank about how this will affect your balance sheet in the near term? Would anybody like to answer that?

Mr. DAS. I can take that, Congresswoman. I think the concept of writing down or extinguishing second mortgages needs to be re-examined. And I believe it has been. I would say that when we do a modification, we should look at the potential loss of income, and that is the piece that we should really be accounting for. I think that we may be going too far to the extreme in saying that the second mortgages are worth nothing but, in fact, all of us across this table have said that by and large, the second mortgages are performing really well and the reason they are performing really well is because borrowers tend to look at them as an important source of cash flow and tend not to think about them as in terms of how much collateral they have or the equity in their home. They are almost behaving like an unsecured line of credit, and I think that needs to be taken into account.

Mrs. BIGGERT. Do you think that will affect your availability of credit for consumers then? Will this have any effect?

Mr. DAS. No. I think the way it is structured right now is we are lending prudently to prudent customers. But I think that taking it too far to the extreme could have the potential of limiting the number of second mortgages that are available to consumers.

Mrs. BIGGERT. Anybody else? Mr. Heid?

Mr. HEID. I would simply add that I think the totality of all the programs and all the changes that are happening and yet to happen, I think all of that will certainly be factored into credit decisions in the future.

Mrs. BIGGERT. Then just another question, with the FHA refinance program, tends to write down the total debt obligation, the primary mortgages and the second liens to 115 percent of the current value, do you have any concerns about the appraisal of these properties, how are they going to determine what the current value, it seems like this is kind of an unknown right now, particularly if they use comps. Will this require an up-to-date appraisal? And what is going to happen with that?

Ms. DESOER. This would be under standards of FHA financing that exists today which requires an FHA appraisal to do an updated appraisal and the industry is, we did $378 billion of new originations on mortgages last year, all of which had an appraisal

associated with them. So we are finding our way through what is a difficult period of time to establish comps and that sort of thing, but it is happening day in and day out and that would be required under FHA refinances as well.

Mrs. BIGGERT. Is there kind of a percentage of lowering the, what was originally the appraisal on a house?

Ms. DESOER. No, it would be whatever the independent appraisal thought the appraised value of that home is today.

Mrs. BIGGERT. Does anybody else have anything to add?

Mr. HEID. The details of that refinance program haven't been provided. The concepts have. But to the extent the ultimate program details follow the standard FHA program as it now exists, there is an established mechanism for getting property values using designated appraisers and that type of thing, so I wouldn't anticipate that being a problem as long as the ultimate rollout of the new FHA refinanced program follows as closely as it can the standard requirements of FHA today.

Mrs. BIGGERT. Thank you. I yield back.

The CHAIRMAN. The gentleman from North Carolina.

Mr. MILLER OF NORTH CAROLINA. Thank you, Mr. Chairman. I know that the idea of taking a pro rata reduction in principal in the second to any reduction principal in the second was supposed to sound generous, but first lien holders and second lien holders don't have a equal claim to the home as collateral. The way the law is supposed to work is that first mortgage holders get paid everything before second mortgage holders get paid anything. Second mortgage holders lose everything before first mortgage holders lose anything. So suggesting that a servicer agree to a pro rata reduction in principal in the second that they hold, that they own, to go with a reduction in principal that they agree to on behalf of investors strikes me as evidence of a conflict of interest not an absence of a conflict of interest.

In Mr. Lowman's testimony, he said that pooling and servicing agreements for private label securitization of mortgages as well as Fannies and Freddies to a large extent would require a change in the agreement to make it legal to modify to reduce principal. And it is very difficult to agree to get to that kind of amendment. It took agreement basically by everybody and everybody's interest, the different tranches or different, there have been a lot of proposals of how to cut through that kind of legal problem, and I have thought that there had to be something involuntary to do it, whether it was purchasing, having the government purchase mortgage interest through eminent domain and then modifying ourselves which is similar to what the homeowners loan corporation did in the Great Depression or modification in bankruptcy.

Citigroup supported that 2 years ago, which I appreciated; Bank of America went to the brink but never quite got there. What is your current position, Ms. Desoer?

Ms. DESOER. Thank you. Our current position is, as we have gone through the lessons that we have learned with modifications and other programs, there probably is some segment of borrowers for whom that would be an appropriate alternative. So that is our position at this point in time.

Mr. MILLER OF NORTH CAROLINA. So you would support that in some circumstances?

Ms. DESOER. In some circumstances, yes. Thank you.

The CHAIRMAN. If the gentleman would yield, obviously the law would have to be modified to allow that circumstance. We should make clear we can't change the bankruptcy law obviously case-by-case, so it would have to be adjusted.

Mr. MILLER OF NORTH CAROLINA. You would support a change in the bankruptcy law to allow the modification of home mortgages in bankruptcy?

Mr. DAS. Yes. And I believe that there is a segment of borrowers for whom that is the appropriate alternative and subject to them having gone through qualification for HAMP or something like that and failed that there is a segment of borrowers for whom that might be an appropriate alternative. Yes.

Mr. HEID. There is also, though, a much easier and less costly way that customers are already getting assistance in terms of this program, so ask yourself whether a change in bankruptcy law is really the best way and the fastest way to achieve assistance for homeowners. I think there are other alternatives.

Mr. MILLER OF NORTH CAROLINA. We are trying to go to other alternatives now, and have been for 3 years without much to show for it.

The stress test of a year ago assumed that second mortgages held by the 19 banks were worth 85 cents on the dollar. Other analysts have said that a 40 to 60 percent loss is a more realistic number. How are you valuing your second mortgage portfolios now? And was the stress test an accurate estimation at the time and should there be a second stress test?

Mr. DAS. I can take that. The evaluation or the value of a particular asset is based on the expected losses in that book, and it stressed under economic situations to see what the expected losses might be in that stressful situation and revaluate based on what our models tell us the expected losses would be. The market is valid and there is a disconnect in the sense that the market is valuing it not on the basis of the performance of the seconds but on the basis of the equity that is in people's homes. We believe that there is a disconnect between the market and what value is in our books. And if these things happen from time to time, the markets disconnect with what is on the books, as we saw in the case of nonperforming loans last year.

Nonperforming loans were at one end and we had valued them at another end and they converged at the end of the year to a point where it was very similar to what it was on the books.

Mr. MILLER OF NORTH CAROLINA. A 15 percent loss off par for second mortgages you think was an accurate valuation?

Mr. DAS. Yes.

Mr. MILLER OF NORTH CAROLINA. My time has expired, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas.

Mr. HENSARLING. Thank you, Mr. Chairman. I have no doubt that in this economy, there is a lot of pain and misery that has taken place throughout. I am sort of curious why we are examining a program that seemingly will bail out banks who made bad loans,

people who may have purchased more home than they could afford, yet someone who invested $100,000, saw their 401(k) decrease by $100,000, there is no plan for them, somebody who decided to rent their primary residence, invest money perhaps in a Real Estate Investment Trust saw a $100,000 loss there, there is no program for them. So I question the fairness of this particular approach, again noting that 94 percent of Americans either own their home outright, rent, or are current on their mortgage.

Be that as it may, I believe I have heard the chairman say and others have said that they want to persuade you to modify more mortgages, I know in that regard, there are a number of carrots and sticks floating around here, particularly one carrot is having FHA insure these mortgages so that the taxpayer takes the risk instead of you. Surely we are all aware that assuming it makes conference, a capital markets reform bill that could have a lot to do with your bottom line, so I suppose there are sticks floating around there as well, but I want to talk a little bit about the continue on with this particular metaphor about the organic carrots that are already out there. I previously served on a Congressional Oversight Panel for the TARP program, and in testimony that we received before that panel in November, I believe it was, a number of different academics and people from familiar with market said, typically, the average foreclosure could cost you anywhere in the neighborhood of $60,000 to $80,000. Is there anybody on the panel who wishes to disagree with that assessment? Are those good numbers? Is that a ballpark range? I see at least some heads shaking in the affirmative. Does anybody care to shake their head?

The CHAIRMAN. We have very good recorders, but head shakes don't make their way into the transcript.

Mr. HENSARLING. Mr. Chairman, I will note that this particular member at least observed some affirmative head shakes. I guess that begs the question again, so you have a built-in incentive to modify a number of these, I am not sure how much more taxpayer incentive you ought to have, much less need. Clearly, there is a large concentration, I suppose, in your banks, of second liens, I assume there is a fear of impairment of your regulatory capital. But I also question why, is there a legal impairment or a practical impairment from the homeowner, the first lien holder contracting with the second lien holder, in order for writing down some principal for them to receive some contractual equity participation in any potential upside appreciation of the fair market value of the residential collateral? I think the gentleman from Pennsylvania noted, aren't there a number of market solutions? Is that not a market solution? Is there a legal and practical impairment there that this member ought to be aware of? Anybody care to handle the question?

Mr. HEID. I think your point is a very good one, in that there are significant incentives already that exist for all of us to do what is right for our customers.

Mr. HENSARLING. Thank you. Recently, there was a article in The Wall Street Journal that I will quote from; it speaks to the moral hazard question, "Treasury Department officials have warned that if some borrowers get their principal reduced, even

borrowers who aren't behind will stop paying unless they get the same break."

For argument's sake, let's assume The Wall Street Journal got it right. We have kind of touched on the moral hazard question. And I don't think I have heard you address it specifically. Does anybody care to comment on this particular article?

Mr. DAS. Congressman, the only thing I would say there is while it is quite likely, a lot depends on how a principal reduction or a particular form of modification is affected. I will give you an example. You could have a principal reduction where the principal is taken straight off or you could have a principal reduction where it is taken off over 3 decades.

Mr. HENSARLING. The point is, if not done properly, you could provide incentives for people to default who have—

Mr. DAS. If it is not done properly, it can absolutely lead to that. But if there is some form of shared appreciation, then perhaps that could be mitigated to some extent, but there is no doubt it will lead to some issues.

Mr. HENSARLING. My time has expired.

The CHAIRMAN. We may have a second round. I have a couple, actually, institution-specific questions I was going to ask, so we may take a little more time. The gentleman from Texas.

Mr. GREEN. Mr. Chairman, I would like to ask all the witnesses a question and the question is, was it appropriate and necessary for the government to intercede with the $700 billion bailout? If you don't think so or you think we should have done nothing, would you just simply raise your hand. I am going to take it from the absence of hands that there is a belief among the witnesses that there was a need for a bailout. That is the terminology we are using nowadays, so I will be consistent so we communicate. Mr. Heid, I believe it is, sir, you indicated that there is enough incentive to I believe you said to do the right thing for your customers. Mr. Heid is there enough incentive for you to do the right thing for the economy?

Mr. HEID. The way I think of it is, if we do right with our customers, we are doing what is right for the economy.

Mr. GREEN. And if you find that it is not necessary to make modifications, and you have customers who go into foreclosure and that impacts the economy in an adverse way, have you done the right thing?

Mr. HEID. I think the fact that we have done a substantial number of loan modifications, the fact that we have done a substantial number of principal forgiveness loan modifications says we are doing everything we possibly can to stabilize.

Mr. GREEN. What percentage would you consider is substantial?

Mr. HEID. About 2 percent of the overall portfolio on an annual basis is what ultimately works it through foreclosure.

Mr. GREEN. Have you reached the 2 percent plateau?

Mr. HEID. It has been pretty consistent somewhere on an annual basis.

Mr. GREEN. Two percent of those in foreclosure?

Mr. HEID. Two percent of the entire portfolio of Americans who have homes tend to go through the foreclosure process.

Mr. GREEN. I understand, but what percentage of your homes that are in foreclosure have you modified?

Mr. HEID. There are a couple of ways to answer that. If you look at the HAMP—

Mr. GREEN. I would like, no disrespect, and time is of the essence, I would like you to give a percentage, if you would, of the many ways.

Mr. HEID. I don't have a specific answer to your specific question. I don't have an answer to that right now.

Mr. GREEN. I think most who examine these numbers have concluded that we have not significantly impacted the number of homes in foreclosure. Do you agree with this contention?

Mr. HEID. No.

Mr. GREEN. You think you have significantly impacted? Well, if you had, it would seem to me you would be prepared to talk to us about how you have performed this significant feat.

Mr. HEID. Let me answer it this way: Certainly there is no question more needs to be done. When I look—

Mr. GREEN. Sir, more needs to be done? You say it as though if we do something else, we will make a great difference. A lot more appears to me should be done because we are facing a lot more foreclosures. What are we going to do about them? Let me just excuse myself from you just for just a moment if I may, please. No disrespect. But I do have to go to Bank of America. Let me compliment you on this principal reduction program. I think that when businesses do well, we have that knowledge it and you should be complimented.

Ms. DESOER. Thank you.

The CHAIRMAN. There shall be no demonstrations.

Mr. GREEN. Tell us briefly why you see principal reduction as personally as you can as a significant means by which we can impact foreclosure?

Ms. DESOER. Because there are some borrowers for whom the offers that we have extended so far have not been generous enough, and in order to enable owners who truly want to stay in their home—

Mr. GREEN. Let me move one step further, because I am about to lose my time, would this also impact the overall economy, what you are doing?

Ms. DESOER. We believe that bringing stability to neighborhoods by ensuring that homeowners who want to stay in their homes can get to an affordable payment and have sort of a vision for the future of that homeownership as important. At the same time, we do believe that there are some borrowers for whom being able to afford staying in that home is not a viable alternative, and so we need to work with them to transition them out of that home in as dignified a way as possible, ideally without having to go through foreclosure but a short sale or some other alternative into an alternative housing arrangement.

Mr. GREEN. Thank you, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Illinois.

Ms. BEAN. Thank you Mr. Chairman. Thank you to our witnesses for your testimony today.

It was almost 2 years ago that we had a hearing about what was then the looming foreclosure crisis in this committee. We were concerned about debt to income ratios, loan to value ratios which were unsustainable, and at that time, what we produced at the committee level was the HOPE for Homeowners Program, which I thought provided a proper balance between providing release to those who found themselves upside down, while also protecting taxpayers against moral hazard by requiring those who received relief to pay back taxpayers by sharing any upside in equity appreciation back with the government.

Clearly, the HOPE for Homeowners Program has had little to zero participation from organizations like yourselves.

So my question is why, recognizing that there were some compliance issues that we later addressed about a year into the program, does that include the second lien treatment in how it is different than in the HAMP program?

And my other question would be, would you agree that a shared equity approach does tackle moral hazard by discouraging homeowners from intentionally defaulting because they think they are going to get a deal if they are going to have to share equity later that would discourage them but also encourages those who are in a troubled situation to stay in their home because they have a more realistic potential at some equity appreciation in some realistic future than just adding all their debt down at the end of the day.

Is there anything precluding you as servicers from already working out their own shared equity arrangements with borrowers, and is there something we should do in the HAMP program relative to that? Can we start with Ms. Desoer?

Ms. DESOER. I am going to ask Jack Schakett to answer that.

Mr. SCHAKETT. Yes. The HOPE for Homeowners Program definitely had some appealing pieces to it.

The CHAIRMAN. Would you please identify yourself for the record.

Mr. SCHAKETT. Yes, I am Jack Schakett with Bank of America home loans. The HOPE for Homeowners Program, the shared appreciation piece on a theoretical point of view looks very nice because the idea of sharing appreciation feature, giving both the homeowner a chance for appreciation and the investor a chance to share in that is appealing, but every program kind of has operational concerns. And what probably hurt HOPE for Homeowners the most was because it was a significant deviation from the standard FHA program requiring pieces like shared appreciation, the operational hurdles to put in place have been very difficult. So we have been working on rolling out for HOPE for Homeowners for quite some time. We are still not quite there yet. If you look at the new program put out at FHA which actually on some points is much simpler, like eliminating shared appreciation will be much more operationally easier to roll out and more effective from that point of view.

Ms. BEAN. Thank you. Mr. Das?

Mr. DAS. Congresswoman, I would say that while HOPE for Homeowners was a complicated program in terms of being executed, I generally tend to be a little bit more in favor of shared appreciation because I believe that there is some sharing of the up-

side that the whole notion of sharing on the downside doesn't seem fair. I will defer to my colleague, Steve Hemperly, if he has any additional comments.

Mr. HEMPERLY. I am Steve Hemperly, CitiMortgage, for the record. I would tend to agree with Mr. Schakett's comments. We look forward to introducing the new FHA program as well as HOPE for Homeowners.

Mr. LOWMAN. Congresswoman, this is a very complex program and one that we have wrestled with. We are in the process of doing the necessary changes to our system to be able to allow it, and we plan to launch it some time this summer.

Mr. HEID. The new FHA refinance program has some real advantages over the HOPE for Homeowners. It is a simpler program. What we know of it so far it appears to be using standard FHA requirements. The approach between first liens and second liens is a more equitable sharing under the new program, so it has some real advantages to it. And as I said in my testimony, we intend to make sure that our second liens do not prevent this from happening.

Ms. BEAN. Can I also ask, by maybe a nod, is there anything precluding servicers from working out shared equity arrangements with borrowers now? On your own? So you can? Are you doing those in some situations?

The CHAIRMAN. We really do need oral responses.

Ms. BEAN. If you could say whether you are doing them or whether you are allowed to?

The CHAIRMAN. Marcel Marceau never served here.

Ms. DESOER. We are not doing that, but we have introduced the concept of earned principle forgiveness into our principal reduction program.

Mr. HERMPERLY. We currently don't have any programs operational that include shared equity, but we are in the process of constructing some pilots.

Mr. LOWMAN. We currently don't have a program.

Mr. HEID. We have been using the principal forgiveness as part of the program starting in January 2009 as a way to get customers help.

Ms. BEAN. Thank you. I see my time has expired.

The CHAIRMAN. The gentleman from Indiana.

Mr. CARSON. Thank you, Mr. Chairman. In yesterday's Wall Street Journal, a Bank of America spokesperson is quoted as saying, "If efforts to avoid a foreclosure fail, then we do reserve the right to recover the unpaid balance of the second lien if permissible by State law. However, our practice has been to only pursue recovery in situations where we believe the customer has sufficient nonretirement assets to satisfy their debt obligation."

Ms. Desoer, could you expand upon the process your bank goes through in determining which customers they deem appropriate to collect on the second lien?

Ms. DESOER. Yes, it is part of the evaluation of underwriting to determine the hardship where we look at the verification of income and other assets that the borrower might have, and in order to mitigate the risk of moral hazard, we try to draw that line to determine who is eligible for certain programs based on the hardship,

and if they are not eligible for that hardship, then we might reserve the right to pursue other assets or income and their ability to afford the payment.

Mr. CARSON. I yield back.

The CHAIRMAN. I am going to have a question, and also Mr. Hensarling and Ms. Bean.

Let me ask Mr. Lowman. I was approached yesterday, I believe, in my office in Newton by an attorney who reported to me that he has people who are in modification programs with Chase who are still getting collection letters. I am wondering if you or Ms. Sheehan would know about that, and how do we solve that, I assume that is not appropriate.

Mr. LOWMAN. We do make mistakes. We are dealing with a lot of customers and a lot of transactions. And I would be happy to address them.

The CHAIRMAN. Let me also, along the same lines, I have also been told by a national organization that does a lot of work here, NACA, that they have had some difficulty in getting some answers on some pending requests for modifications. Is there a channel? What do people do when they don't get the answers that they thought they were going to get? Who do they talk to?

Mr. LOWMAN. We have a special group that deals specifically with community groups including NACA and through those channels is how you would—

The CHAIRMAN. Apparently some of those channels aren't working. Is there an appeal? What do they do if they are feeling frustrated?

Mr. LOWMAN. Come to me.

The CHAIRMAN. Or you, Ms. Sheehan. Ms. Sheehan, your first name is—

Ms. SHEEHAN. Molly. Molly Sheehan from Chase.

The CHAIRMAN. —indicated that she could be the one who could be talked to on this. And the gentleman from Texas.

Mr. HENSARLING. Thank you, Mr. Chairman. There have been a number of editorials written about the approach of the Administration on foreclosure mitigation. USA Today wrote on the first of this month, "helps irresponsible lenders, borrowers." The Wall Street Journal, they wrote, "Instead we are heading toward year 5 of the housing recession with Washington proposing even more ideas to prolong the agony. One senior banking regulator we talked to calls it 'extending and pretending.'"

The question I have, I spent part of the congressional recess over Easter speaking to a number of private equity funds, banks, within the Dallas metropolitan area, which I have the opportunity to represent a section of the City of Dallas in Congress. And there is a great concern that the government is artificially propping up values in the marketplace that create uncertainty and leave private pools of capital on the sideline.

I admit most of my evidence is anecdotal, but I hear it over and over and over, that people are afraid to invest in pools of residential mortgages because: first, they don't know that the market has reached its true value; and second, they don't know what the next public policy shoe to drop may be.

And so, at least in my mind, I am not sure that Washington is being helpful. At the moment, they may be more hurtful. I would like any comment on the validity of the observations made by a number of people in the investment and banking community in Dallas, Texas. Does anybody care to comment? Mr. Heid?

Mr. HEID. I would say as a general statement, uncertainty is certainly not a good thing for the investor community.

Mr. DAS. Congressman, I would like to weigh in on that a little bit with your permission. I would say that is somewhat of a sanguine view of the world. We are actually seeing that in certain markets, there is, in fact, improvement in markets, genuine improvements in market, for example, markets in California are seeing some stabilization. I think we are at a point of inflection right now in the marketplace and that the government's role is welcome in terms of getting us all together, and I think don't believe it is interventionist in forcing us to create artificial pools of opportunity for capital. I believe it is important to, for example, in first and second mortgages, to get us all working together. That is an important set of actions that will make the market more efficient.

Mr. HENSARLING. This will be my last question.

I guess I am looking to be persuaded as a Member of Congress that this is a good investment of the taxpayers' money. I know there is a $50 billion pool of money here and I know the chairman and I had this exchange earlier, I think at least is a matter of fact, the HAMP program was a creation of the Obama Administration, be that as it may, so there is a $50 billion pool of money here.

We know that we are a Nation that today is on an unsustainable fiscal path, not my language, I believe that comes from Dr. Elmendorf of the Congressional Budget Office. Chairman Bernanke has echoed that.

I think economist Paul Samuelson has said we have a fiscal cancer that could threaten our Nation, that is a paraphrase, I don't have the quote in front of me, but already we are looking at levels of debt to GDP going from 40 percent of the economy to 90 percent, we are looking at a budget that is going to triple the national debt over the next 10 years. We are looking at almost $1 trillion of interest payments alone at the end of the decade. So the question I have, when everybody from the CBO to OMB, the President's own Director of OMB says we are on an unsustainable fiscal path, why do I want to use $50 billion to pay you guys to do something that you probably are already incented to do, as opposed to pay off the national debt?

If I see no enthusiastic takers of the question, I will yield back my time.

The CHAIRMAN. Thank you. The gentleman asked if he could be persuaded, on my whip list, you were leaning against. The gentlewoman from Illinois will have the final question.

Ms. BEAN. Thank you, Mr. Chairman. My last question was one of the things I hear from my constituent services folks in my district is that people who have been trying to get remods, a number of them have been approved for the temporary modifications while unemployed and on unemployment insurance, but then they are disapproved for permanent modification because they don't have employment.

Can someone explain to me why you would be able to get into a temporary and not a full modification? And shouldn't we be using the same criteria?

Ms. DESOER. Yes, and there is a change in the program, so the only way I believe that could potentially happen is if in establishing that customer into a trial modification, we ask what their income was, but maybe not the source of their income and we verbally verify that they could meet the requirements, put them in a trial modification and then once we got documentation of income and understood the length of time that it was going to be in place, because the intent of the program is to make a long term affordable payment, that that is when that disconnect would potentially happen.

Ms. BEAN. So does unemployment income qualify in either case, or neither case?

Ms. DESOER. It is qualifying income, but it is only for 9 months, so you have to see the path to either another member of the household having income that could be part of the equation. So I would have to understand the specific circumstance to give you something more specific but that is potentially it, and Jack, I don't know if you have anything to add?

Mr. SCHAKETT. The program allows for unemployment insurance to be considered but they have to have at least 9 months of unemployment insurance left so as Barbara said if potentially if they did a stated income in the first place because now we are required to do full documentation but we didn't before and we didn't know exactly the period, they may have thought they qualified, but when we determined they only had 6 months remaining at the time of the permanent mod, then they wouldn't have qualified under HAMP.

Mr. DAS. It would be the same issue, unless Steve, you want to add any more color to it, it will pretty much be the same issue and I think that issue is significantly mitigated with the new program, as Barbara mentioned.

The CHAIRMAN. The hearing is adjourned.

[Whereupon, at 1:47 p.m., the hearing was adjourned.]

A P P E N D I X

April 13, 2010

TESTIMONY OF

SANJIV DAS

PRESIDENT & CEO

CITI MORTGAGE, INC.

Before the

HOUSE FINANCIAL SERVICES COMMITTEE

WASHINGTON, DC

APRIL 13, 2009

Chairman Frank, Ranking Member Bachus and Members of the House Financial Services Committee, thank you for the opportunity to discuss Citi's efforts to help families stay in their homes. I am Sanjiv Das, CEO of CitiMortgage. Joining me is Steve Hemperly, head of Citi's Default Servicing operations. I am honored to be given the chance to describe our efforts and to answer any questions you and the Committee may have.

As Citi CEO Vikram Pandit has said, we owe a debt of gratitude to the American taxpayer, and we believe it is our responsibility to help American families in financial distress, and in particular, to help families stay in their homes. We are working each day to help the U.S. economic recovery and are committed to modifying loans for borrowers facing hardship while providing new loans to help Americans in this difficult time.

I joined Citi in July 2008 and in my role as head of CitiMortgage I manage Citi's efforts to help families pursue their dreams of buying a home, making their homes more affordable, or assisting those families who may be facing financial hardship.

CitiMortgage has a long history of helping homeowners. Historically, we have been among the five largest originators of mortgages in the U.S, and in 2009, we originated mortgage loans to approximately 366,000 borrowers totaling $80.5 billion. In 2009, we helped approximately 270,000 borrowers refinance their primary mortgages. And in the midst of this housing crisis, we have put considerable resources toward helping our customers who are facing financial challenges. We describe our lending and foreclosure prevention efforts in a quarterly report available on our website (www.citigroup.com).

Citi has worked closely with the U.S. Treasury in developing and executing their Making Home Affordable programs. Our employees have rallied around the idea that helping families stay in their homes is the right thing to do and since 2007 we have helped more than 825,000 families in their efforts to avoid foreclosure. We have added over 1400 new employees to support our foreclosure prevention efforts and have trained more than 4000 employees to assist borrowers. Our focus has paid off: we are pleased to be ranked consistently among the top, if not at the top of Treasury's rankings for HAMP, and in the fourth quarter of 2009, we were able to help families in their efforts to avoid foreclosure by a ratio of 15 to 1.

Our goal is to work with our customers to find the most affordable solution, and to assist those who are in need. As we work through this crisis, we must address the fundamentals that are at the core of our borrowers' hardship: unemployment and overextended finances. At Citi, we have addressed these issues with programs which go beyond HAMP. We believe these programs are responsible, timely, and most importantly, effective. I share these programs with you to illustrate the need to address the core, underlying issues which borrowers face. Our programs address the following challenges:

- **Unemployment:** We launched the "Unemployment Assist Program" in March of 2009 when the unemployment rate was on a steep trajectory and we found that there were many borrowers who couldn't qualify for modifications because of a lack of income or reduced wages. Our program allows customers to focus on regaining employment without the fear of losing their home. We are delighted to see the introduction of Treasury's program in this area as we believe this challenge continues to be an on-going issue for many families in distress.
- **Customers at imminent risk of default:** We launched the "Homeowner Assistance Program" in November 2008 to help customers who were at imminent risk of default. We proactively reach out to these individuals

- **Foreclosure Alternatives:** For many borrowers, the challenges of financial hardship become a complex equation – they are often overextended financially and in homes they no longer wish to occupy. We developed initiatives which provide alternatives to foreclosure and introduced the "Foreclosure Alternative Program" in February of 2010. This program represents an opportunity for customers to stay in their homes for up to six months rent-free. By assigning their deed to us, they avoid foreclosure and are given a chance, additional time and financial relocation assistance, to make plans for their future. Additionally, we created a dedicated Short Sale unit to improve the process for customers who no longer wish to stay in their homes. Both of these programs provide meaningful alternatives to foreclosure and allow families a transition to the next phase in their lives.

As I mentioned, our goal is to find affordable solutions for our customers. To this end, we continue to look at all the ways we can help borrowers afford to stay in their homes, including principal reduction. To date, we have been successful in addressing the needs of our customers on a case-by-case basis which tailors solutions for a family's unique needs and delivers an outcome that is affordable and lasting. We do not believe there is a "one size fits all" approach to affordability. The proof of this is in our low redefault rates which continue to rank significantly lower than industry averages.

We have used, and continue to use, principal reductions. We have also signed up for the Treasury's second lien program (2MP) and support recent changes to the HAMP first lien program. We expect these changes will result in more principal reductions going forward. We believe principal reductions are one of many options that must be used responsibly. We will continue to be thoughtful in how we implement these programs in scale. Just as HAMP is not the only

solution for all consumers, we believe principal reduction is not the only solution for those who are experiencing financial hardship.

While we have made progress, I understand there is much more work to be done. We are staunch supporters of the Treasury's programs to help consumers because we believe that actions among all banks will prove to be more powerful and ultimately more effective than individual bank actions in addressing consumer financial hardship. We look forward to working with Treasury to further refine and implement the latest round of HAMP enhancements and the 2MP program.

Let me conclude by restating our unwavering commitment to helping American families during these challenging economic times. We remain focused on achieving affordability and helping families stay in their homes in a responsible manner. We believe that our economy is fundamentally strong and will recover over time. And our employees want to be an integral part of helping those in need.

Thank you for the opportunity to speak before the Committee.

We at Citi look forward to working through these issues with you and the Treasury. I would be happy to answer any questions you might have.

Thank you.

TESTIMONY OF

BARBARA DESOER

PRESIDENT

BANK OF AMERICA HOME LOANS

Before the

HOUSE FINANCIAL SERVICES COMMITTEE

WASHINGTON, DC

APRIL 13, 2009

Chairman Frank, Ranking Member Bachus, and Members of the Committee, thank you for the opportunity to discuss Bank of America's loan modification efforts and the status of our current programs. Helping those we serve navigate a difficult and prolonged housing downturn is a complex issue on which all of us are working to provide the aid and solutions customers need. We appreciate the leadership of this Committee and the Administration on this matter.

Providing solutions to distressed homeowners has been and remains a central focus for Bank of America, and we have been at the forefront of industry efforts. That leadership started with our decision to acquire Countrywide as the housing crisis took root in 2008, providing the support millions of Countrywide customers needed. We did so with a commitment to successful homeownership and a continuation of Bank of America's longstanding track record for responsible lending – including exiting the subprime mortgage origination business nearly 10 years ago.

With the acquisition, Bank of America became the nation's largest mortgage servicer and leading originator. As such, we recognize the impact our efforts have to support the national recovery and sustain the many neighborhoods and customers still struggling.

We understand that the Committee is specifically interested in Bank of America's views on the effectiveness of the Home Affordable Modification Program (HAMP), principal reduction, and second liens, which our testimony will address. We will also discuss the need for additional focus on helping customers transition from homeownership to rental or other alternative housing in a way that provides a foundation of support to enable a dignified transition.

First, the following is an update on the status of current loan modification efforts. Our record of helping more than 800,000 customers in the past two years with a home loan modification through Bank of America proprietary programs or trial and permanent modifications under HAMP is a strong foundation. The most recent Treasury report reflecting HAMP servicer activity through February 2010 showed Bank of America accounting for 30 percent of total trial modifications.

We continue to demonstrate momentum executing HAMP. We anticipate the upcoming Treasury report for activity through March will show Bank of America has completed nearly 33,000 permanent modifications, and an additional 35,000 modifications are awaiting customer signature. For several months, we have led all servicers in virtually every category of the report and anticipate that this month we will take the lead with the number of completed permanent modifications as well.

Bank of America also continues to offer proprietary modification solutions for customers that fall outside the scope of HAMP and other government programs. To date, our proprietary programs have helped more than 530,000 customers with first and second loan modifications, and we maintain these efforts at a pace of about 15,000 a month.

In more than 125,000 calls a day, we hear from customers who have questions about their mortgages and are in need of help. Within Bank of America's servicing staff of nearly 25,000,

more than 16,000 are dedicated to default management and loan modification efforts - working tirelessly to assist customers through a difficult and emotional process.

We have improved our ability to handle the volume of requests and complexity of and frequent changes to the various loan modification programs, but we understand the frustration those growing pains have caused. We maintain an ongoing dialogue with customers, public officials, and community groups to gain insight on how we can continue to improve.

We're now at a critical point. In the past two years, we've learned a great deal. Programs originally designed to provide an affordable payment solution – such as HAMP – have been helpful in meeting that goal for the customers targeted for assistance.

However, many customers are still struggling to make ends meet due to prolonged unemployment, depressed home values, and other economic realities. We applaud the recent Treasury announcement that will expand HAMP to address some of these conditions.

While the number of new delinquencies continues to stabilize, there are still many people who need help. As we consider new programs that could help more qualify, it is vital to understand the current population of delinquent customers.

Customer Eligibility for Current Modification Solutions

As the nation's largest servicer, Bank of America manages nearly 14 million first and second mortgage loans. Within that portfolio, 1.4 million first mortgage customers are more than 60 days delinquent on their mortgage payment. Of that number, our data indicates approximately 621,000 customers are potentially eligible for a mortgage modification through HAMP.

We have made trial offers to 392,000 customers as of April 7, 2010. Of those to whom we have extended offers, more than two-thirds – 297,000 customers – started a trial modification. We continue to reach out to those customers who may be eligible and with whom we have yet to make contact or who have not provided the necessary financial information. If, after our considerable outreach efforts have been exhausted, the borrower still does not respond, we have no choice but to proceed to foreclosure.

HAMP was designed to assist customers who:

- have a hardship that makes their current mortgage payment unaffordable,
- have a desire to stay in their homes, and
- have the ability to make a reduced but reasonable mortgage payment.

As Bank of America's results demonstrate, HAMP has been largely successful in making offers to this group. However, there has not been adequate success in getting enough customers to accept the offers and complete the documentation and trial period required to obtain a permanent modification.

We believe that recent program changes requiring servicers to obtain and review income documentation before trial periods are commenced should help improve conversions from trial to permanent modifications.

Let me walk you through how we get to the 621,000 customers eligible for HAMP and identify several areas where we believe changes could help more borrowers qualify for a HAMP solution. In addition, I will identify other changes that could create a more compelling offer to help increase the likelihood of a customer choosing and attaining a permanent modification.

We start with Bank of America's 60 day delinquent first mortgage population of 1.4 million customers. From this population, we immediately subtract the major categories of customers for whom the HAMP program was not intended. They are:

- Loans that were originated after January 1, 2009 ; customers who have an FHA , VA or Jumbo mortgage or are in current workout programs – 239,000 customers
- The property is non-owner occupied or vacant – 323,000 customers
- Customers who have a first mortgage debt-to-income ratio of less than 31% - 143,000 customers
- Customers who are unemployed or are so underemployed that they can't afford a payment even on a zero interest rate loan – 63,000 customers

Subtracting these categories results in a HAMP eligible population of approximately 671,000 customers for whom the program was designed. From these numbers, we subtract an additional 50,000 customers from either a lack of delegated authority to modify the loan or a failure of the net present value (NPV) test designed to protect the investor's interests – which reduces the eligible population to 621,000 customers.

These NPV failures could be reduced if HAMP were changed to allow for mortgage terms to be extended up to 40 years on loans that fail the NPV test.

In terms of the categories not covered by HAMP, there are separate programs designed by the FHA and VA to assist delinquent customers with those loans. As for customers with jumbo loans or customers with non owner occupied properties, the government programs to date have not addressed these populations. However, Bank of America has proprietary programs established to assist these customers.

For customers who have a debt-to-income ratio below 31%, Bank of America has advocated for some flexibility within this category to extend modifications to low-to-moderate income customers who fall below the 31% threshold. For example, 13% of Bank of America's less than 31% debt-to-income population consist of low-to-moderate income customers with debt-to-income ratios between 25% and 31%.

Bank of America is working on a program to offer modifications to low-to-moderate income customers down to a debt-to-income ratio of 24%. If the government HAMP incentives applied to this population, the likelihood the modification could pass the net present value test and provide the customer relief would increase.

For the unemployed or severely underemployed, the Treasury's recent announcement to provide temporary forbearance of three to six months should provide some much needed aid. Regulatory

restrictions may prevent forbearance from being extended beyond three months – and while we would argue a longer time period would be helpful, three months is a good start.

Bank of America is also working with state Housing Finance Agencies (HFAs) and the Administration on the distribution of the $2.1 billion Treasury made available for foreclosure relief programs. Proposals include additional principal reduction for severely underwater homeowners as well as assistance for the unemployed.

As part of this effort with the HFA's, Bank of America is pursuing additional avenues to provide more aid to the unemployed. We are evaluating a six to nine month forbearance that will include a contribution to a loan modification for customers who find a job and become eligible for a modification. If the job search proves unsuccessful, increased relocation assistance would be provided and accompanied by a deed-in-lieu of foreclosure.

The most important issue that is affecting the success of HAMP relates to changing customer behavior on:

- Complying with HAMP requirements to allow us to make an offer - 380,000 customers have not provided needed information for us to make an offer, and
- Complying with HAMP trial period requirements to enable a successful, completed modification - 100,000 customers have not made trial period payments or supplied the necessary documents to complete the trial period.

Although 50% of these customers are very hard to reach as they have either been delinquent for more than a year or have a loan-to-value ratio over 150%, we believe recent efforts on principal reduction and second liens should help make solicitations and offers more attractive to these customers.

Principal Reduction

An area of ongoing focus is determining the most effective and appropriate way to incorporate principal reduction into the loan modification process. While Bank of America is supportive of principal reduction for customers who have high loan to value ratios and are experiencing hardship, we believe solutions must balance the interests of the customer and the investor.

From the customer perspective, there is a fairness issue. Within Bank of America's residential servicing portfolio, nearly 86 % of customers are current and pay their mortgages every month – some of them making difficult choices and sacrifices to do so. This does not mean we should not do principal reduction for those unable to stay current, but we must do so in a measured, responsible way so that only customers with a legitimate hardship and genuine interest in maintaining homeownership qualify.

Bank of America has a new program on principal reduction we believe is a solid start. We recently announced enhancements to our proprietary National Homeownership Retention Program that include a first look at principal reduction for certain types of mortgages when calculating affordability under HAMP, including an innovative "earned principal forgiveness" approach to help customers who owe significantly more than their homes are worth.

Subsequent to our program announcement, Treasury also announced its new program providing that servicers should consider principal reduction for customers experiencing hardship and that have a loan-to-value ratio in excess of 115%. We are waiting for Treasury to finalize the details on this program and are very supportive of targeted principal reduction performed in a way that addresses the significant moral and financial hazards but also recognizes the reality regarding the diminished future prospects for home appreciation.

In addition, FHA has also recently announced a program that includes a short refinance feature that should be attractive to underwater customers and investors in these loans. All of these new enhancements should maximize the impact of using principal reduction as a method for responsibly assisting more distressed customers. We encourage the FHA and Treasury to complete the details on these programs as soon as possible.

Second Lien Modifications

One of the issues for first lien investors agreeing to consider principal reductions first on a loan modification is the existence of a second lien on the same property. Indeed, some of these first lien investors have taken the approach that second liens must be totally extinguished before the first lien holder takes any principal reduction.

Currently, of the 10.4 million first liens Bank of America services 15% have a second lien with Bank of America and 16% have a second lien with another lender. Bank of America's approach for our own portfolio is not to let the presence of a second lien prevent us from modifying our first lien loans, including the implementation of principal reductions even when the second lien is owned by a third party investor and has not been modified. Over the past two years, Bank of America has modified more than 80,000 home equity loans.

Ninety percent of Bank of America's home equity portfolio is made up of standalone originations used to finance a specific customer need, such as education expenses or home improvements. The remainder consists of piggy back (combo) loans originated with the home purchase.

Most of our second loans continue to have collateral value, and of those where the second loan is underwater, a significant number are still performing. Indeed, out of 2.2 million second liens in Bank of America's held for investment portfolio – only 91,000 seconds – about four percent – are (i) delinquent, (ii) behind a delinquent first mortgage and (iii) not supported by any equity. Bank of America has already taken significant write-downs of $10.5 billion over the last two years on its home equity portfolio.

In January, Bank of America became the first major loan servicer to sign the contract to participate in the Treasury's second lien program – known as 2MP, and on April 1, less than one week after receiving Treasury's final 2MP program guidelines, we became the first major loan servicer to begin mailing trial modification offers to home equity customers facing financial difficulty.

Even though the official process for confirming homeowner eligibility and measuring 2MP progress are not expected to be fully implemented for a number of months, we acted out of a sense of urgency. We took this step to provide financial relief to customers who need it now, and to help keep them in their homes with a more affordable, *combined* monthly mortgage payment.

For those situations where first and second liens are held by different investors and it is difficult to reconcile their economic interests, we believe a compromise solution on principal reduction is contained within the logic of 2MP. Under this program, the holder of the second lien is required to forebear a similar percentage as the first lien holder, which we believe is equitable. 2MP is a solid first step, and we would advocate working on a similar industry-wide process that would require the second lien holder to take a principal balance reduction proportionate to the first lien holder. Such an approach would provide customers with both affordable payments and a better equity position on both their first and second loans, and would therefore allow them to avoid foreclosure on both liens.

The new FHA refinance program also provides a sensible solution for dealing with second liens. Second lien holders are allowed to subordinate and partially or totally extinguish their liens for a reasonable incentive payment so long as the combined loan to value ratio does not exceed 115%.

We understand there is concern about the impact of second liens on loan modifications and the use of principal reduction. We hope our explanation of the current status of second loans will be instructive for the types of actions that should be considered to further facilitate appropriate loan modifications for customers who hold first and second loans.

Solutions to Achieve a Dignified Transition from Homeownership

While loan modification program enhancements will have a limited impact on the overall foreclosure numbers, they will have a meaningful impact on the family or individual whom we are able to keep in their home. We recognize the effect even one foreclosure has on the customer and community, and we will continue to help customers who want to stay in their homes and have the capacity to do so.

At the same time, we must compassionately and responsibly help those customers who have exhausted all their options and cannot maintain their mortgages.

Given the depth of the nation's recessionary impacts on homeowners, a considerable number of customers will transition from homeownership over the next two years. The exact number of customers who will face this transition can only be estimated at this time, but given sustained high unemployment rates and high loan to value ratios, particularly in some regions, we believe the levels will be significant.

Within Bank of America's portfolio of loans, there are large numbers of seriously delinquent customers. Hundreds of thousands of customers haven't made a mortgage payment in more than a year. For many of those customers a transition from homeownership to rental or other alternative housing is likely to be the only viable option. Among the initiatives that we believe

will be helpful to customers making this transition are short sales, deeds-in-lieu, and rental programs.

Bank of America launched the Treasury's Home Affordable Foreclosure Alternatives Program (HAFA), on April 5th and has implemented our own proprietary cooperative short sale program to provide more ease and assistance to delinquent customers who can no longer stay in their home. These initiatives will allow customers to avoid the stigma of foreclosure and potentially reduce the damage done to their credit.

For those customers not interested in the short sale process, we are stepping up efforts to provide incremental funding in our cash for keys and deed in lieu programs. These programs provide an increased cash allotment for moving expenses and rental security deposits in exchange for the deed to the property in which the customer currently resides.

We have called out a few initiatives and ideas and just as we have partnered with public policy officials, community groups and others on loan modifications, we must do the same to help customers through this transition.

CONCLUSION

At Bank of America, we are working hard to balance the needs of our customers, investors, shareholders and communities. We believe innovative solutions are necessary to help as many customers as possible sustain homeownership.

We take seriously our role in helping customers, as well as restoring confidence in the U.S. housing market. That's a role we willingly assumed and a responsibility every Bank of America associate is working to carry out.

We appreciate the leadership of this Committee and will continue to work with you to develop solutions that will aid more customers.

Thank you.

Testimony of

Michael J. Heid
Co-president
Wells Fargo Home Mortgage

Before the

Committee on Financial Services
United States House of Representatives

April 13, 2010

Chairman Frank, Ranking Member Bachus and Members of the Committee, I'm Mike Heid, co-president of Wells Fargo Home Mortgage, and I'm here today with Kevin Moss, executive vice president of the Wells Fargo Home Equity group.

We appreciate the opportunity to come before you to discuss Wells Fargo's continued commitment to assist homeowners in financial distress across America. Today, I'll discuss:

- Wells Fargo's results in using our own modification programs developed with investors, as well as the *Home Affordable Modification Program*;
- the work we already have done to support customers during periods of under- or unemployment;
- the outcomes Wells Fargo achieved throughout 2009 applying principal forgiveness as a modification method; and,
- what we have done to improve service levels for our customers and your constituents in need of assistance.

I'd like to begin by stating what Wells Fargo believes is an overarching issue that requires constant consideration. While very difficult to achieve, the needs and interests of homeowners in financial distress must be balanced with those who have remained current in their mortgage payments. While much focus deservedly is directed to those consumers behind on their payments, we cannot lose sight of the fact that 91 percent of Wells Fargo's first- and second-mortgage customers were current in their payment status as of the fourth quarter of 2009. And, if we look only at home equity customers, just 3 percent were two or more payments past due.

We agree with the Treasury Department's statement in its recent release that said: "Our housing initiatives must balance the need to help responsible homeowners struggling to stay in their homes, with the recognition that we cannot and should not help everyone."

With that perspective in mind, we do believe there is an opportunity to move forward with a continuation of the assistance programs already underway and to supplement them with the programs announced in concept on March 26 by the U.S. Treasury and the Department of Housing and Urban Development. In fact, some of the recommended program enhancements appear to be quite similar to efforts Wells Fargo has had underway for some time.

First, I'll speak to the efforts we have used to modify loans for customers experiencing a loss of income.

We all agree that the challenges associated with unemployment and under-employment are of grave concern in today's economy. For years, Wells Fargo has offered a short-term relief option that, since January of 2009, has helped more than 100,000 customers manage their home payments while they sought to regain temporary losses in income. Given what we know of the Treasury's plans, it appears that the new federal temporary assistance program is consistent with our own. If the full program details prove this to be true, we could put this new *Home Affordable Modification Program* enhancement into practice in a matter of weeks. We are hopeful the details are released soon so we can move forward without delay.

Second, with respect to the use of principal forgiveness in modifications, more than a year ago Wells Fargo began using principal reduction as one method – in appropriate circumstances – to help consumers facing hardships. And, we have positive results to share with this Committee.

We began using principal forgiveness as an element of our Wells Fargo loan modification program for certain portfolio assets in January 2009, several months before the creation of the federal *Home Affordable Modification Program*. In fact, during 2009, we completed more than 50,000 such modifications with a total reduction in principal of more than $2.6 billion. Our program granted immediate and permanent forgiveness of principal for struggling homeowners, not an "earn out" over time. On average, customers received a 15 percent reduction in principal amounting to greater than $50,000, and when combined with rate reductions and term extensions their average monthly payments dropped by 25 percent under the terms of their loan modification agreements.

Principal forgiveness is not an across-the-board solution. Not every homeowner with a loan balance that exceeds the value of their home falls behind in their payments. Payment affordability continues to be the key. Most homeowners in America are still very focused on doing what is necessary to stay current on their payment obligations and, in so doing, protecting their credit standing. For this reason, principal forgiveness needs to be used in a very careful manner.

Through experience, we have found that principal forgiveness is best used to assist those customers who share certain distinct characteristics. Typically, their homes are owner-occupied and concentrated in geographic areas with severe price declines where there is little prospect for full recovery of home values. They have suffered financial hardships, but continue to have sufficient, verifiable incomes to sustain homeownership with appropriately reduced payments. Finally, they want to remain in their homes.

We have been pleased with the performance to date of the loan modifications we have completed for customers who share these characteristics. In 2009, the redefault rates for these restructured mortgage loans were less than half the rate for similar loans in our industry.

In 2010, we have used and expect to continue to use principal forgiveness under the same basic tenets I've just described. In addition, absent any unexpected legal, regulatory or accounting issues that could arise from the Treasury's detailed description of its new principal forgiveness enhancements, we also plan to implement the enhancements for first- and second-lien modifications as rapidly as possible. We will review the program details when they become available to confirm our current conceptual understanding is accurate.

With respect to the *Home Affordable Modification Program* in general, Wells Fargo was one of the first to execute both the first-lien and second-lien programs. With that said, we also have been very consistent in stating that HAMP is only a part of the story when it comes to describing our efforts to help homeowners in financial distress.

Since the beginning of 2009, we have initiated or completed more than half a million mortgage modifications – three quarters of which were done outside of HAMP. For the last

six months, 84 percent of our non-HAMP modification customers had their monthly payments reduced by an average of 19 percent. For the remainder, either the customer did not need a payment reduction to achieve affordability or a reduction was not possible under the terms of the specific servicing agreement.

To provide some context for the results of our modification efforts, Wells Fargo is now doing three loan modifications for every completed foreclosure.

As a standing practice, before we move a home to foreclosure sale we ensure that all other options have been exhausted. HAMP is an important first tool in preventing foreclosures wherever possible, but it is not the only answer. When customers are ineligible for this federal program, we have been very successful in identifying an alternative to help them either through another modification option that addresses the customers' particular financial needs or through a short sale or deed-in-lieu of foreclosure.

Fewer than 2 percent of the loans secured by owner-occupied homes and serviced by Wells Fargo have proceeded to foreclosure sale in the last 12 months. And, our delinquency and foreclosure rates in the fourth quarter of 2009 were less than three-fourths that of the industry average.

Unfortunately, the harsh reality remains that some customers simply are in homes they cannot afford, even with substantially reduced payments. In such cases where there is no reasonable foreclosure prevention option, we believe extending the timeframes for foreclosure sales, especially on vacant properties, will simply further exacerbate the problems that some individuals and communities are experiencing. In these cases, we believe it is best to work to transition these customers and quickly sell the homes.

With respect to HUD's new FHA program – also announced in concept on March 26 – the steps to implementation still require significant work. As one of the two largest FHA lenders, we intend to offer these refinance opportunities to consumers across America. Once the program details become known, we can begin the technology system changes and training to make these loans available. We are encouraged that FHA has chosen to stay as close to their standard program as possible. This will certainly aid the implementation process.

In our Home Equity portfolio, we stand committed to ensuring second liens do not prevent such refinances from occurring. For first mortgages in our servicing portfolio, we plan to closely follow the guidelines of the first lien investors, including Fannie Mae and Freddie Mac, as the industry sorts out how to avoid the moral hazard implications that this new public policy option could unintentionally yield.

And finally, before I close today, I also want to share with you steps we have taken to improve service levels for Wells Fargo customers facing financial hardships. A couple of months ago, we started the transition of assigning one person to manage one loan modification from beginning to end. In other words, our customers will know exactly who they are working with from start to finish. This improved process will be fully in place by the end of June, and we expect it to have a substantial positive impact on our customers' experiences. In addition, we have been working with other industry collaborators – such as investors and appraisers – to institute a 5-day credit decision turnaround for customers

in need. This practice will be instituted with all customers who provide the information necessary to quickly finalize a decision. Other measures include:

- Since the beginning of 2009, we have grown our home preservation staff by more than 135 percent, adding 10,000 U.S.-based home preservation jobs for a total of 17,400 people dedicated to these efforts. This required developing new processes to rapidly onboard, train and retrain people to manage the evolving, complex guidelines inherent to home retention programs.
- Also, in part to accelerate the learning curve in underwriting and process management, we have converted several origination fulfillment centers to loan modification assistance centers. This operations model now is appropriate in home preservation given volume increases and the fact that we must re-underwrite loans to make modifications possible.
- We have introduced improvements in workflow systems and document imaging.
- And we also have introduced new means to provide face-to-face assistance for customers. Last year and this year, Wells Fargo participated in more than 300 home preservation events including six large-scale events hosted by our company solely for our customers. We established 27 Home Preservation Centers – in Arizona, California, Florida, Georgia, Nevada, and Ohio – to help Wells Fargo customers experiencing difficulties with their mortgages.
- And, as your offices know, we continue to have a dedicated phone line for your staff to use in the event one of your constituents, who is our customer, has an issue that needs resolution.

Although there is still work ahead, we believe we are making progress in what has been a very difficult situation for all. Wells Fargo remains committed to working with the members of this Committee and others on balanced initiatives that consider the needs of all our customers, our investors and our country. Thank you, I look forward to your questions.

Testimony of David Lowman
JPMorgan Chase
Committee on Financial Services
United States House of Representatives
April 13, 2010

Chairman Frank, Ranking Member Bachus and Members of the Committee, thank you for the opportunity to appear before you today. JPMorgan Chase shares your commitment to helping homeowners and stabilizing our nation's housing market.

My name is Dave Lowman, and I am the Chief Executive Officer for Home Lending at JPMorgan Chase. Chase is one of the largest residential mortgage originators and servicers in the United States, serving more than 9 million customers in every state of the country with mortgage and home equity loans totaling about $1.4 trillion. We are proud to be part of one of this country's pre-eminent financial institutions with a heritage of over 200 years, but we do not rest on our record. We work very hard to help all of our customers during these challenging economic times, including those who joined us as a result of our acquisition of the mortgage and other assets of Washington Mutual from the FDIC.

We are here today to discuss with you how we can make foreclosure prevention solutions more effective for homeowners. Our initial efforts were focused on providing affordable payments. We believe these efforts have been most successful for homeowners with a desire to maintain their homes and a reasonable ability to make and sustain an affordable monthly mortgage payment. There are also homeowners unable or unwilling to maintain home ownership. For these borrowers, solutions have been designed to provide an orderly sale of the property. There is a third category of homeowners who have suffered significant home price depreciation as a result of the downturn in residential real property values over the last few years. This is arguably the most challenging group. The vast majority of these homeowners are meeting their mortgage obligations. But there are also homeowners with the ability but unwillingness to pay due to loss of equity, as well as homeowners for whom an affordable payment might be structured but not without additional tools, including principal reduction. These are some of the issues I will address in my testimony today.

Chase is Committed to Keeping Families in Their Homes

At Chase we are working very hard to help families meet their mortgage obligations and keep them in their homes by making their home payments affordable. As a national leader in foreclosure prevention, we have continued to expand upon and improve our programs to keep families in their homes, and we have helped prevent over 965,000 foreclosures.

From the beginning of 2009 and through the end of February 2010, Chase offered over 731,000 modifications to struggling homeowners and has completed over 110,000 permanent modifications under the Home Affordable Modification Program (HAMP), Chase's own proprietary modification programs and modification programs offered by the Government Sponsored Enterprises (GSEs) and FHA/VA. Chase has consistently been among the leaders in implementation of HAMP and other modification solutions for homeowners. Homeowners seeking loan modifications are first considered for HAMP and then considered for other modifications programs available through Chase if they are ineligible for HAMP.

CHASE MODIFICATION VOLUMES, 2009-2010 YEAR TO DATE[1]				
Key statistics	***HAMP***	***Chase programs***	***Agency***	***Total***
Modifications Offered	*229,819*	*253,977*	*247,553*	*731,349*
Approved for Permanent modifications[2]	*57,177*	*80,827*	*28,748*	*166,752*
Permanent Modifications Completed	*19,470*	*67,999*	*22,706*	*110,175*

[1] *Year-to-date as of February 28, 2010*

[2] *"Approved for Permanent Modifications" includes both modifications made permanent as well as borrowers who are approved for a permanent modification but for whom the permanent modification has not yet been completed.*

To achieve these results, we have initiated extensive outreach and made significant investments in people, technology and our infrastructure. In particular, we have:

- Opened 37 Chase Homeownership Centers (CHOCs) in 15 states where struggling borrowers around the country can meet face to face with trained counselors, with 14 additional sites to be opened by the end of the April 2010, for a total of 51 centers
- Assisted more than 91,000 borrowers through our counselors at the CHOCs since their launch in early 2009
- Mailed over one million letters to invite Chase customers to discuss their situation or help them complete their HAMP documents
- Hired more than 3,580 loan modification counselors in 2009, bringing the total number of loan modification counselors to 6,258 in 15 sites in addition to the CHOC staff
- Hired additional mortgage operations employees, bringing the total number of Chase Home Lending employees dedicated to helping struggling customers to over 16,000 – nearly 50% of our total staff in Home Lending
- Handled over 12.8 million inbound calls to our call centers from homeowners seeking foreclosure prevention assistance in 2009 and through February 2010, including 2.4 million calls to our dedicated customer hotline for modification inquiries
- Launched a program for discounted sales and donations of foreclosed properties, through which we have completed over 530 transactions with non profit and state and local agencies in 24 states
- Hosted and participated in more than 471 homeowner events in 2009 and through February 2010 to educate and inform homeowners about the loan modification process and assist in the completion of required documents
- Instituted an independent foreclosure review process to avoid preventable foreclosure referrals and sales

Chase Continues to Lend and Improve Affordability for Current Homeowners

In addition to our programs to aid distressed homeowners, Chase has been active in continuing to provide mortgage credit and refinance opportunities to allow our borrowers to take advantage of historically low interest rates. In 2009 and through February 2010, Chase has originated more than $166 billion in residential mortgage credit. Of that amount:

- $15.7 billion in mortgage refinances have been originated through the Home Affordable Refinance Program (HARP).
- About 75% of HARP borrowers saved more than $100.00 on their monthly payments.
- $35.1 billion in new loans and refinances have been originated and insured through FHA/VA.

These programs offer high loan-to-value alternatives for borrowers who have good credit and mortgage payment history but may have experienced home price depreciation, making it difficult to qualify for a conventional mortgage loan.

The mortgage programs offered by Chase reflect our responsible lending principles. Chase did not originate, purchase or service Option ARMs but did acquire a portfolio of owned and serviced Option ARMs in 2008 when we acquired EMC (a subsidiary of Bear Stearns) and the mortgage assets of Washington Mutual Bank from the FDIC. Chase no longer originates subprime loans, or purchases mortgages originated by third party brokers (other than under the Rural Housing program). For loan originations to be sold to Fannie Mae or Freddie Mac or insured by FHA/VA, Chase has proactively established tighter credit criteria where it has observed poor historical borrower performance.

Chase's Progress in Implementation of the MHA Modification Program

Chase applauds the Department of Treasury's efforts to increase mortgage modifications industry-wide. Their efforts to standardize modification criteria through HAMP and publicize the program nationwide have benefited many struggling homeowners who would have otherwise faced foreclosure. The public response to the program was initially overwhelming and we have made significant investments to ramp up our modification capacity since our launch of the HAMP Program in April 2009.

As of February 2010, we estimate that we service approximately 437,000 loans that may be eligible for modification under the HAMP guidelines (about 50% of our total population of borrowers who are 60 days delinquent on their mortgage loans). On a weekly basis, Chase mails letters to borrowers with loans that become 50 days past due and meet basic HAMP eligibility criteria.

We have made solid progress in offering HAMP trial plans to about 230,000 homeowners and have over 150,000 homeowners in active trial plans through February 2010. We are now working very hard to convert homeowners to permanent HAMP modifications and have successfully converted about 20,000 homeowners but, like other servicers, we have faced challenges in getting borrowers to send in the documentation required to complete the modification.

We have added hundreds of employees in recent months who are dedicated to alerting customers and then collecting the documents needed to complete modifications. These initiatives have collectively increased the pace of HAMP modification completions at Chase from less than 1,000 a month in July and August 2009 to over 10,000 a month in January.

Very shortly, Chase will begin initiating trial plans under HAMP only after the borrower has provided the required documentation to support eligibility for the Program and will no longer commence trial plans based on stated information. This should greatly assist in shortening the period from initiation to permanent modification and increase our conversion rate, as borrowers should be motivated to provide the required documentation to receive the benefit of a reduced payment. As a result, failure to make

timely payments should be the primary reason a borrower does not successfully convert from a trial plan to a permanent modification.

Despite some reports to the contrary, HAMP modification performance has been strong, helping hundreds of thousands of homeowners achieve affordable mortgage payments. At Chase, on average, homeowners are receiving a monthly payment reduction of $548.00 through their HAMP modification. That represents an average payment decrease of 29%. Based on Chase data, HAMP modifications appear to be performing noticeably better than modifications the industry has performed in the past. While it is still early in the program, 88% of completed HAMP modifications to date are current after three months of completion.

Chase is Implementing More Help for Homeowners Under HAMP

Chase, along with the other major servicers, has continued to work with the Department of Treasury on a number of HAMP initiatives that have been announced in recent months. Chase believes the process of creating standardized and consistent approaches among servicers through these programs is a major benefit for both homeowners and servicers.

HAFA – The Home Affordable Foreclosure Alternatives Program is designed for non-retention foreclosure prevention solutions, including short sales and deeds in lieu. Chase recently began offering the HAFA Program.

2MP – Chase is scheduled to roll out the Treasury Department's Second Lien Modification Program (2MP) in the second quarter of 2010, though the Program will not be effective under Treasury's recently re-issued Supplemental Directive until August 1, 2010.

2MP is a systematic approach to modifying all second liens where the underlying first lien has been modified under HAMP. 2MP also provides for a lump sum payment to the second lien holder to partially write down or fully eliminate a second lien, if it is determined to be in the best interest of the investor. If a homeowner remains current on both their first and second mortgage loan, they will be able to qualify for success payments under 2MP. Chase supports 2MP because it appropriately balances the interests of first and second lien investors and facilitates more comprehensive modification solutions for homeowners. We also think it will result in more second lien modifications by establishing a consistent process and common database of information for servicers to access.

Temporary Assistance for Unemployed Borrowers – We actively utilize temporary forbearance agreements today for unemployed borrowers, similar to the program contemplated by the recent announcement. When the details of the new government program become available, we will implement the program within the timeline set forth by the Department of Treasury.

HAMP Expansion to FHA Loans – Chase currently offers a similar program for its own portfolio, facilitating FHA refinances for current borrowers who need help meeting FHA loan-to-value limits or debt-to-income ratios but otherwise meet FHA underwriting standards. We use principal adjustments or below market interest rates to assist these borrowers to refinance. We are pleased to see that FHA is expanding its product options to help underwater homeowners and we expect to offer the program to our customers once FHA issues the program parameters. While we believe this will be a beneficial program, our experience suggests there may be limited acceptance by consumers. Similar to the Chase

program, only current borrowers can qualify. We find many current homeowners are reluctant to participate in a program that may harm their credit record due to the principal reduction feature.

Alternate Waterfall under HAMP for Earned Principal Reduction – The Administration has released the broad outlines of this initiative to consider principal reduction higher up in the waterfall to encourage more principal reductions and more positive outcomes. However, a number of open issues remain, including how the Net Present Value (NPV) model will be re-calibrated, how the re-default assumptions will be changed, and the allocation of principal reduction amounts among lien holders.

With only a limited amount of information available, it is difficult at this time to quantify how many more homeowners will become eligible under the alternate waterfall or how many more homeowners will have an improved NPV. Chase will continue to work with the Department of Treasury and other interested parties as it has throughout the development HAMP to help develop the detailed requirements needed to implement this aspect of HAMP. Once these details are finalized, we will be able to better assess how effective the revised waterfall may be and whether it makes sense to use it.

Chase and Second Liens

The Committee has asked in particular about the role of second liens in foreclosure prevention. It may be helpful to understand more about Chase's second lien portfolio.

Chase owns about $131 billion in Home Equity loans and lines as of February 28, 2010.

- Approximately $25 billion are home equity loans and $106 billion are home equity lines of credit.
- Approximately $33 billion are in first lien position and $98 billion in second lien position.
- 5% of Chase's home equity portfolio is 30 days or more delinquent. Total home equity line, home equity loan, first lien and second lien delinquency rates are within two percentage points of the overall total.
- About 50% of the total Chase second lien portfolio is underwater, and 95% of this portfolio is performing (less than 60 days past due). 30% of second lien mortgages have combined loan-to-value ratios over 125% and 94% of this portfolio is performing.
- For $40 billion of Chase-owned second lien mortgages, Chase also services a first lien mortgage:
    - 92% of these first lien mortgages are performing.
    - 28% of these first lien mortgages are by themselves underwater (loan- to-value ratio of over 100%).
    - 45% of first lien mortgages have a combined loan- to-value ratio of over 100%.
- About 10% of Chase's total serviced portfolio of first lien mortgage loans has a Chase-owned second lien.
- Our best estimate is that about 20% of Chase serviced first lien mortgages may have a second lien from another lender and about 70% *do not* have a second lien.

Chase uses appropriate and accepted accounting standards to value our second liens. When a loan becomes more than 150 days delinquent, we write it down to its current fair market value. This policy is applied consistently irrespective of whether the loan is in a first lien or second lien position and conforms to GAAP and regulatory accounting requirements which are closely supervised by the OCC and our independent auditors.

Struggling homeowners need help on more than their second mortgage. As the payments on the first mortgage tend to be far larger, the homeowner gets far less relief from a second lien modification than from a first mortgage modification. On average, pre-modification second lien mortgage payments are about 10% of a homeowner's monthly gross income compared to approximately 45% for the first mortgage payment and approximately 20% for credit card, auto and other debt. Chase believes both first and second liens need to be modified appropriately to achieve affordable payments.

It is important not to confuse *payment* priority with *lien* priority. In almost all scenarios, second lien holders have rights equal to a first lien holder with respect to a borrower's cash flow. The same is true with respect to other secured or unsecured debt, such as credit cards or car loans. Generally, consumers can decide how they want to manage their monthly payments. In fact, almost 64% of borrowers who are 30-59 days delinquent on a first lien serviced by Chase are current on their second lien. It is only at liquidation or property disposition that first lien investors have priority.

We routinely modify our second liens -- whether or not we own the first mortgage. We have offered almost 54,000 second lien modifications from 2009 through February 2010, 12,000 of which have been made permanent. Approximately 45% of second lien modifications were completed on loans where we do not service the first lien. We have the same economic incentive to help willing borrowers make their payments on second liens as on first liens.

Chase also has an established procedure to facilitate re-subordinations for any refinance that results in the borrower having an improved position through the refinance. In 2009 through February 2010, Chase received over 83,000 re-subordination requests and approved 82%.

Similarly, we have an established process to address requests we receive for the release of second liens we hold to facilitate a short sale by the homeowner. Also, as mentioned earlier, we have implemented the HAFA Program which will help facilitate the short sale process. We are committed to continuing to find the right balance for homeowners and investors in addressing second liens.

Concerns about Broad Based Principal Reduction

There are certainly individual cases or even segments of borrowers where a program that incorporates principal reduction is appropriate. For example,

- Certain Option ARM borrowers with very low payments may need some amount of principal reduction to achieve an affordable and sustainable monthly payment. We are in the process of finalizing the design and obtaining any required regulatory approvals for such a program for the Chase-owned portfolio.
- Current borrowers who otherwise are eligible under standard FHA underwriting guidelines may need some principal reduction to fit within FHA's loan-to-value or debt-to-income parameters. We currently offer this program for mortgage loans we own.
- Delinquent borrowers who qualify for FHA Hope for Homeowner loans may also need either principal reduction or a second lien extinguished. We plan to begin offering an H4H refinance option this summer.

We are also conducting targeted tests for other high risk borrowers to see if a principal reduction program is more effective and how those loans perform relative to other modification solutions we

currently make available. Once we observe the results of these tests, we will be able to better evaluate the effectiveness of a broader principal reduction program.

We do think that large scale, broad–based principal reduction programs raise serious policy concerns, for both first and second lien mortgage loans, and particularly for current borrowers with an ability to repay their obligations. In Chase's view, such programs could be potentially very harmful to consumers, investors and future mortgage market conditions – and should not be undertaken without first attempting other solutions, including more targeted modification efforts.

Like all loans, mortgage contracts are based on a promise to repay money borrowed. Importantly, there is no provision in the mortgage contract, express or implied, that the lender will restore equity or reduce the repayment amount if the value of the collateral – be it a home, a car or a stock market investment – depreciates. If we re-write the mortgage contract retroactively to restore equity to any mortgage borrower because the value of his or her home declined, what responsible lender will take the equity risk of financing mortgages in the future? What responsible regulator would want lenders to take such risk?

We are also concerned that broad-based principal reduction could result in reduced access to credit and higher costs for consumers if market risk to lenders and investors materially increases. Borrowers likely will be required to increase their down payments, credit criteria will be further tightened and risk premiums for mortgage credit will increase and get passed on to consumers. Less affluent borrowers would likely be harmed disproportionately.

The benefits of a broad-based principal reduction program are to a large degree unknown and in Chase's view, outweighed by the risks and the facts that we do know.

- Our data show that our re-performance rates for first lien modifications based on verified income are performing reasonably well and perform without a strong correlation to loan-to-value (LTV) ratios. In fact, we see better performance in loans in the over 120% LTV band than the 90-120% band. This is because modification performance is correlated more strongly to affordability (i.e., payment reduction) than to LTV, which has little to do with affordability.

- Our data also show that second lien modifications are not an impediment to first lien modifications. Our HAMP first modification completion rate is virtually the same whether or not we are aware of the existence of a second lien.

- Moreover, it is unclear how much principal reduction would be required to reduce delinquencies among underwater borrowers, making it extremely difficult to measure the economic losses for investors, first or second, in following such an approach.

    - More than 70% of underwater borrowers are current on their mortgage obligations.
    - Academic research suggests borrowers' willingness to pay does not begin to erode until combined loan-to-values exceed 110%.[1]
    - Over 60% of Chase-serviced first mortgage borrowers who are underwater are higher credit quality GSE or prime loans and 78% of those are performing.

[1] Guiso, Luigi, Paolo Sapienza, and Luigi Zingales (2009). "Moral and Social Constraints to Strategic Default on Mortgages",Working Paper, European University Institute, University of Chicago, and Northwestern University.

- 43% of Chase-owned prime borrowers who are current but underwater have credit scores of 700 or more.

Many borrowers remain current on their home equity loans because they want to honor their obligations and protect their credit.[2] Our data show that 97% of borrowers in Chase's $98 billion second lien portfolio are performing on their loans (less than 60 days past due). For second liens that have a cumulative loan-to-value ratio greater than 100%, 95% of borrowers are performing. Regardless of loan-to-value, as long as borrowers continue to do the right thing and fulfill their contractual obligations, second liens that are current and producing cash flow to investors have value.

Additionally, a broad-based second-lien principal reduction plan would be forgiving past consumption by borrowers rather than housing investment. According to both internal Chase and Federal Reserve data, over 50% of borrowers used home equity loan proceeds for repayment of debt or personal consumption. No more than 15-20% used home equity proceeds to purchase a home. A broad-based program of principal reduction would be very expensive. To bring underwater borrowers "even" to a loan to value ratio of 100%, we estimate:

- It would have an industry-wide cost of $700 billion to $900 billion.
- The cost to Fannie Mae, Freddie Mac and FHA alone would be in the neighborhood of $150 billion.
- The Federal Reserve and Department of Treasury would have additional exposure through their ownership interests and risk guarantees of AIG, GMAC, and other institutions.
- Mortgage lenders would incur a significant reduction in capital now, potentially impairing their ability to extend future credit – mortgage or otherwise.
- And if house prices decline further, the costs would be even higher, representing the implicit "put" at 100% CLTV.

Given all these uncertainties and the potential magnitude of economic losses, Chase believes the proper balance among the interests of all the parties is achieved through the basic HAMP waterfall and perhaps the new alternate HAMP waterfall, once it is finalized and evaluated, combined with 2MP. These programs are specifically designed for homeowners who are either already delinquent on their first mortgage loan or where default is reasonably foreseeable based on the borrower's demonstrated risk characteristics.

Under HAMP, the consumer gets the same affordable monthly payment through principal deferral, with the potential under the alternate waterfall to earn equity over time. To the extent the borrower has both a first and second lien, a second lien modification under 2MP will create a more comprehensive solution. If home prices appreciate over time, the first and second lien investors appropriately retain the ability to benefit. Meanwhile, 2MP provides a mechanism for the second lien investor to share appropriately in the modification process so it does not disproportionately impact the first lien investor.

Finally, responsible lenders and major servicers are offering programs that incorporate principal reduction features for borrowers who most need that type of assistance, based on the characteristics of their particular portfolio of loans. We believe these types of targeted solutions are more appropriate.

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[2] According to a recent survey conducted by Fannie Mae, "Respondents ranked negative impact on credit score (35 percent) and moral qualms (33 percent) as more likely factors for motivating them to pay their mortgage." *Fannie Mae National Housing Survey Fact Sheet, dated April 8, 2010*, p.4

Principal Reductions in Securitized Transactions

A program of systematic principal reductions would require investors in these securitized pools of first mortgage loans to approve principal reductions. Investors have generally not directed Chase to make these principal reductions, which is not surprising because 78% of the underwater loans that we service in prime private label securitized transactions are performing.

Additionally, as these loans are pooled in securities, principal reductions are generally not permitted without specific instructions. That's because modifications, as contemplated under most Pooling and Servicing Agreements (PSAs), do not include and may even prohibit a permanent reduction in principal. We do service some transactions that specifically permit principal reduction for delinquent loans or loans in imminent default, if the NPV of the principal reduction is greater than the anticipated foreclosure recovery, but this is not typical and there are usually limitations on the percentage of loans in the pool that can be modified. We also service transactions where the servicer is required to absorb any deficiency caused by accepting a principal reduction in liquidation. We would be concerned that this same approach would be applied to principal reductions accepted by the servicer in a modification without investor consent, transferring an unanticipated loss to the servicer.

The process to change a private label PSA to permit principal reductions would require an amendment to the Agreement to be executed by all the parties (depositor, trustee, servicer, master servicer and insurer, if applicable) and, in some cases, 51% or more of the certificate holders. In our experience, amending a PSA is a very difficult process.

Similarly, to date, we have not been permitted to reduce principal on loans in Fannie Mac or Freddie Mac securities. As we understand it, under their securitization documents, they would be required to first buy a loan out of a pool and make the investors whole before principal could be reduced. This would cause Fannie Mae and Freddie Mac to incur significant losses for loans that may be current and producing cash flow to investors.

We Focus on Making the Monthly Payments Affordable

The cornerstone of HAMP, as well as other modification programs available through Chase, is to achieve an affordable monthly payment for homeowners who have demonstrated a willingness to stay in their homes and an ability to make a reasonable monthly housing payment. We focus on affordability because it is, by far, the largest issue driving mortgage delinquency today. There are many reasons borrowers face affordability issues. In our experience, the number one reason is a recession-driven decline in income, whether it is a spouse losing a job, fewer hours at work, underemployment, or finding a new job that pays less than the previous one. Data from Federal Housing Finance Agency suggest that 75% of mortgage defaults nationwide are caused by issues of affordability: borrowers default when a life event (or a cumulative set of life events) causes them not to be able to pay their mortgage with income and savings.

As servicer, we have a contractual obligation to our investors, a social responsibility to our borrowers and an economic incentive to make loan modifications available when a modification incurs a smaller loss than a foreclosure. To achieve an affordable payment, we have been following the year-old HAMP waterfall of reducing the interest rate, extending the term and, where needed, deferring principal into a

non-interest bearing final payment. As noted above, these modifications have resulted in an average monthly payment reduction of 29%, or $548.00, for our borrowers.

Recently, the Administration announced an alternate HAMP waterfall that will factor earned principal reduction into the NPV calculation for a modification. We know this will be surprising to some, but we have found that rate reductions and term extensions – not principal reductions – have the largest impact in achieving payment affordability and result in more modifications.

When the NPV calculation rules out a modification or when the homeowner has insufficient means to make a reasonable monthly payment, we try to determine whether the family's challenges are temporary. If so, we may offer a forbearance plan, similar to the Temporary Assistance Program for the unemployed recently announced by the Administration. If not, we will act in the best interest of the investor and consider solutions such as short sales or deeds in lieu of foreclosure.

Looking Ahead

Many new tools have been developed in recent months to help address lessons we have learned through the HAMP roll out as to where gaps existed in helping more homeowners. As with the basic HAMP Program, which has now gathered significant momentum, it will take some time to get the new initiatives up and running smoothly but Chase believes these are the right steps to be taking now and will benefit many homeowners.

Additionally, Chase continues to believe there are opportunities to refinance some borrowers into more sustainable FHA mortgages – including some with principal reduction – through the Hope for Homeowners program and potentially the recently announced FHA initiatives. These programs require an individual review of each borrower's situation to make sure the new mortgage is affordable and sustainable and the principal reduction is justified by the benefits of the transaction.

There are still some borrower segments that will require more customized solutions, such as the unemployed, borrowers with very low initial payments or borrowers with affordable mortgage payments that are highly leveraged with other debt. Chase continues to work to find solutions for all its borrowers who can show reasonable ability and willingness to sustain a mortgage loan, including principal reduction where appropriate.

We are pleased to have this opportunity to share our progress with you. We look forward to continuing to work with the members of Congress, the Administration, our federal banking regulators and our community partners in implementing these initiatives to help families and to stabilize neighborhoods and the U.S. economy.

APPENDIX: Chase Loan Modification Programs

In October 2008, we expanded the loan modification alternatives Chase already offered as part of our proprietary Foreclosure Prevention program. The enhanced modification tools allow for more flexibility based on the borrower's current loan type and the borrower's specific financial situation.

Proactive Outreach for ARM borrowers

Chase-owned subprime hybrid Adjustable Rate Mortgages (ARMs) scheduled to reset for the first time are being modified to remain at the initial interest rate for the life of the loan. Borrowers qualify for this program if they have a clean payment history on a hybrid ARM with an interest rate that adjusts after the first two or three years. Borrowers do not need to contact Chase to benefit from this program – the rate lock is implemented automatically – and borrowers are so advised.

We use the ASF Fast Track program to reduce payment shock for subprime hybrid ARMs serviced but not owned by Chase and scheduled to reset for the first time. Qualifying borrowers will have their initial ARM rate frozen for five years.

Chase did not originate or purchase Pay Option ARM loans itself but does own and service a portfolio of Pay Option ARM loans as a result of the 2008 acquisitions of the mortgage assets of Washington Mutual from the FDIC and EMC, a subsidiary of Bear Stearns.

To help borrowers with Pay Option ARMs, Chase makes available loan modifications through HAMP and its own proprietary modification programs. In 2009 and 2010, we also offered a proactive program for Chase-owned loans, developed specifically to assist current Option ARM borrowers who may be at higher risk of default due to a scheduled recast in the next 12 months that could significantly increase their monthly payment. To minimize any potential payment shock, we made the borrower a pre-approved offer to modify their loan to a lower fixed rate loan that keeps their payment at its current amount, which they have already demonstrated the ability to pay. If this payment amount results in a lower-than-market interest rate, the rate can step up to market over time, subject to certain limits to avoid payment shock. High risk borrowers due to recast in 2009 were mailed proactive outreach offers starting in the first quarter of 2009, to which over 85% responded. In the last quarter of 2009, we began mailing pre-approved modification offers to about 5,000 additional borrowers whose loans were due to recast this year. In total, we have completed nearly 5,000 modifications for Option ARM borrowers under this program since 2009.

Under our various programs, Chase has completed modifications of over $7 billion of Pay Option ARMs (over 16,000 units) since 2009 through rate reduction, term extension or proactive outreach. In addition to completed modifications, there are customers active in trial modifications under HAMP and Chase modification programs (to the extent they are ineligible under HAMP) that are not yet included in the completed modification figure.

Chase Custom Modifications

Borrowers not eligible for HAMP or any of the systematic Chase modification programs described above are reviewed on a case-by-case basis to determine the suitability of a modification or other foreclosure prevention approach.

Chase custom loan modifications for first liens are evaluated by developing an estimated target affordable payment of 31% to 40% of the borrower's gross income. We use the lowest percentage for borrowers with the lowest incomes. Once the target payment is calculated for the borrower, we will test each modification option to see if it will get the borrower to an affordable payment. Concurrently, we apply a net present value (NPV) analysis to each option to determine whether the value of the modification exceeds the value expected through foreclosure. We recommend the modification option that produces both an affordable payment and a positive NPV result. In addition, Chase custom loan modifications offer broader eligibility and payment flexibility compared to HAMP.

Other Foreclosure Prevention Options

In addition, Chase offers other foreclosure prevention options, such as:

- Payment plans (where a borrower agrees to pay back arrearages over time),
- Deferments (where a borrower agrees to make late payments in the future),
- Borrower stipulations (where a borrower agrees to make a set of payments, often as a prelude to a modification), and
- Short-sales / settlements (a form of principal forgiveness where Chase agrees to accept less than the amount of the mortgage in exchange for the underlying property or the proceeds of the sale of the underlying property).

Although borrowers do not keep their homes in short sales and settlements, these may be appropriate solutions when the borrower has no interest in remaining in the home or simply cannot afford the home over the long term, even if payments are reduced by a modification.

Our Community Stabilization Initiatives

Not every foreclosure can be prevented, so it is vital to our communities to look beyond foreclosure prevention to deal with the impact of foreclosed properties on neighborhoods. In 2008, Chase established a dedicated unit under its Homeownership Preservation Office to develop strategies to deal with foreclosed properties, working with our partners in the community and our banking regulators.

As part of our announcement in 2008, Chase committed to donations or discounted sales of 500 foreclosed properties over the next 2-3 years. In just a little over one year, we met our goal of 500 completed transactions. Through February 2010, we have donated or sold at a discount over 530 properties to non-profit organizations in 24 states.

We know that the HAMP program has been difficult for servicers to implement and that has affected our customers' experience. We know that we are accountable to help our borrowers and work to make HAMP a success, but we should also remember that a significant amount of progress has been made in a very short period of time. Right now, among all the HAMP participants, nearly 1.1 million homeowners are benefiting from more affordable monthly mortgage payments by entering into HAMP trial plans – and the number continues to grow. We are working very hard to convert trial plans to permanent modifications and help make HAMP a success. At Chase alone, over 110,000 homeowners have been approved for or entered into permanent modifications under HAMP or the other loan modification alternatives we make available to homeowners.

1200 Concord Avenue
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April 30, 2010

The Honorable Barney Frank
Chairman, Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Frank:

Thank you for the opportunity to testify before the House Financial Services Committee on April 13, 2010 regarding homeownership preservation efforts and second lien loan servicing. During the hearing you requested that we respond in writing to the following question: **Are there any circumstances in which Wells Fargo would not proportionally reduce the balance of a second lien where another servicer of the first lien had reduced the balance of that loan?**

With regard to the Treasury's 2MP program, Wells Fargo was one of the first servicers to sign up for the program and intends to fully comply with its principal reduction aspects. Under this program, Wells Fargo must reduce the principal balance (either through forbearance or forgiveness) on qualifying second lien mortgages that it services in the same proportion that the servicer of the first lien mortgage reduced its balance via a HAMP modification. This aspect of the 2MP program is not optional, and we must take this action on all second liens that meet the qualifications of the program regardless of the owner or servicer of the first lien loan.

The critical advantage of the 2MP program revolves around improvements in communication between servicers of corresponding first and second liens. Under 2MP, all of the participating second-lien servicers will be provided with notification that a first lien has been modified. Additionally, the notification will provide the second-lien servicer with the amount of the first-lien balance reduction resulting from the modification. This information aids the second-lien servicer in taking the required actions under the 2MP program.

With respect to second liens we service that are behind first liens that have been modified outside of HAMP, we do not have the same advantages when it comes to information about the first-lien modification. As a result, we may not be aware that the first lien has been modified and even when we have that information we may not be able to confirm how the principal balance was treated on the first lien.

When we are able to confirm that the first lien has had a forbearance or forgiveness of the principal balance as part of a non-HAMP loan modification, we will review these matters on a case-by-case basis. It is difficult to state that we will forbear or forgive in proportional amounts to the first lien, without reviewing all circumstances. Unlike a HAMP modification situation, these modifications require the case-by-case review as the terms of the first-lien modification are not readily available. However, I can assure you that we will review these closely and make an appropriate determination based on the facts and circumstances of the individual borrower.

We appreciate your interest in this most important matter, and look forward to continuing to work with you. Thank you for the opportunity to provide input.

Respectfully,

Kevin Moss
Executive Vice President
Wells Fargo Home Equity

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