

Testimony by Terence Edwards
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U.S. Senate Committee on Banking, Housing and Urban Affairs
December 1, 2010

Chairman Dodd, Ranking Member Shelby, members of the Committee, thank you for the opportunity to testify today. My name is Terry Edwards, and I serve as Executive Vice President for Credit Portfolio Management at Fannie Mae, which involves foreclosure prevention and servicing oversight.

I came to Fannie Mae in 2009 from PHH Corporation, where I served for three decades in a variety of executive roles, including as President and CEO of PHH Mortgage, one of the nation's top ten mortgage servicers. My experience with PHH gives me a unique perspective on Fannie Mae's expectations for servicers and an understanding of servicer operations.

Let me begin by underscoring Fannie Mae's commitment to providing liquidity, stability and affordability to America's housing market, and our appreciation for the government's support that allows us to carry out our mission and mandate.

We fulfill our mission and mandate by purchasing or securitizing mortgage loans originated by lenders in the primary mortgage market. Since the start of 2009, Fannie Mae has provided over \$1 trillion in funding for nearly 5 million loans for home purchase, refinancing and rental housing.

As private securitization of mortgages has pulled back dramatically over the past two years, Fannie Mae recognizes that our commitment to serve the market is critical.

We are also intensely focused on doing everything we can to address the foreclosure crisis and keep people in their homes. That includes taking affirmative steps to ensure that mortgage servicers carry out their responsibilities under our mortgage servicing contracts and guidelines – especially in helping borrowers pursue our foreclosure prevention alternatives and properly handling the foreclosure process.

Preventing foreclosures is a top priority for Fannie Mae. Foreclosures hurt families and destabilize communities. Neighborhoods deteriorate when properties are abandoned or neglected. Vacant homes depress nearby property values. Condominium and homeowner associations are not paid, creating hardships for those communities. And loans that result in foreclosure typically cost taxpayers tens of thousands of dollars.

So our first focus is on keeping borrowers in their homes or providing foreclosure alternatives, and we are making measurable progress. Since the start of 2009, more than 600,000 borrowers with loans owned or guaranteed by Fannie Mae received workouts through either Treasury's Home Affordable Modification Program or our own additional foreclosure-prevention programs.

The foreclosure-prevention and resolution operations I lead include nearly 1,200 personnel dedicated to working with servicers to help borrowers avoid foreclosure and stabilizing communities by putting foreclosed homes back into service.

We are sparing no efforts in helping servicers process hundreds of modifications every working day. Not since the Great Depression have so many people fallen behind on their mortgages. We have learned a lot along the way.

In addressing our response to the foreclosure crisis, I want to underscore that Fannie Mae does not service loans. We rely on the loan servicing divisions of major banks and other financial institutions as the primary front-line operators and points of contact with the borrowers. We pay servicers significant fees during the life of a loan to work with borrowers. Servicers are required under our servicing contracts to help borrowers in trouble, not just collect payments.

But as many servicers have acknowledged, they have struggled to keep up with the volume of delinquent loans. This is frustrating to borrowers. It is unacceptable to Fannie Mae. We are taking significant steps to improve servicer performance and enforce their contractual obligations to help borrowers.

I also wish to note that while Fannie Mae owns or guarantees more than 35 percent of the single-family mortgages in America, we have a significantly smaller percentage of borrowers who are seriously delinquent than the industry does as a whole – roughly 4.5 percent of our borrowers are 90 days or more behind on their payments, as compared to the serious delinquency rate of nearly 9 percent across the industry. Still, by historical standards our serious delinquency rate represents an extremely large number of borrowers facing difficult circumstances, so we continue to focus significant efforts on addressing this situation.

In my testimony, I will describe our foreclosure-prevention programs and efforts to ensure loan servicers do everything possible to help struggling borrowers and prevent needless foreclosures. I will also touch on our efforts to work with servicers as they address and remedy the foreclosure processing issues that have come to light in recent weeks.

Foreclosure prevention process

Since the start of the housing crisis, Fannie Mae has adopted a wide range of foreclosure-prevention initiatives that are the responsibility of our servicers to implement.

These initiatives include the Treasury Department's Home Affordable Modification Program, or HAMP. We also have provided additional solutions for servicers to offer Fannie Mae borrowers when they do not qualify for the Treasury program.

Since the start of the Treasury program in February 2009, more than 160,000 struggling borrowers with Fannie Mae mortgages have received HAMP permanent modifications. And since the start of 2009, about 250,000 Fannie Mae borrowers have received our modifications outside of HAMP. So in total, we have helped more than 410,000 Fannie Mae borrowers modify their loans and stay in their homes.

We have continued to update and improve these borrower-help initiatives to incorporate what works, what borrowers need in order to take advantage of their options to keep their homes, and what servicers need in order to carry out their responsibilities.

We have a series of steps that we require servicers to take when borrowers fall behind on their mortgages and need help – and sometimes even before they miss a payment.

Let me briefly walk through these steps.

First, we require servicers to determine whether the borrower qualifies for a HAMP modification, which will take their monthly payment to a level where their first-lien mortgage debt-to-income ratio is 31 percent. These modifications can cut hundreds of dollars from their monthly loan payments. HAMP also offers modification for second-lien loans to bring the entire mortgage payment down to a more affordable level.

Then, if the borrower doesn't qualify for HAMP, we require the servicers to determine what kind of hardship the borrower is facing – is it a short-term hardship, caused by, for example, medical bills? Or is it a long-term hardship, such as a reduction in income?

If the borrower is facing a *short-term hardship*, then a servicer is required to offer forbearance or a repayment plan. We permit up to six months of payment relief for homeowners who are struggling to make their mortgage payments because of unemployment.

If the borrower is facing a *long-term hardship*, then we require servicers first to offer a HAMP modification. Then they may offer a non-HAMP modification that may take the borrower's debt-to-income ratio down to 24 percent without requiring the borrower to pay down bank credit cards and other debt.

If none of these modification plans can help the borrowers afford their loans, then servicers are required to offer the borrowers several options that will help the borrower to avoid foreclosure.

These foreclosure alternatives include short sales, where the lender permits the borrower to sell the property at a price that is less than the mortgage debt, and deeds-in-lieu of foreclosure, where the borrower essentially deeds the home back to the lender. For deeds-in-lieu, the borrower is also offered a financial incentive to help them relocate to alternative housing under these circumstances, and we offer to rent homes back to borrowers.

While it can be difficult for homeowners to relinquish their homes through short sales or deeds-in-lieu of foreclosure, these options ultimately are much better for the borrower over the long run than foreclosure. The borrower is taking action rather than getting locked out of the home, there is less impact on the borrower's credit, and the borrower increases his ability to finance a home in the future.

For example, Fannie Mae has changed our underwriting guidelines for borrowers who work with their servicers and take advantage of our foreclosure alternatives. If they do, they could qualify for a new Fannie Mae-backed mortgage in two to three years.

We were also the first to put policies in place to protect renters – more than 6,000 of whom have been able to continue to live and rent their homes or apartments.

We provide financial incentives to servicers who are successful in getting a borrower to enter into a foreclosure-alternative program. We do not pay any incentive fees unless the servicer completes a workout.

An important element of these foreclosure-prevention alternatives is robust borrower-outreach and education. It is in everyone's best interest to ensure borrowers understand their options and take advantage of the help that is available. This outreach and education can help borrowers work more effectively with their servicers and avoid scams that unfortunately have arisen in this difficult time.

Even though the servicers are responsible for borrower contact, Fannie Mae has rolled out a number of initiatives to help borrowers understand their options and take advantage of available foreclosure alternative programs when working with servicers. Let me name just a few of these initiatives:

In August this year, we launched KnowYourOptions.com – a consumer website that explains every option we have available to avoid foreclosure in both English and Spanish. This interactive website urges the borrower to take action and provides contact information for U.S. Housing and Urban Development-approved housing counselors and mortgage servicers. So far the site has had over 100,000 unique visitors and has been well-received by independent reviewers and industry experts.

We're opening Fannie Mae Mortgage Help Centers where we are experiencing seriously delinquent loans in the hardest hit markets around the country. These Centers enable Fannie Mae borrowers to walk in and receive counseling, provide documentation of their hardship and financial documentation to allow them to be considered for a modification without the fear of the documents getting lost. We also establish a single point of contact to work with the borrower until his or her situation is resolved. We've opened these centers so far in Miami, Chicago, Atlanta, Los Angeles and Phoenix, and have plans to open more centers in Dallas, Philadelphia, Jacksonville and Tampa.

We also have arrangements with counseling agencies – in Orlando and Homestead, Florida, Cleveland, Las Vegas, Detroit and Fort Worth – that work on our behalf to counsel borrowers and assist with preparation of modification related documents, all with a single point of contact. We anticipate expanding these efforts even further over the coming months.

In addition, we've joined with Treasury to hold borrower outreach events nationwide in hard-hit communities. So far we've supported Treasury's events in 49 cities and had nearly 50,000 visitors.

We're also taking steps to make sure Fannie Mae borrowers who do reach out to their loan servicers get the response and help they need.

In the event that Fannie Mae borrowers feel their servicers are not properly addressing their mortgage needs, they can contact Fannie Mae's call center where cases are reviewed by our "Second Look" team.

We have learned from experience during the past two years that handoffs in the workout process lead to borrower confusion and costly delays. We have informed servicers of what we have learned and a few of them are voluntarily moving to deploy a single-point-of-contact model. We're in the process of changing our policy to require all servicers to use this approach.

Our efforts to help borrowers are gaining traction. Since the start of 2009, we've helped more than 600,000 Fannie Mae borrowers avoid foreclosure by completing more than 410,000 modifications; 90,000 repayment plans, forbearance plans and other help for temporary hardships; and nearly 100,000 foreclosure alternatives – short sales and deeds-in-lieu of foreclosure.

While these foreclosure prevention measures are intended to include every borrower that needs help, unfortunately not every borrower can be helped.

Some borrowers simply do not reach out for help despite all efforts to educate them about their options and make right-party contact. Some properties are owned by investors who got overextended. Some borrowers simply carry too much non-mortgage debt or do not have sufficient income to make even modified mortgage payments.

In spite of all our efforts to keep people in their homes, unfortunately there will be foreclosures.

When there is no choice but to foreclose on a mortgage, once the property comes onto our inventory, we work expeditiously to maintain and repair the properties and sell them to new homeowners. Our policy is to first find people who will live in the homes because owner-occupancy tends to help stabilize neighborhoods.

One of our neighborhood stabilization initiatives is called "First Look." It gives buyers who intend to live in the homes, and public entities that want to create affordable housing, a 15-day head-start on buying the properties before investors can buy them. We also offer both the buyers and the real estate agents financial incentives in these owner-occupant transactions. Our website listing of homes in our inventory, called Homepath.com, includes a countdown number on each property indicating how many days remain in the First Look grace period.

Since inception through October of this year, we have sold more than 35,000 Fannie Mae properties through First Look, and we plan to ramp up that number in the coming year.

In summary, we're taking aggressive steps to ensure that servicers provide borrowers with alternatives to foreclosures and reduce the impact of the housing and economic crisis on families,

communities, the economy and taxpayers. Foreclosure prevention is a top priority for our company. We have much work ahead of us, and we are fully committed to getting it done.

Servicer assistance, accountability and enforcement

Let me now return to the critical role of servicers in this process.

As I noted earlier, our success depends on the efforts of the banks and financial institutions in the mortgage servicing industry. Their role is a critical element in addressing the foreclosure crisis and in some of the issues that have arisen recently.

In describing the role of servicers, I would like to quote the Acting Director of the Federal Housing Finance Agency (FHFA), Edward DeMarco, in his Congressional testimony on November 18, 2010. He stated:

When an Enterprise purchases a mortgage from an originating lender, it contracts with that lender or another bank or financial institution to service the loan. The servicer is the main communication point for the borrower, accepting all payments and crediting the borrower's account.

When homeowners get behind in payments, the servicer is expected to work with the delinquent borrower to set up a repayment plan, modify the loan, or, if foreclosure alternatives are not viable, begin foreclosure proceedings. Although the Enterprises hold the actual promissory notes through document custodians who maintain these records separate from the servicers, Fannie Mae and Freddie Mac do not themselves accept or process payments or move to modify or foreclose.

For their work, the servicers get paid by the Enterprises and, under the terms of their contracts, each servicer is obligated to follow the procedures established by the Enterprise, including compliance with all appropriate laws.

To put it another way, Fannie Mae has a vested interest in ensuring that our borrowers get help. But we must rely on our loan servicers, who have a binding, contractual obligation to meet our servicing guidelines and help borrowers take advantage of our foreclosure-prevention options.

Servicers have acknowledged that they have struggled to carry out their role and keep up with the volume of borrowers who need help. Fannie Mae continues to take a number of steps to help servicers meet our guidelines and get the job done.

First, we pay servicers an incentive based on the type and number of modifications they successfully complete. Let me reiterate my earlier statement – servicers receive an incentive only if they complete a workout – we do not provide any financial incentive to foreclose.

Second, we have about 200 Fannie Mae personnel dedicated to managing our servicer relationships. Many are on the ground at servicer shops working with their personnel to answer questions, help them understand our guidelines and options for borrowers and to escalate issues as they arise.

Third, we conduct monthly meetings with leadership of servicers. We provide extensive training through live web seminars, recorded tutorials, checklists and job aids. We are in constant contact with our servicers, listening to their suggestions and offering our own as to how the process can be made better.

In short, we strive to do everything possible to ensure that our servicers carry out their responsibilities to help struggling borrowers.

We also hold servicers accountable for carrying out their responsibilities. We evaluate individual servicers' strengths and weaknesses on a monthly basis. In some cases when our servicers cannot meet their obligations, we will transfer the servicing to specialty servicers that can do the job more efficiently and effectively.

Finally, I would like to address the issue known as "dual tracking" – where borrowers may receive foreclosure notices while their loan modification applications are in process.

Let me clarify Fannie Mae's policy. Borrowers are on a single track – the home-retention workout track – until they are more than three months behind on their mortgages. During this three-month period, which can be even longer if a modification is in progress, our servicing guide permits servicers to delay putting a loan into the foreclosure process. Servicers may begin the foreclosure process in fewer days if the borrower is not communicating regarding a modification or foreclosure alternative.

We set a timeline for the servicers for an important reason – the modification or workout process needs to be completed in a timely way. The longer the process takes, and the further in arrears the borrower becomes, the less likely it is that the borrower will succeed with a modification – and the greater potential there is for loss to Fannie Mae and the U.S. taxpayer.

We know from our research that loans worked out earlier, rather than later, in the process are much more likely to succeed. On the other hand, each payment the borrower misses increases the likelihood of foreclosure.

To summarize our approach to servicers and borrowers, the home-retention process functions properly when all participants in the process do their parts:

The borrower needs to reach out to the servicer as soon as he or she has a hardship. The borrower also needs to answer and return calls from the servicer and provide all of the financial and hardship documentation the servicer needs to verify the borrower's situation.

The servicer needs to assign one person for the borrower to work with who is accountable for that borrower until a resolution is reached.

And Fannie Mae provides an array of solutions the servicer can offer the borrower, balancing the need to help as many borrowers as possible while being responsible stewards of public funds.

Foreclosure process issues

Finally today, let me address what Fannie Mae is doing about the foreclosure process issues that the Committee has reviewed during recent hearings, including servicers misapplying payments, losing documents, and most recently using “robo-signers” to execute foreclosure-related affidavits.

When servicers do not properly follow Fannie Mae guidelines and meet their contractual obligations, we take those failures very seriously, and we act to address them.

With respect to the recent foreclosure affidavit issue, Fannie Mae’s guidelines require that servicers comply with all applicable laws and regulations when foreclosing on a property securing a loan that we own. Specifically, servicers are required under law to submit affidavits in connection with foreclosure proceedings in a number of states, primarily those that have a judicial foreclosure process. These affidavits are subject to the law of individual states, which generally requires the signer to state in the affidavit that he/she has “personal knowledge” of the facts set forth in the affidavit. The affidavit typically must be signed in the presence of a notary.

Following reports that some servicers did not follow proper procedures in the administration of the foreclosure process, we have taken a number of remedial steps:

We have issued guidance to our servicers instructing them to review their policies and procedures relating to the execution of affidavits, verifications, and other legal documents in connection with the foreclosure process.

We are also coordinating with FHFA to seek appropriate corrective actions that are in line with the four-point policy framework issued by FHFA on October 13, 2010, which calls for actions to 1) verify the process; 2) remediate the actual problem; 3) refer suspicion of fraudulent activity; and, 4) avoid delay.

We are tracking delays in order to be in a position to demand indemnification from servicers that breach the requirements. We are in continuous contact with servicers in order to track and oversee their progress.

We have a number of remedies we may exercise against servicers that do not service loans in accordance with our requirements. We have the right to require servicers to repurchase the loans they improperly serviced, or to pay us damages based on delays caused by their actions. We have reiterated with servicers their contractual obligations to us for failing to comply with applicable laws and the foreclosure process delays. We are preparing to pursue servicers for compensatory fees for the costly delays we and the taxpayers are incurring as a result of their failure to meet their servicing responsibilities.

On another front, we are closely monitoring the work performed by our Retained Attorney Network. This is a network of law firms across the nation that we have approved to handle our foreclosure proceedings. We established the network in 1997. In 2008 we expanded the

network and made it mandatory for the handling of Fannie Mae foreclosure cases in 31 jurisdictions. We are now expanding it to all 50 states.

Having the retained attorney network allows us to improve our oversight and management of both the servicers and the attorneys' actions during the default process. The network provides the framework to hold the attorneys accountable for their performance while giving us the authority to provide guidance to the firms, implement new policies and cost-saving structures, and audit actions by the firms.

Firms are selected based on their experience, commitment to diversity and in many cases based on recommendations by servicers.

We expect all cases to be handled in accordance with local law and practice, as well as the ethics rules of the applicable bar association. When we become aware that the law firms fall short of our standards or these requirements, we take action.

For example, through an internal review of some of the firms handling the foreclosure process for our servicers in Florida, we confirmed allegations of issues with one of the law firms in our network. Working with FHFA, we terminated our relationship with that firm. Simultaneously, we expanded our approved attorney network in Florida to address capacity needs. We're also enhancing oversight of our approved attorney network.

It is important to note that servicers, in their contractual duties to manage the foreclosure process, are required to oversee the day-to-day activities of the law firms handling our foreclosure and bankruptcy cases. We have taken a number of steps this year to establish a more robust regimen for monitoring our approved attorney network to ensure compliance with proper procedures and operations.

These steps include frequent on-site monitoring and in-depth training. We currently have more than 40 Fannie Mae personnel assigned to monitoring the network.

This year, we hired a third-party law firm to perform audits of the firms in our approved network on a regular basis. We focused those audits on items such as proper pleading of ownership of the loan and compliance with local practice with respect to charging of fees and costs. The third-party firm has completed preliminary audits of the Florida firms and also those in California, and is in the process of auditing the Georgia, New York and Michigan retained attorney firms.

We also hired an additional third-party firm to review the foreclosure process generally to identify any high risk areas where we face legal, financial, or reputational risk. The third-party firm will examine all inputs to the foreclosure process for which the firms are receiving data and documentation from external stakeholders. Our oversight and audit function will continue to evolve as we identify issues and develop best practices.

Let me make a final point about the foreclosure process and the role of attorneys and servicers. Completion of the foreclosure process involves the coordination between the mortgage servicer and the foreclosure attorney. Fannie Mae set policies and guidelines to which both parties must

adhere. In cases where the servicer fails to perform, Fannie Mae would be entitled to damages related to the delays. Our strategy has been to work with the servicer and the attorney to encourage them to perform.

We have found that we can be most helpful when there is a commitment from the servicer's management to perform and there is adequate staffing. We are urging our servicers to strengthen both management commitment and staffing.

Securitization Trusts – Chain of Title

There have been reports of various issues involving private-label securities, including mortgage document chain of title issues that call into question whether the foreclosing party had proper legal authority to foreclose. We do not believe that this problem exists for Fannie Mae securities.

The manner in which Fannie Mae requires sellers to transfer mortgage notes and mortgages to our company, and in which we further transfer those mortgage loans to MBS trusts, is based on established law. Fannie Mae's practice with regard to the transfer of mortgage notes is designed to ensure an unbroken chain of assignments to Fannie Mae from the originating lender.

In addition, Fannie Mae requires that the original note be delivered to Fannie Mae-approved custodians. As part of the acquisition process, the custodian certifies that the note has been received, contains the proper endorsement, and that other additional requirements have been met. The custodian maintains the note and related documents on Fannie Mae's behalf in a vault meeting specific fire and security requirements.

Repurchases

The Committee also has asked about our loan repurchase requests to lenders. We conduct reviews of delinquent loans and, when we discover loans that do not meet our underwriting and eligibility requirements, we require lenders to repurchase these loans or compensate us for losses sustained on the loans. We also require lenders to repurchase or compensate us for loans for which the mortgage insurer rescinds coverage.

In 2009 and during the first nine months of 2010, the number of repurchase and reimbursement requests remained high. During the third quarter of 2010, lenders repurchased from us or reimbursed us for losses on approximately \$1.6 billion in loans, measured by unpaid principal balance, pursuant to their contractual obligations.

As of September 30 of this year, we had outstanding requests for lenders to repurchase from us or reimburse us for losses on \$7.7 billion in loans, of which 36 percent had been outstanding for more than 120 days.

Many servicers work with us to resolve repurchase requests. When they do not, we are working to recover these payments in accordance with our contractual rights.

Conclusion

In conclusion, Fannie Mae is committed to balancing its dual role – to help struggling homeowners avoid foreclosure, and be responsible stewards of the public funds that support our work and make it possible to reduce foreclosures.

The good news is that the more foreclosures we can prevent, the more taxpayer funds we can save.

To date, we have helped hundreds of thousands of struggling homeowners across the country stay in their homes or avoid foreclosure. This progress shows that foreclosure prevention efforts can and do work. And when they do, it is victory for everyone – the homeowner, the neighborhood, the industry and the nation. We also recognize, however, that not every foreclosure can be avoided.

If we can motivate borrowers to work with their servicers, get servicers to help them through the broad range of solutions available today, we can help more families keep their homes and work through this very challenging housing crisis.

That is Fannie Mae's job. We know we have much more work to do, and we are committed to getting it done. We welcome and appreciate the thoughts and guidance of the Committee, as we move forward with our vital mission to help America's housing market.