



Statement of Bill Emerson

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Banking, Housing and Urban Affairs

Hearing on:

S.3085: "Responsible Homeowner Refinancing Act of 2012"

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Chairman Johnson, Ranking Member Shelby and Members of the Senate Committee on Banking, Housing and Urban Affairs, I thank you for your invitation to testify at today's hearing for this very important issue: S.3085: "Responsible Homeowner Refinancing Act of 2012". My name is Bill Emerson and I am the CEO of Quicken Loans, an independent Detroit, Michigan-based conventional, FHA, and VA retail residential mortgage lender.

As background, Quicken Loans has been in business since 1985, and has approximately 5,000 employees, most of them working in downtown Detroit. We do business in all 50 states and are the nation's largest online lender, one of the four largest retail mortgage lenders, one of the three largest FHA lenders, and a top five VA mortgage lender. We closed over \$30 billion in mortgage loans in 2011, helping almost 150,000 homeowners.

JD Power and Associates has ranked Quicken Loans highest in Customer Satisfaction for Primary Mortgage Origination in the U.S. for years 2010 and 2011.

My testimony will address HARP, HARP 2.0, the differences between the representations and warranties of a "same servicer" and "new originator" and how this affects the approximate four million underwater homeowners in America.

HARP 1.0

Has HARP 1.0 been a success? According to the FHFA's website, HARP 1.0, which was introduced in 2009, assisted about 900,000 homeowners through October 2011. On the surface, that seems like a large number. But upon closer examination, there was a missed opportunity to help those who faithfully make their mortgage payment each month, but find themselves unable to take advantage of today's low rates simply because they owe more than their home is worth.

Of the 900,000 HARP refinances, only about 200,000 have been to homeowners who owe more than their homes are worth. The rest were "coded" by the Government Service Enterprises ("GSE's") as HARP loans, but actually were made to consumers who still had equity in their homes.

Further, estimates show that there are about four million underwater homeowners who are in a mortgage backed by the GSE's, current on such mortgage and employed. These homeowners could be eligible for a HARP refinance but for their mortgage being underwater. In other words, only some 200,000 eligible homeowners have been helped out of roughly four million who need help. By this key measure, HARP has been less than successful. More should be done to help these homeowners.

HARP 2.0

HARP 2.0 is positioned to help more homeowners than HARP 1.0, and we applaud the current administration, the FHFA, the GSE's and the mortgage industry for working together to improve the HARP product by rolling out HARP 2.0. However, HARP 2.0 still is not designed to help enough underwater homeowners and as a result, we do not think enough of the four million homeowners who are eligible for HARP 2.0 will be provided with the assistance they need.

Why will HARP 2.0 fail to help many of these four million homeowners?

The answer lies in the difference between the risk the homeowner's existing servicer ("same servicer") must bear under the HARP 2.0 program versus the risk any other mortgage originator ("new originator") must bear under the program.

The risks borne by same servicers and new originators under HARP 2.0 are different because the underwriting guidelines that a same servicer must follow, as compared to the underwriting guidelines that a new originator must follow, are VERY different.

To refinance a borrower into a HARP 2.0 loan, a same servicer is not required to verify the borrower's (i) debt-to-income ratio calculations (ii) income or (iii) assets. The same servicer only needs to verify that the borrower has a viable source of income. The new originator, on the other hand, must calculate a debt-to-income ratio, and verify income and assets.

Both the same servicer and new originator have the same clean title requirements and same appraisal guidelines (if an appraisal is required).

Both new originators and same servicers are required to represent and warrant to the GSE's that they are originating and underwriting loans according to GSE guidelines. If the originator is found to be in violation of a representation and warranty, the originator is required to repurchase the loan. The GSE's routinely challenge the appraisals on loans. In many such cases, the challenges are predicated on simple differences of opinion on the values that third party, licensed appraisers provided. It is almost impossible for a lender to defend themselves in such situations, and they wind up having to repurchase many loans. In addition, the GSE's often require repurchases based on other flaws—however minor—in the origination and underwriting process. Sometimes such flaws are extraordinarily difficult to prevent (for example: a borrower who takes out a credit card or auto loan one day before the loan closes), and originators are required to repurchase loans, even though they acted diligently. Data models show that as a loan's loan-to-value ratio ("LTV") rises beyond 100%, default rates begin to rise precipitously. When the LTV exceeds 125% and beyond, default rates skyrocket. Because many HARP 2.0 loans are deeply underwater, there is great risk of default, and losses on any loan that goes into default can be substantial. It's not uncommon for a minor flaw on an underwater loan to cost \$100,000 or more.

Because the new originators have more difficult underwriting requirements than same servicers, the new originators bear a much higher degree of repurchase risk via their representations and warranties. Accordingly, most prudent new originators stay clear of any HARP 2.0 loan where the borrower is underwater, and for the most part HARP 2.0 loans are originated by same servicers, who bear less risk.

The reluctance of new originators to fully participate in HARP 2.0 has limited HARP 2.0's success. Roughly 70% of all GSE mortgages are being serviced by the largest servicing firms. Because these same servicers can originate HARP 2.0 refinances with reduced risk, these servicers must carry the load of trying to administer the HARP 2.0 program.

Notwithstanding the good intentions of the large servicers, they will simply not be able to help all HARP 2.0 eligible borrowers. Given all the other duties these larger servicers must perform aside from originating HARP 2.0 loans, they simply can't ramp up their platforms and hire and train people fast enough to help these millions of homeowners. Additionally, some of the large servicers have greatly reduced or eliminated their origination platforms, thereby significantly reducing access to credit for the HARP 2.0 borrowers being serviced by these large firms.

Because we are from the Motor City, we will provide a car-related analogy.

The current HARP 2.0 program which funnels all underwater borrowers to their current loan servicer for their new HARP loan is analogous to a car recall program which requires all car owners whose car has been recalled to return their cars to the factory for the needed repairs, as opposed to visiting one of the many dealers in the nationwide network that are capable of fixing the problem. Such a recall system would never work, and yet that is exactly how HARP 2.0 is set up today.

The GSE's already bear the risk on these loans regardless of who is originating the loans. So there is no viable reason to create artificial barriers that effectively block new originators from using the HARP 2.0 program to assist homeowners and to enable the GSE's to improve their risk position. Because HARP 2.0 is being utilized mostly by a small number of firms, the demand for HARP 2.0 originations is dramatically exceeding the supply of firms who fully offer the program. The imbalance between supply and demand has caused the price of the new HARP 2.0 mortgage to be higher than it normally would be if competition existed. Same servicer HARP 2.0 has created an oligopoly and, by any measure, oligopoly pricing is in play.

S.3085

The "Responsible Homeowner Refinancing Act of 2012" (the "Act") goes a long way toward addressing many of the underlying problems. Our comments are below.

Eligibility

Allowing a new originator to operate under same servicer guidelines resolves almost all of the issues we've addressed above. The current draft of the Act requires that the GSE's allow all originators to originate loans under same servicer guidelines. This alone would be a major breakthrough. It would enable every loan originator in the country the opportunity to help the four million HARP eligible borrowers.

We strongly support the intentions of the Act to instruct the GSE's to allow all mortgage originators to use the same servicer guidelines.

Appraisals

On roughly 80% of HARP 2.0 loans, the GSE's will provide originators an automated valuation that can be used in lieu of an appraisal. Because this valuation comes from the GSE's, the originator does not represent or warrant the value, marketability, condition or property type of the home that collateralizes the HARP 2.0 mortgage.

On the remaining 20% of HARP 2.0 loans that require an appraisal to be completed by a licensed appraiser, there is great and unquantifiable risk to originators. It is very common for the GSE's to require that an originator repurchase a loan if, many years after the loan was closed, the GSE's decide to challenge the value the independent 3rd party appraiser provided at time of origination.

Insuring a 3rd party appraiser's opinion is always risky, but it is downright irresponsible on a loan that is deeply underwater. This reality has led most originators to put restrictions or overlays on the HARP 2.0 appraisal and LTV guidelines.

We support the language in the Act that provides that on HARP 2.0 loans, the originator should only be required to comply with the GSE's methods and standards for properly ordering the appraisal and choosing the appraiser. The lender should not be required to warrant the value, marketability, condition or the property type that is evidenced by the appraisal or any allowable alternative valuation methods.

Re-subordination of Second Liens

We support the spirit of the Act requiring that lenders subordinate to HARP loans.

Mortgage Insurance

We support the spirit of the Act requiring that all mortgage insurers participate in the HARP 2.0 program.

Consistency

We also agree with the language in the Act suggesting that the FHFA issue guidance requiring the GSE's to make their refinancing guidelines under the HARP program consistent with each other to ease originator compliance requirements.

Remove barriers that make borrowers ineligible for a HARP loan

There are barriers which may cause a borrower to be ineligible for a HARP 2.0 loan, such as:

- Credit enhancements
- Repurchase request outstanding
- Loan was previously an alt A or subprime loan

We believe the current language in the Act removes these barriers.

Automated Underwriting

We think the Act should address the use of automated underwriting systems—Desktop Underwriter (Fannie) and Loan Prospector (Freddie). These systems should provide insight into key data required to determine eligibility for a HARP program as well as data necessary for the refinance.

The systems should confirm:

- The loan is eligible for a HARP refinance via confirmation of all guideline requirements, identity of borrower(s) and property address
- The estimate value of the property when/if an appraisal is not required
- Provide all mortgage insurance data applicable to perform a HARP MI Modification

Conclusion

If the "Responsible Homeowners Refinancing Act of 2012" can remain exclusively focused on improving HARP 2.0 and avoid complicated detours into other subject matters, the new version of HARP 2.0 could help millions of underwater borrowers in short order. Therefore, we support the Act as proposed.

Thank you for allowing me to testify on this very important topic.