U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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"Preserving Homeownership: Progress Needed to Prevent Foreclosures"
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Chairman Dodd, Ranking Member Shelby, and Members of the Committee, thank you for the opportunity to testify on the progress that the Obama Administration is making to stabilize the U.S. housing market through the Making Home Affordable (MHA) program, the integration of the HOPE for Homeowners element into the larger plan, and other Administration efforts to provide relief to homeowners and neighborhoods suffering from the affects of the foreclosure crisis.

My name is William Apgar and I serve as Senior Advisor for Mortgage Finance to HUD Secretary Shaun Donovan. In this capacity, I have worked closely on the development and implementation of the Administration's Making Home Affordable program which was announced on February 18, 2009, the HOPE for Homeowners program, and other efforts intended to address the housing crisis.

Making Home Affordable: Progress and Challenges

We are all aware that the U.S. is facing an unprecedented foreclosure crisis – with millions of Americans projected to lose their homes within the next few years. Working together, Congress and the Administration have undertaken a number of initiatives designed to prevent foreclosures and mitigate the impact of foreclosed and abandoned properties on local neighborhoods and the broader economy.

At the center of the Administration's effort to address the housing crisis is the Making Home Affordable Program, a comprehensive program to stabilize the housing markets by providing affordable refinance and modification opportunities for at-risk borrowers. Since the launch of the program in March, 27 servicers -- representing more than 85% of the market -- have signed up.

So far, these servicers have collectively extended trial modification offers to more than 325,000 borrowers.

Despite this significant progress, we recognize that more has to be done to reach additional homeowners facing, or at risk of, foreclosure and ensure that they are assisted in a timely manner. As with any new program, we have encountered a few difficulties in launching the Making Home Affordable Program. Many consumers have had trouble reaching their servicers and receiving a timely response from servicers after they have submitted applications for modification. Other consumers have complained of receiving inaccurate or misleading information from servicers. HUD is working with Treasury to quickly resolve issues surrounding program implementation and execution.

For instance, we have had ongoing meetings and conversations with servicers to encourage them to be more responsive. To further underscore the importance of prompt servicer response, last week Secretaries Donovan and Geithner sent letters to the CEOs of the participating financial institutions urging them to add servicing capacity and improve the quality of execution necessary to reach the sizable number of homeowners at risk of foreclosure and to designate a senior official to serve as a liaison with the Administration and work with HUD and Treasury on the implementation of all aspects of MHA. By early August, we will be able to start reporting servicer specific results publicly.

In addition, we are exploring a variety of mechanisms to enable servicers to leverage their relationships with nonprofits and other entities to help expedite the processing and approval of modification applications. HUD and Treasury are working to create a network of trusted advisors to guide borrowers through the application process, help them prepare complete application packages, and troubleshoot if the borrower appears to have been improperly deemed ineligible for the program. Moreover, HUD is also working with Treasury and the Homeownership Preservation Foundation to further train and utilize housing counseling to better resolve consumer complaints against servicers.

Evolving Nature of MHA

The MHA program continues to evolve in order to respond to the changing nature and magnitude of the foreclosure crisis. For example, on April 28, the Administration announced the framework for a program that would facilitate the modification of second liens when a first lien is modified. Second mortgages can create significant challenges to helping borrowers avoid foreclosure because they can increase borrowers' monthly mortgage payments beyond affordable levels. Up to 50% of at-risk mortgages have second liens, and many properties in foreclosure have more than one lien.

Also, on July 1, Secretary Donovan announced an expansion of the Administration's Home Affordable Refinance program (HARP) to include participation by borrowers who are current on their payments but have first mortgage loan-to-value ratios of up to 125 percent. Mortgage rates remain at near historic lows providing many homeowners with high rate mortgages the ability to refinance into lower rates and experience lower monthly payments. Unfortunately, millions of responsible homeowners have seen the value of their homes drop so dramatically that they are unable to take advantage of these lower rates. In many hard hit communities in California, Florida and Nevada, a large number of homeowners have experienced significant reductions in home values and have been unable to participate in the program. Under authorization provided by the Federal Housing Finance Agency, borrowers whose mortgages are currently owned or guaranteed by Fannie Mae or Freddie Mac will now be allowed to refinance those loans even in situations where the value of their first mortgage is as much as 125 percent of the current value of their home. By increasing this LTV cap from the previously authorized 105 percent, this new initiative will expand the ability of the program to aid many hard hit borrowers, particularly those in states suffering from the most extreme declines in home prices.

Similarly, in recognition that the MHA program will not assist every at-risk homeowner or prevent all foreclosures, the Administration announced foreclosure alternatives for borrowers and HUD is working on a number of neighborhood stabilization initiatives. Under the details announced on May 14, MHA will provide incentives for servicers and borrowers to pursue short sales and deeds-in-lieu (DIL) of foreclosure in cases where the borrower is generally eligible for a MHA modification but does not qualify or is unable to complete the process. These options eliminate the need for potentially lengthy and expensive foreclosure proceedings, preserve the physical condition and value of the property by reducing the time a property is vacant, and allows the homeowners to transition with dignity to more affordable housing. The new details simplify the process of pursuing short sales and deeds-in-lieu, which will facilitate the ability of more servicers and borrowers to utilize the program. The program provides a standard process flow and minimum performance timeframes and standard documentation. The final details of the program are being finalized, and will be announced as soon as completed.

New Legislative Authorities: HUD’s Role

In addition to efforts to improve the execution of the program that was first announced in February, the Obama Administration is now working to implement new and improved program features authorized by the “Helping Families Save Their Homes Act of 2009” signed into law on May 20, 2009. The legislation eases eligibility requirements and streamlines the application process for the HOPE for Homeowners (H4H) program and provides the Federal Housing Administration (FHA) with additional loss mitigation authority to assist FHA borrowers under MHA.

We want to commend Chairman Dodd and other members of the Committee for your leadership in getting this important legislation enacted. When fully implemented, the improved H4H program is expected to provide relief to certain at-risk homeowners who are underwater on their mortgages and are not covered by other programs, including Fannie Mae and Freddie Mac programs. The new FHA loss mitigation program will enable homeowners with mortgages insured by the FHA to obtain assistance under terms roughly comparable to borrowers in other segments of the market, without increasing costs to the taxpayer.

HOPE for Homeowners: As you know, H4H was initially authorized under the Housing and Economic Recovery Act of 2008 to provide a mechanism to help distressed homeowners refinance into FHA insured loans. The temporary program, established within the FHA, is premised on the view that the creation of equity for troubled homeowners is likely to be an effective tool for helping families keep their homes and avoid foreclosure. Unfortunately, due to several obstacles to participation, including steep borrower fees and costs, complex program requirements, and lack of operational flexibility in program design, the original H4H program has only served a handful of distressed home owners. We believe that the legislative improvements combined with the integration of the H4H into the Administration's MHA program will make the program a more attractive and less burdensome option for underwater borrowers seeking to refinance their loans and regain equity in their homes.

The improved H4H program will provide a new program option for certain at-risk borrowers who are underwater on their mortgages and are not eligible to participate in the GSE refinancing program. When a borrower approaches participating servicers for assistance, the servicer will be required to offer the option for a H4H refinancing in tandem with a MHA Trial Modification option. The program only serves homeowners who do not own other homes, demonstrate their ability to meet their H4H mortgage payment obligations, have not intentionally defaulted on any other substantial debt in the last five years, and do not have other significant sources of wealth. To ensure proper alignment of incentives, servicers and lenders will receive pay-for-success payments for Hope for Homeowners refinancings similar to those offered for Home Affordable Modifications. These additional supports are designed to work in tandem and take effect with the improved and expanded program

Though the program promises substantial benefits to underwater borrowers best served by an increased equity position in their homes, treatment of second liens poses significant challenges to the implementation of H4H. First, the presence of a second lien complicates the execution of a mortgage refinance even under the best of circumstances. As the effort to offer consumers the option of modifying both first and second liens has demonstrated, since the second liens tend to be held in portfolio by several of the nation's largest banking institutions, while first liens are owned by a wider range of investors, coordinating the communication and decision making between these two separate financial interests can be logistically complex.

Equally challenging is the determination of a fair allocation of payments to each of these two distinct investment interests needed to facilitate the refinancing of an underwater mortgage. Under the improved and integrated H4H, HUD has flexibility to pay to extinguish second liens consistent with MHA guidelines, and the potential to provide investors a share of the price appreciation in exchange for taking a significant “hair cut.” Even in situations where there is little prospect of realizing any future appreciation, many first lien investors, under the concept of “one loss – one time,” appear increasingly willing to accept the required “hair cut,” and execute a clean exit from the transaction.

Unfortunately, the calculation of second lien holders is decidedly more complex. Even in situations where the combined LTVs of first and second liens exceed the current market value of the home, seconds liens may have some value. In particular representatives of banking institutions that hold sizeable numbers of second liens in their portfolios report that that in some situations, borrowers who are delinquent on their first lien are continuing to make payments on their second lien, providing some measure of benefit to second lien holders. Of course, where the first lien is underwater, once the property moves to foreclosure, the second lien is worthless.

In light of these complex and often conflicting interests, determining a fair compensation system for holders of second liens is difficult. In this regard the recent letter to the heads of the five bank regulators (FRB, OCC, NCUA, FDIC, OTS) dated July 10 and jointly signed by Senate Banking Committee Chairman Dodd and House Financial Services Committee Chairman Frank is instructive. In assessing methods used to estimate the value of second liens held on the balance sheet of the nation’s largest banks, the letter expressed the concern “that loss allowance associated with these subordinated liens may be insufficient to realistically and accurately reflect their value, especially in light of the historically poor performance of first lien mortgages and seriously diminished value of the underlying collateral.” The letter goes on to observe that in situations where banks are allowed to carry these loans at potentially inflated values, they may be reluctant to “negotiate the disposition of these liens, and thus may stand in the way of increasing participation in the H4H.”

To better understand these issues, HUD and Treasury are now working with the OCC and other regulators that supervise the activities of the large national banking entities that hold in portfolio the largest share of second liens. In addition to ensuring that current regulatory policy does not act to encourage banks to seek to delay the realization of portfolio losses by allowing these entities to carry assets at inflated valuations, these conversations will also draw on the considerable expertise of the OCC and other regulators to help HUD craft an extinguishment schedule that will provide fair compensation to the holders of the second lien assets.

In sum, HUD remains committed to reissuing guidance on the operation of the reconstituted version of H4H program. The goal is a program that works – a program that provides real benefits to a group of homeowners best served by an increased equity position in their homes, while at the same time providing fair treatment to the interests of the investor/owners of first and second liens and adequate compensation for the other parties participating in the transaction.

The FHA Modification Program: As noted above, HUD is also now working to finalize guidance implementing the Federal Housing Administration's (FHA) Home Affordable Modification Loss Mitigation Option which is an important complement to the MHA and will provide homeowners in default with greater opportunity to reduce their mortgage payments to sustainable levels. The FHA's long-standing Loss Mitigation Program has given lenders who provide FHA-insured mortgages the authority and responsibility to assist homeowners who have fallen into financial difficulties with their home mortgages. The new legislation will increase the number of distressed homeowners receiving assistance by expanding the authority of FHA to engage in foreclosure prevention by allowing the use of new tools. Under new authorities, FHA can offer a partial claim up to 30 percent of the unpaid principal balance as of the date of default combined with a loan modification. **In addition, it permits loss mitigation tools to kick in for loans that face "imminent default," rather than just for loans in default. Moreover, FHA is granted the authority to** facilitate loan modifications through assignment of loans in order to address servicer loss mitigation disincentives relating to having to purchase loans from Ginnie Mae pools.

Additional Challenges

Even as the Obama Administration is working to improve the execution of the Making Home Affordable and to deploy new program features authorized under the "Helping Families Save Their Homes Act," we continue to examine new approaches to expand the reach of the foreclosure avoidance efforts and stabilize housing markets in communities around the country. As I noted in testimony before the House Financial Services Committee last week, the Administration stands ready to explore with Congress additional ideas to aid at-risk borrowers that may not qualify currently qualify for the MHA.

- The current very high level of unemployment is making the already difficult task of helping families struggling to meet their mortgage payment even harder. Initial efforts by the government to prevent foreclosures were not primarily designed to assist unemployed individual in some of the hardest hit communities. As the economy has weakened, unemployment has become an increasing cause of mortgage default and foreclosure. Recognizing this, the Administration is now exploring a series of programmatic options that can help unemployed workers get the mortgage assistance that they need.

- Next, recognizing that there is an impending crisis in the multifamily mortgage sector which could have devastating effects for tenants, HUD Secretary Donovan has led the Administration's review of potential means to expand access to bond financing to assist State and Local Housing Finance Agencies in continuing to pursue their important financing role to increase both affordable homeownership and rental housing opportunities. HUD has also created an internal task force to develop a better understanding of this emerging crisis, has reached out to Treasury and the Federal Housing Finance Agency (FHFA) to explore new approaches to confront this situation, and is now completing a top to bottom review of HUD's own multi-family initiatives to identify new programmatic alternatives. Building on these efforts, HUD looks forward to working with the Committee to explore various options for stabilizing the multifamily housing sector.

- Finally, Secretary Donovan has challenged HUD to do all that we can to work with Congress and the Administration to insure that the nearly $6 billion appropriated to date for the Neighborhood Stabilization Program (NSP) plays its intended role in helping to stabilize housing markets and combat blight. In many communities, NSP is starting to generate real results, but HUD will continue to monitor program activities, identify strategies that produce real results, and work to make program modifications that will help ensure that this funding is deployed quickly, wisely, and well.

Conclusion

Once again, I would like to thank you for the opportunity to participate in today's hearing. HUD shares your concerns about the progress of Administration's efforts to address the foreclosure crisis and can assure you that we are working to resolve issues related to implementation and execution of core programs and to implement new elements to improve and refine MHA in the near future. I am happy to answer any questions you may have.