Section Two: Additional Views

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Foreclosure prevention is not just the right thing do for suffering Americans, but it is the lynchpin around which all other efforts to achieve financial stability revolve.

As the Panel notes, substantial challenges remain in terms of the timeliness, accountability, and sustainability of Treasury's foreclosure mitigation programs. Even so, considerable progress has been made in crafting a responsible and effective public response.

Treasury should be commended for its recent efforts to address unemployment and negative equity as drivers of default. The housing crisis began with subprime foreclosures, as many borrowers had been given inappropriate products. However, as the recession progressed, the crisis evolved to impact prime borrowers whose loans were originally affordable. Loss mitigation initiatives need to keep pace with the changing nature of the problem, and Treasury has the difficult task of casting a wider net while maintaining the integrity of their programs.

Tension exists between expanding the scope of program eligibility and issues of fairness and preventing future defaults. **In three key areas, I believe more can be done to prevent foreclosures while balancing these competing concerns:**

1. Assisting homeowners who are experiencing temporary unemployment or other hardship;
2. Applying lessons learned from HAMP's low conversion rates to permanent modifications to the program changes that begin June 1st; and
3. Creating a national mortgage performance database.

1. The Country Needs a National Emergency Mortgage Support Program (EMS)

Even prime borrowers with loans made on prudent terms are facing increasing pressure as the crisis has continued. The number one reason for prime defaults is unemployment and reduced earnings according to Freddie Mac.

The State Foreclosure Prevention Working Group, a multi-state effort of state attorneys general and state banking supervisors, has conducted additional research that brings the impact on prime loans into sharp focus. The number of prime loans in foreclosure has doubled in each of the past two years and now account for 71 percent of the increase in the total number of loans in foreclosure.

The Administration's Help for the Hardest-Hit Housing Markets is a step in the right direction, both in terms of assisting those most in need and in leveraging states as partners. The recent enhancements to HAMP will also help unemployed borrowers through temporary payment reductions and expanded eligibility for permanent modifications.

As positive as these steps are, these measures do not replace the need for a nationwide Emergency Mortgage Support system (EMS). The Help for the Hardest-Hit Housing Markets program by design is limited to target geographies. And, the recently announced three- to six-month reprieve for the unemployed under HAMP, although very helpful, is an insufficient time frame to stabilize household budgets that have been ravaged by sharply reduced income. The scope of impacted borrowers is simply too great for anything short of a national program, which should be administered by the states with the support of the nonprofit housing community.

The five states of Pennsylvania, Delaware, North Carolina, New Jersey, and Connecticut currently have state programs to assist the unemployed facing foreclosure that can help inform a national model. They take different approaches to making short-term loans accessible for those who need temporary help while seeking to ensure that borrowers will repay their loans once their hardship has passed.

An evaluation of these differing states' approaches suggests that underwriting criteria should be based on bright lines for easy administration and program sustainability, but within a sufficiently flexible framework so that the program can truly help those it is intended to. For example, the number of past missed payments by a borrower should be evaluated on a bright line basis as most of the states do. However, the states differ on the number of missed payments that should be permitted, thus demonstrating the need for a guiding principle. The principal should perhaps be based on the age of the mortgage loan, whereby newer loans allow for fewer missed payments. This flexible framework, by incorporating a bright line, better protects the program from early payment default or fraud on newly originated mortgages while allowing appropriate discretion for aged loans to take account of servicer delays in payment processing or occasional borrower oversight.

A full set of underwriting criteria is beyond the scope of this supplemental view, but I mention this one example of how expanded assistance could be achieved within a prudent program framework. Emergency mortgage support should also involve lender and investor concessions, including eventual HAMP modification and perhaps waiving arrearages for unemployed borrowers.

2. HAMP Implementation Must Learn from HAMP's Low Conversion Rates to Permanent Modifications

I strongly support the Panel's recommendations concerning greater data collection on the HAMP process. We need improved data access to identify the choke points in the process, and then adapt to ensure that the new standards taking effect on June 1st meet their objective.

Using this data, Treasury must fully consider whether there are duplicative or burdensome document requests that could be waived, for example, in requiring profit and loss statements. More importantly, the data must address the most frequent concern I have heard from borrowers and housing counselors as Chair of New York State's foreclosure mitigation task force: borrowers do not know the status of their submissions and are not receiving timely updates as to whether submitted documents have been received or are deemed adequate. These problems do not go away on June 1st, but the number of people who will be denied access to the program will go up if they are not addressed.

I am troubled that Treasury's expanded web portal, where borrowers could check their application status and see if servicers have received necessary documentation, has so far failed to launch. Although Treasury is seeking to improve the servicers' notification process, borrowers should be encouraged and enabled to be proactive in monitoring the processing of their modification request. I urge Treasury to swiftly implement this database.

3. A National Mortgage Performance Database is Needed

The gaps in data access for borrowers seeking modifications highlight the general lack of data about the mortgage market. Access to complete information on existing mortgages does not exist, and the reason is simple: there is no mortgage loan performance data reporting requirement for the industry.

Once a new loan has been initially reported under the Home Mortgage Disclosure Act (HMDA), it is no longer tracked in any public database. HMDA has been a powerful tool for combating housing discrimination and predatory lending in mortgage origination, but a *performance* data reporting requirement would provide a similar window on servicing practices. Because lenders and servicers already report the payment status of open loans to credit bureaus, a performance data standard could be put into operation quickly.

Currently, Congress, banking regulators, consumer advocates, and other policymakers are left with incomplete or unreliable data purchased from third-party vendors or with limited data provided voluntarily by the industry. This lack of a public database has hindered the response to the housing sector. Improved intelligence on the mortgage market is critical to preventing future crises.