STATEMENT OF

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Chairman Frank, Ranking Member Bachus, and members of the Committee, today's hearing focuses on recent developments to enhance the pace of mortgage loan modifications that may help troubled borrowers remain in their homes and explores two proposed amendments to the recently passed mortgage legislation. Let me focus my remarks on the general issues involved with mortgage loan modifications.

Subprime adjustable rate mortgages (ARMs) typically provide for a lower starting interest rate that resets to a significantly higher rate over a 2- to 3-year period – the so-called 2/28s and 3/27s. The volume of such mortgages increased substantially over the last several years, into the first part of 2007. As a result, with the passage of time, the nation's mortgage markets now contend with a large volume of subprime ARMs that reset each month, a process that will continue through at least the end of 2008. Because the monthly payment on these loans can increase substantially at reset – by 25 percent or more – borrowers almost always refinance into new mortgages at the time of reset, assuming they are able to do so.

During the recent years of significant house price appreciation in many parts of the country, the vast majority of subprime ARM holders were able to refinance at reset into new mortgages because of the increased value of their homes. Conversely, with house prices becoming flat or declining in many parts of the country during 2007, it has become increasingly difficult for many subprime ARM borrowers refinance. While many such borrowers remain current on their loans or are still able to refinance at market rates or into FHA products, an increasing number have either fallen behind on their existing payments or face the prospect of falling behind when rates reset and they are unable to refinance.

There has been a vigorous and very healthy debate about how best to address widespread subprime resets and the prospect of large numbers of defaults and foreclosures. The outcome of this debate is obviously critically important to subprime borrowers in the first instance, and also to their creditors, typically investors who hold interests in securities backed in whole or in part by pools of subprime ARMs. But another critical stakeholder in the process is the mortgage servicer, one of whose jobs is to implement foreclosure when necessary, or, in the alternative, to make any loan modifications that may be appropriate to keep mortgage borrowers in their homes while mitigating the substantial losses that would accrue to mortgage lenders from foreclosure.

National banks that service subprime loans have been working to balance the sometimes competing interests of borrowers and investors. Given the large number of resetting ARMs and the potentially large number of borrowers who may be unable to afford the higher monthly payments at reset, however, there is good reason to explore new approaches to handling these issues on a broader scale. Under these circumstances, it makes sense to try to identify a programmatic approach that would facilitate modifications of large numbers of mortgages quickly using a common set of criteria. Of course – and this is important – any programmatic approach should not prevent borrowers who do not qualify under the programmatic criteria from qualifying for loan modifications based on a case-by-case evaluation of their ability to repay under modified terms. Indeed, for many borrowers who are already delinquent, have already entered foreclosure proceedings, or will not qualify for this broader program, the loan-by-loan approach will continue to be the best hope for avoiding foreclosure.

That said, there will be a significant number of borrowers who are current on their payments at the initial rate, but will not to be able to afford payments at the higher reset rate or to refinance into market or FHA mortgages. A programmatic approach to modification would make the most sense for these borrowers. Interested stakeholders in the lender, servicer, and investor community have been in intense discussions over the past weeks to develop just such an approach. It is our understanding that these stakeholders have indeed reached an agreement that will be announced later today, and although we have not seen the details, we very much support the approach in principle.

In terms of the two specific proposals that are also the subject of this hearing, my written testimony provides more details about the OCC's position. In a nutshell, given the impending agreement to be announced regarding modifications, we question whether the potential costs of retroactively modifying contracts under H.R. 4178 – meaning the potential deterrent to future investment and the new potential for litigation it raises – are worth the benefits it seeks in guarding against other types of litigation. In terms of the proposal that would increase enforcement penalties regarding "pattern or practice" violations, we are concerned that (1) federal regulators do not need such additional authority given their broad existing enforcement powers; and (2) such increased authority as a practical matter would be exercised only by federal regulators, not state regulators, because nothing in the bill would provide this new authority to states or give them incentives to adopt such authority. This second point means disparity between the regulation of state and federally supervised entities would increase, not decrease, a result that appears to be at cross-purposes with the basic goal of the House legislation.

Thank you very much.