First Look at Key Provisions in the Homeowner Affordability and Stability Plan
February 18, 2009

Overview: The "Homeowner Affordability and Stability Plan" seeks to help borrowers through one of or a combination of three tools: 1) Using Fannie Mae or Freddie Mac to refinance borrowers whose LTV exceeds 80 percent and extends up to 105 percent; 2) Provide incentives to lenders to assist borrowers, even before they are in trouble; or 3) Allowing judicial modifications of mortgages during bankruptcy for borrowers who have run out of options. Empowering judges to make such modifications to the loan would have to be authorized by Congress first.

Utilizing Fannie Mae and Freddie Mac: The plan would enable borrowers who have conforming loans owned or guaranteed by Fannie Mae or Freddie Mac (GSE) to refinance through the agencies, even if the loans have loan-to-value ratios (LTVs) higher than 80 percent but no greater than 105 percent. (Current law prohibits Fannie Mae and Freddie Mac from owning or securitizing loans with an LTV greater than 80 percent unless private mortgage insurance is utilized; it is unclear how this will be addressed in the plan.) The plan increases the funds available for each GSE from $100 billion to $200 billion under the Preferred Stock Purchase Agreements and increases the GSEs' portfolio caps by $50 billion to $900 billion, along with corresponding increases in the allowable debt outstanding. Treasury estimates that this use of Fannie Mae and Freddie Mac will help four to five million people.

Homeowner Stability Initiative: Under this aspect of the plan, Treasury will work with the GSEs, the Federal Housing Administration (FHA) and the Federal Deposit Insurance Corporation (FDIC) on several activities, discussed below, including modifications, incentives guidelines for loan modifications, requiring that financial plan recipients follow the guidelines, allowing judicial modifications of mortgages in bankruptcy (cramdown), requiring strong oversight, strengthening FHA programs and providing support for local communities. The government would commit $75 billion would to this "Homeowner Stability Initiative" or HSI.

Modifications: HSI would reduce payments through a reduction in the interest rate or principal. To participate a lender would be required to reduce the interest rate on the loan to achieve a 38 percent debt-to-income (DTI) ratio for the borrower, and then the federal government would share dollar-for-dollar with the lender to achieve a 31 percent DTI, either through interest rate or principal forgiveness. Lenders must keep the payment in place for five years, and after that time the interest rate may be stepped up to the current loan rate.

Incentives: HSI will provide incentives to mortgage lenders, servicers and borrowers. As indicated, lenders will receive Government cost sharing to lower borrowers' payments to 31 percent. Mortgage servicers would be eligible to receive $1,000 up-front for making eligible modifications. Servicers would also receive success fees monthly, up to $1,000 per year as long as the borrower stays current. Servicers would

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be encouraged to reach out to borrowers before a borrower falls behind on his payments. If an at-risk loan is modified prior to a borrower falling behind, servicers would receive $500 and mortgage holders would receive $1,500. Borrowers in the program would receive $1,000 per year toward their principal, for up to five years as long as they remain current in their payments.

Insurance Fund: As a further incentive to lenders to modify mortgages, Treasury would establish a partial guarantee insurance fund of up to $10 billion to protect lenders from declines in home prices.

Uniform Guidance: Treasury will establish uniform guidelines on mortgage loan modifications for all lenders/servicers that will be required to participate in the HSI. Fannie Mae and Freddie Mac also will use these guidelines on loans they own or guarantee and the administration will work with regulators and other federal and state agencies to implement these guidelines across the mortgage industry.

Vigorous Oversight: Treasury will require strong oversight, mandatory reporting and quarterly meetings of Treasury, the FDIC, the Federal Reserve and HUD to monitor performance.

Bankruptcy Cram Down: Allows judicial modifications of home mortgages under Fannie Mae and Freddie Mac's conforming loan limits during bankruptcy for borrowers – borrowers MUST ask lender for modification before seeking bankruptcy remedies. This provision would require a legislative change in the bankruptcy code. Under the proposal, the principal in excess of 100 percent of property value would be deemed "unsecured indebtedness."

Community Assistance: Provide $1.5 billion in relocation and other forms of assistance to renters displaced by foreclosure and $2 billion in neighborhood stabilization funds.

FHA Improvements: The plan would ease restrictions in FHA programs including Hope for Homeowners including reducing fees paid, increasing flexibility for lenders to modify troubled loans, permit borrowers with higher debt loads to qualify and allow payments to servicers of existing loans.

<u>Matters that Could be Improved Upon</u>

Coverage: The plan does not appear to cover underwater borrowers with a greater than 105 percent LTV. This is a particular concerning in areas such as California, Florida, Arizona, and Nevada. It may force them to seek bankruptcy protection.

Warehouse Lending: The Plan does not address the diminished availability of warehouse lines of credit. Without these lines many independent mortgage bankers will not have funds to assist borrowers.

Appraisal Code: It is not clear how the appraisal process will work under this Plan. The Administration may want to consider suspending the Home Valuation Code of Conduct signed by Fannie Mae and Freddie Mac with the New York Attorney General and addressing the appraisal process more comprehensively at a later date.

Bankruptcy Cramdown: MBA continues to oppose bankruptcy cramdown for any first mortgage indebtedness.

Nonconforming Loans: Another limiting factor of the plan is that it doesn't offer assistance to borrowers with jumbo mortgages and those whose mortgages are in private label securities. It also doesn't provide servicers with a sufficient safe harbor to avoid litigation from the investor or mortgage holder when the servicer is trying to help a borrower with a jumbo or non-agency mortgage.

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