DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 10, 2013

Ms. Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, DC 20036

Re: Treasury Response to SIGTARP HAMP Default Recommendations

Dear Ms. Romero:

I write in response to your letter of September 3, 2013, in which you provide three recommendations that you believe would reduce the number of homeowners defaulting on their mortgages under the Home Affordable Modification Program (HAMP). The Treasury Department welcomes oversight of all its programs, including HAMP and the other programs under the Troubled Asset Relief Program. Earlier this year, SIGTARP offered four recommendations similar to these three. Treasury is committed to reducing re-default rates as much as possible, and agrees with the broad points made in support of those four recommendations, as stated in our letter to you of July 5, 2013, as well as with many of the broad points made in support of these additional recommendations. This letter describes Treasury's efforts to assess and reduce the risk of re-default and responds to SIGTARP's three recent recommendations.

I. The Longer Homeowners Remain in HAMP, the More Likely They Are to Keep Up with their Mortgage Payments and Avoid Foreclosure.

At the outset, it is important to note some general facts about the program. HAMP already has helped more than 1.2 million borrowers. In addition, Treasury's housing programs set standards for mortgage modifications, prompting changes in industry procedures that have contributed to nearly 7 million permanent modifications and loss mitigation interventions since early 2009 (including HAMP). Today, borrowers in HAMP continue to demonstrate a high likelihood of long-term success in the program.

Treasury's program data shows that the longer homeowners remain in HAMP, the more likely they are to keep up with their mortgage payments and avoid foreclosure. In addition, the Office of the Comptroller of the Currency has found that homeowners in HAMP consistently exhibit lower delinquency and re-default rates than those in private industry modifications.[1]

[1] OCC Mortgage Metrics Report, First Quarter 2013, available at http://www.occ.treas.gov/publications/publications-by-type/other-publications-reports/mortgage-metrics-2013/mortgage-metrics-q1-2013.pdf.

The program was designed to minimize the number of borrowers that default on HAMP-modified loans in several ways. One is the trial period —when the borrower demonstrates the ability and willingness to make payments at the modified amount— before receiving the permanent modification. Another is HAMP's incentive structure, under which servicers and borrowers each receive a financial incentive for maintaining the modified loan in good standing. Servicer incentives also encourage servicers to engage borrowers as quickly as possible in the event of a missed payment. HAMP program guidance also requires servicers to work with the borrower to cure any re-default.[2] In addition, the servicer issues a loss-of-good-standing letter to notify the borrower of the amount necessary to reinstate the loan and the consequences of re-default. That letter also encourages the borrower to contact the servicer to be evaluated for other loss-mitigation alternatives.

In addition to these efforts to reduce the risk of re-default, we also have developed standards for mortgage modifications generally. At the start of the financial crisis, the mortgage servicing industry was not equipped to respond to the wave of potential foreclosures on the horizon. Servicers were particularly inadequate with respect to the process of reaching out to delinquent borrowers and determining whether to provide a mortgage modification. These inadequacies affected whether a borrower received a trial modification in the first place and whether that trial modification was converted into a permanent modification.

Setting standards for consumer protection, and making affordable and sustainable modifications, is one of HAMP's most important accomplishments. For example, we implemented standards to address widespread problems, such as servicers failing to make contact with the borrower, failing to respond to borrowers in a timely fashion, and losing documents submitted by borrowers. We also implemented standards for establishing right party contact, preventing dual tracking, and assigning a single point of contact within the servicer's organization. We also streamlined our own documentation and other requirements to simplify the modification process. These standards have been widely adopted across the industry. They also have formed the basis for the standards required under the National Mortgage Settlement between and among the nation's five largest mortgage servicers, the Federal government, and 49 state Attorneys General.

II. Treasury Continues to Conduct Research, Which Addresses SIGTARP's First Recommendation.

SIGTARP previously recommended that Treasury conduct research on the causes of re-defaults. We noted in our July 5 response that we have been doing so and would continue to do so. In the most recent letter, SIGTARP's first recommendation is that Treasury should "research and analyze whether and to what extent the conduct of HAMP mortgage servicers may contribute to homeowners re-defaulting on HAMP permanent modifications."

As we noted in our July 5 letter, since HAMP's inception we have relied on mortgage modification research (both our own and from third parties) to adjust our program to further reduce the risk of re-default. Such adjustments included increasing the up-front servicer incentive to encourage servicers to modify loans in the early stages of delinquency and increasing the incentives for principal reduction.

[2] MHA Handbook v4.3, Chapter 2, Section 9.4.

We also continue to perform our compliance reviews, which involve thousands of loan file reviews. Those compliance results are published in our quarterly Servicer Assessments reports. Servicer performance has improved significantly since we began publishing those reports as reflected in the three compliance categories in the attached chart.[3]

The question of whether servicer performance affects re-default rates is also something we have examined. For example, one critical area where servicer behavior could impact re-defaults is the initial calculation of borrower income, or "income calculation." Correctly calculating homeowner monthly income is a fundamental component of evaluating eligibility for HAMP, as well as establishing an accurate modified payment. Treasury tests servicer income calculations to determine their error rates and measures those rates against Treasury's benchmark for performance. Treasury publishes the results of those tests in the quarterly Servicer Assessments.

Treasury's work has led to significant reductions in servicer income calculation error rates. In the first quarter of 2011, the highest income calculation error rate was above 30%. Two years later, the highest income calculation error rate from any of the top servicers was 3.1%. Consistent with the recent recommendations, Treasury will continue to monitor servicer performance with respect to income calculation, publish the results, and exercise the appropriate remedies as necessary. Treasury has and will continue to look for ways to enhance our compliance process to improve servicer compliance with MHA requirements.

We understand that your recommendation was not made as part of any audit of Treasury and therefore appears not to be based on any specific research or fieldwork on this issue. We have asked you if there were specific types of servicer behavior that you thought were contributing to re-default rates and which Treasury is not currently addressing. Thus far you have not provided any. If you do have concerns about particular conduct that is contributing to re-default rates, please let us know.

III. Treasury's Servicer Assessments Address SIGTARP's Second and Third Recommendations to Develop and Publish Benchmarks on Servicer Performance.

Your second and third recommendations are that we establish "an achievable benchmark for a re-default rate that represents acceptable performance," that we report and require servicers to report against that benchmark, and that we take action if a servicer fails to meet the benchmark. We agree that establishing appropriate benchmarks and publishing servicer performance against those benchmarks is important. That is why we developed the Servicer Assessment reports.

At the same time, measuring servicer performance against industry-wide quantitative metrics only makes sense if such metrics exist, or if they can be created and still be logical, defensible, non-arbitrary and non-discriminatory. Your letter identifies that no industry metric currently exists to measure servicer impact on re-default. There may be reasons for that.

We note, for example, that re-default rates are the product of a host of variables, many of which are not in the servicer's control. These variables include fluctuations in economic conditions and changes in borrower circumstance. In addition, some of those variables differ across servicers'

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[3] Excerpt from the July 2013 MHA Program Performance Report.

loan portfolios. Some servicers specialize in servicing subprime loans with a higher risk of re-default, so their portfolios would be expected to have a higher rate of re-default. Other servicers do not. As a result, absent further information, a servicer's re-default rate cannot be relied upon as an accurate measure of a servicer's performance.

In addition, to the extent that re-default rates vary based on factors within the servicer's control, although a benchmark could have positive effects, it could also induce undesirable behavior that leads only to the appearance of reduced re-default rates without achieving the actual desired effect of helping borrowers. For example, servicers whose re-default rate is higher might seek to sell their lower credit quality loans to another servicer and decline to provide or service mortgages to persons with lower credit scores in the future. This could create a chilling effect on helping the very loans most in need of special servicing.

As we have indicated previously, we are open to input from you and your team on what an appropriate quantitative benchmark should be, and how one should be established. If SIGTARP is aware of any data or evidence that a particular benchmark would reduce re-default without incentivizing undesirable behavior, we would appreciate reviewing it.

IV. Conclusion.

Treasury is committed to reducing re-default rates to the lowest possible level. While we will continue to consider your recommendations, Treasury will also continue to examine whether other steps can help reduce the risk of re-defaults. For example, we recently published guidance requiring servicers to provide financial counseling to borrowers who have received mortgage modifications under HAMP, at no cost to the borrower. This requirement applies to borrowers who have shown signs of payment distress or who are otherwise deemed to be at higher risk of default, as well as borrowers who are beginning trial modifications under HAMP. We are also proceeding with plans to conduct a survey of borrowers who have re-defaulted, in order to better understand the causes of re-default.

We believe these steps will be effective at reducing the risk of re-default, which addresses the spirit of your last seven recommendations on this topic. Please feel free to contact me about these issues if you would like to discuss them further.

Sincerely,

Tim Massad

Timothy G. Massad
Assistant Secretary for Financial Stability

Enclosure

MHA Servicer Assessment
Overview

MHA Compliance Results, Loan File Review: 2nd Quarter 2011–2nd Quarter 2013

Servicer	Second Look % Disagree[1] Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012	Q1 2013	Q2 2013
Bank of America, N.A.	0.8%	1.0%	1.0%	2.0%	1.0%	1.2%	1.3%	0.0%	0.0%
CitiMortgage, Inc.	0.5%	1.5%	1.0%	1.0%	1.0%	2.0%	6.7%	1.3%	4.7%
GMAC Mortgage, LLC [4]	1.7%	1.0%	0.5%	0.0%	0.5%	1.3%	2.0%	0.0%	N/A
Homeward Residential, Inc.[4]	0.7%	0.0%	1.5%	1.0%	1.0%	0.0%	0.0%	0.0%	N/A
JPMorgan Chase Bank, N.A.	1.2%	0.0%	0.7%	0.2%	0.0%	0.1%	0.2%	0.2%	0.7%
Litton Loan Servicing, LP[4]	3.3%	1.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ocwen Loan Servicing, LLC	2.7%	0.0%	0.7%	1.0%	1.0%	0.0%	0.0%	0.7%	3.1%
OneWest Bank	0.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Select Portfolio Servicing, Inc.	0.0%	0.8%	0.0%	0.0%	0.5%	0.0%	2.0%	1.3%	2.0%
Wells Fargo Bank, N.A.	0.4%	0.4%	0.0%	0.3%	1.0%	1.3%	3.0%	1.3%	3.0%

Servicer	Second Look % Unable to Determine[2] Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012	Q1 2013	Q2 2013
Bank of America, N.A.	8.2%	1.5%	1.0%	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CitiMortgage, Inc.	5.5%	0.5%	1.0%	0.5%	1.0%	3.8%	6.0%	4.7%	0.0%
GMAC Mortgage, LLC [4]	0.7%	0.0%	0.0%	0.0%	1.0%	0.0%	0.0%	2.0%	N/A
Homeward Residential, Inc.[4]	1.0%	0.0%	0.0%	1.0%	0.5%	1.3%	1.3%	1.3%	N/A
JPMorgan Chase Bank, N.A.	3.2%	0.9%	1.0%	0.7%	1.7%	1.4%	3.8%	3.1%	2.7%
Litton Loan Servicing, LP[4]	2.7%	2.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ocwen Loan Servicing, LLC	3.0%	2.4%	0.0%	0.0%	0.0%	1.3%	0.0%	0.0%	2.0%
OneWest Bank	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.3%	0.0%	0.0%
Select Portfolio Servicing, Inc.	0.3%	0.8%	0.0%	3.0%	0.0%	0.7%	0.7%	0.7%	0.0%
Wells Fargo Bank, N.A.	1.3%	1.3%	0.0%	0.0%	0.8%	1.0%	0.5%	0.3%	0.0%

Servicer	Income Calculation Error Rate[3] Q2 2011	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012	Q1 2013	Q2 2013
Bank of America, N.A.	13.2%	6.0%	6.0%	5.0%	2.0%	3.0%	1.0%	3.0%	3.0%
CitiMortgage, Inc.	12.0%	6.0%	3.0%	4.0%	1.0%	3.1%	0.0%	1.0%	2.0%
GMAC Mortgage, LLC [4]	4.2%	4.2%	6.5%	4.0%	6.0%	10.0%	4.0%	2.0%	N/A
Homeward Residential, Inc.[4]	5.3%	2.0%	1.0%	2.0%	1.0%	4.0%	7.0%	2.0%	N/A
JPMorgan Chase Bank, N.A.	20.6%	6.0%	10.0%	9.0%	0.0%	2.0%	0.0%	1.0%	0.0%
Litton Loan Servicing, LP[4]	2.0%	1.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ocwen Loan Servicing, LLC	2.0%	2.0%	2.0%	3.0%	3.0%	0.0%	0.0%	1.0%	1.3%
OneWest Bank	2.0%	2.0%	0.0%	3.0%	1.0%	0.0%	1.0%	0.0%	0.0%
Select Portfolio Servicing, Inc.	10.0%	3.2%	1.0%	3.0%	2.0%	3.0%	2.0%	0.0%	3.1%
Wells Fargo Bank, N.A.	4.4%	5.5%	4.0%	2.0%	0.0%	1.0%	1.5%	1.0%	0.5%

1 Second Look % Disagree: Percentage of loans reviewed where MHA-C did not concur with the servicer's MHA determination.
2 Second Look % Unable to Determine: Percentage of loans reviewed where MHA-C was not able to conclude on the servicer's MHA determination.
3 Income Calculation Error %: Percentage of loans for which MHA-C's income calculation differs from the servicer's by more than 5%.
4 Ocwen Loan Servicing, LLC includes loans previously reported under Litton Loan Servicing LP, Homeward Residential, Inc. and GMAC Mortgage, LLC.