Statement of

Patrick J. Lawler, Chief Economist

Federal Housing Finance Agency

Before the House Financial Services Committee

Subcommittee on Housing and Community Opportunity

Loan Modifications:
"Are Mortgage Servicers Assisting Borrowers with Unaffordable Mortgages"

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Chairwoman Waters, Ranking Member Capito and members of the Subcommittee, thank you for the opportunity to testify on behalf of the Federal Housing Finance Agency (FHFA). My name is Patrick Lawler and I am Chief Economist of FHFA.

Today, the country faces an enormous challenge to stabilize the housing market. FHFA and the housing GSEs are actively working on foreclosure prevention to help homeowners in trouble. This is a major component of FHFA's four-pronged strategy to ensure the housing GSEs fulfill their mission of providing liquidity, stability, and affordability to the housing market. The other crucial components of this strategy are:

- Ensuring that Fannie Mae, Freddie Mac, and the Federal Home Loan Banks support the market in a safe and sound manner, with special emphasis on affordable housing;
- Strengthening confidence in Fannie Mae and Freddie Mac, which should improve mortgage rates; and
- Working with the Enterprises to set best practices for the whole mortgage market.

The housing plan outlined last Wednesday by President Obama highlighted an even more prominent role for Fannie Mae and Freddie Mac. My testimony today will summarize recent initiatives and activities already underway to promote effective loan modifications, and discuss the even larger Enterprise role announced last week.

Since its inception, FHFA has provided supervision and oversight of the Enterprises' credit risk profile and default management activities including loss mitigation programs. During the last 24 months, that oversight heightened with the rise in defaults, serious delinquency rates and foreclosures. During 2008, FHFA worked closely with Treasury, HUD, the FDIC, other regulators, and the Enterprises to enhance and expand loss mitigation activities in general, and loan modifications in particular. FHFA implemented monthly and quarterly Foreclosure Prevention Reports to monitor and publicly disclose the Enterprises' efforts to assist "at risk" borrowers.

As indicated in our Federal Property Manager reports, modifications have been rising steadily since the beginning of 2008. In 2007, loan modifications totaled 34,603 and averaged 2,884 per month. As of November 2008 year-to-date, monthly loan modifications have ranged from 3,971 to 8,291 per month, and averaged 5,311. In addition, Fannie Mae introduced the Home Saver Advance program which allowed borrowers to reinstate their accounts with an unsecured loan on the property. As of November 2008, Home Saver Advance loans reinstated 61,671 accounts.

Clearly, modifications can be very effective in reducing foreclosures. To maximize that effectiveness, servicers need to be able to establish meaningful contact with the borrower. Also, borrowers must provide information needed for the servicer to create a payment that is affordable, and that the borrower can consistently pay over time. The likelihood of a successful modification is increased when servicers and borrowers connect very early on – before the account is deeply delinquent.

Since the 1980s, the Enterprises have offered loan modifications as an alternative to foreclosure. A loan modification is simply a change to one or more of the mortgage terms – unpaid balance, term or interest rate – that creates a more affordable payment for the borrower. A standard loan modification requires the borrower to submit a personal budget, hardship statement, and verification of income. The servicer pulls an updated credit report. The borrower's ability to pay is calculated on his or her personal circumstances, and is based on the borrower's residual cash-flow. The approach is customized to the borrower's situation, requires extensive communication, and is very labor-intensive. In this environment with rapidly rising delinquencies, servicers are challenged by the sheer volume of borrowers requesting assistance and their ability to effectively and efficiently modify the loans. As a result, new programs have been designed with the goal of reaching more borrowers more quickly, and making it easier and faster to execute a loan modification.

In November, FHFA announced the "Streamlined Modification Program" (SMP) that was rolled out in December. To date, 90,000 letters (solicitations or modification offers) have been mailed to a targeted population of borrowers who had missed three payments. Responses to those letters are just starting to come in. Early indications are that several of the program guidelines should be liberalized to reach a broader population and to create a lower, more affordable payment. This feedback was shared with the Treasury Housing Team working on the Administration's Homeowner Affordability and Stability Plan.

In addition to the SMP announced in November, the Enterprises have taken many additional steps to help avoid preventable foreclosures. They suspended foreclosures and evictions and developed programs to protect renters living in foreclosed properties. They are pulling loan files for a second look before foreclosures, and they are working with credit and housing counselors.

Historically, under individually customized modifications, re-default rates have ranged around 25 – 30 percent. Because the SMP was just recently rolled out, there are no data to calculate re-default rates. It's important to note that when calculating and analyzing re-default rates, common definitions are required. There is much debate within the industry as to what those definitions are, how re-default rates should be measured and over what timeframes.

Private Label Securities (PLS)

As conservator of the Enterprises, FHFA has not only taken strong action to ensure the maximum effort by the Enterprises to modify loans to prevent foreclosures, but also has taken a leading role in efforts to address the foreclosure crisis in the private-label securities market. While Fannie Mae and Freddie Mac own or guarantee almost 31 million mortgages, about 56 percent of all single-family mortgages, the mortgages they own or guarantee represent just 19 percent of serious delinquencies. Private-label mortgage-backed securities (PLS) represent 16 percent of all outstanding mortgages but more than 62 percent of the serious delinquencies.

If we are going to stabilize the housing market, we must address that 62 percent. FHFA believes Fannie Mae and Freddie Mac must be leaders in improving, promoting, and enforcing industry standards and best practices for all mortgages.

The GSEs own the largest position of originally AAA-rated private-label residential and commercial mortgage-backed securities. Currently, Fannie Mae, Freddie Mac, and the 12 Federal Home Loan Banks own $255 billion unpaid principal balance in private-label residential mortgage-backed securities or 14 percent of single-family PLS outstanding. Fannie Mae and Freddie Mac have wrapped an additional $13 billion unpaid principal balance of such securities, which they now guarantee for third-party investors. Subprime and Alt-A mortgages constitute the overwhelming majority of mortgages backing these securities for Fannie and Freddie. The Federal Home Loan Banks have very little subprime but a substantial investment in Alt-A securities.

We have heard for almost two years that it is hard to modify PLS because of the constraining trust and pooling and servicing agreements. In December, FHFA convened a meeting with the major trustees and a group of high touch, independent servicers. Director Lockhart has met with American Securitization Forum representatives and private-label MBS servicers, investors, and trustees to strongly encourage rapid adoption of SMP as the industry standard. In light of the GSEs' large exposure to mortgages in private label MBS, on November 24, 2008, the Director sent to private-label securities servicers and trustees a letter urging their prompt action to support SMP. We have subsequently encouraged the Corporate Trust Committee of the American Bankers Association in the development of its letter encouraging all servicers to consider and pursue appropriate modifications in a proactive and timely manner, and providing information on how to best work within PLS pooling and servicing agreements. I am pleased to say that the Corporate Trustee Committee recently released a letter doing just

that. We and the Enterprises are working with independent mortgage servicers to help them in their efforts to obtain financing of the advances they are required to make to PLS trusts.

FHFA began in September a Foreclosure Prevention Report, which is a transparent review of key performance data on foreclosure prevention efforts. These monthly and quarterly reports present data from more than 3,000 approved servicers on 30.7 million first-lien residential mortgages serviced on behalf of Fannie Mae and Freddie Mac, of which 84 percent are prime. The just released November report showed that for the first full two months of conservatorship, October and November, the number of loan modifications increased 50 percent from the previous two months.

FHFA understands the nation's deep concern over the personal hardships of the foreclosure crisis. We maintain that significant loan modifications are the best way to help both the people involved and the economy in the long run. Any legislative changes to existing bankruptcy laws should be approached in as careful and considered way as possible to avoid unintended consequences for individuals and for weakened financial institutions. We must do everything we can to give homeowners incentive to achieve an affordable mortgage payment through loan modifications rather than endure the hardships of bankruptcy.

Modification Costs and Process Improvements

The Committee asked about costs of modifications – to the servicer, the investor, and the GSEs and about how the modification process can be improved.

In the absence of any loss mitigation strategy, the delinquency and ultimate foreclosure on a residential property imposes substantial costs on all stakeholders. The borrowers end up with ruined credit records and the loss of their homes. The servicer absorbs the up-front responsibility of covering missed payments and the operational expenses of trying to work with the borrower. The investor ultimately absorbs the foregone payments, the process costs of the foreclosure, and the difference between the mortgage balance and the net realized value upon sale of the house. If the mortgage is in a MBS guaranteed by Fannie Mae or Freddie Mac, the Enterprise absorbs these losses instead of the investor as do private mortgage insurers and bond insurers, where applicable.

As the total costs of foreclosure can be sizeable in relation to the mortgage balance, servicers often will pursue less costly outcomes, ranging from loan modifications that reduce the income stream on the mortgage but keep the borrower paying on the mortgage to alternatives to foreclosure that result in the homeowner leaving the property. These alternatives include short-sales – the sale of a house at less than the mortgage balance – and deed-in-lieu transfers where the borrower surrenders the property to the lender without going through foreclosure.

The Homeowner Affordability and Stability Plan anticipates the use of a standard net present value (NPV) model. The purpose of that model is to compare the cost of the modification to the cost of foreclosure and to identify the least cost alternative.

Areas where improvements can be made are in borrower education and in servicer capacity. First, borrowers need to be educated to not immediately pack up and vacate the property when they hear the term "foreclosure." Foreclosure is a process that takes anywhere from 4 to 24 plus months to complete. During this period, any borrowers interested in retaining their homes can and should continue to work with the servicer to reinstate the account. Second, serious attention should be placed on assisting servicers in expanding their capacity to reach all borrowers who are in need of help. The Homeowner Affordability and Stability Plan substantially increases servicer incentives to modify loans. However, servicers should be encouraged to hire the required resources to do the job right. In addition, servicers' capacity can be expanded by leveraging off existing housing counseling agencies. Furthermore, the servicer workforce can be further expanded with training of professionals with a comparable skill set and experience; e.g., tax preparers accustomed to working one-on-one with clients. Finally, technology initiatives are being explored to make the process more accessible, timely and efficient; e.g., a web-based portal available to all borrowers nationwide.

Before I move on to the pivotal role to be played by the Enterprises in loan modifications under the Homeowner Affordability and Stability Plan announced by President Obama last week, I want to provide a brief update on Enterprise utilization of the support facilities created under the July 2008 HERA legislation, and under more recent Federal Reserve programs. These important sources of liquidity and financial backing allow the Enterprises to operate in conservatorship and to play a crucial role in helping to restart the housing market.

Government support for the GSEs

HERA gave the Treasury Department authority to support Freddie and Fannie and fund them in a variety of ways. We could not have put Fannie and Freddie into conservatorship without Treasury's $100 billion Senior Preferred Stock facility, which provides *an effective guarantee* of the Enterprises' debt and mortgage-backed securities by ensuring each Enterprise has a positive net worth. The amount of this facility, $100 billion, That is about *three times* the minimum capital the old law required. In return, Treasury received from each Enterprise a billion dollars in senior preferred stock and warrants for 79.9 percent of the common stock. At the same time, we eliminated the dividends on both the common and preferred stock.

This Senior Preferred Stock facility protects not only present senior and subordinated debt holders and MBS holders but also *any future* debt and MBS holders. It lasts until the facility is fully used or until all debt and mortgage-backed securities are paid off. To date, Freddie has accessed about $13.8 billion and indicated it needs another $30 billion to $35

billion to cover fourth quarter losses. Fannie only just recently announced that it will need $11 billion to $16 billion to cover its fourth quarter losses.

As Secretary Geithner and President Obama announced last Wednesday, Treasury has doubled the Senior Preferred Stock Facility to $200 billion each to remove any possible doubt from the minds of investors that the U.S. Government stands behind Fannie Mae and Freddie Mac.

Two additional facilities were also implemented when the conservatorships began. Under the first, Treasury has purchased $94 billion in mortgage-backed securities and has made it clear it will continue to be an active buyer. The second is an unlimited secured credit facility which acts as a liquidity backstop for Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, but this has not been utilized.

In November, the Federal Reserve announced two critically important programs to reduce mortgage rates. In the first, it will purchase $500 billion or more in Fannie Mae, Freddie Mac, and Ginnie Mae MBS over a period of six months. Since the beginning of January, the Fed has purchased $115 billion under this program. The second program is a purchase of up to $100 billion in Fannie Mae, Freddie Mac, and Federal Home Loan Bank debt. To date, the Federal Reserve has purchased $30 billion in Fannie, Freddie, and Federal Home Loan Bank notes. Both of these programs are a significant part of the government's overall efforts to restart the housing market.

These programs have had a very positive impact on mortgage rates, which have fallen more than 100 basis points. Rates on 30-year loans even dropped below 5 percent, but crept back up to 5.04 percent in Freddie Mac's latest weekly report. These lower rates provide an important opportunity to do two things—refinance and modify mortgages to help stabilize housing prices. If confidence is restored and the present large spread to Treasury rates is reduced, mortgage rates could move lower.

Although I have been concentrating on the single family market, the housing GSEs are very important players in multi-family housing. That market is extremely important in creating affordable housing. Fannie and Freddie remain committed to that market through Delegated Underwriting and Servicing, and Commercial Mortgage-Backed Securities. As the President indicated last week, we are working with the GSEs - and with private sector industry participants - on ideas to better support Housing Finance Agencies, especially in the tax credit and housing bond areas.

Homeowner Affordability and Stability Plan

Let me now turn to the new Homeowner Affordability and Stability Plan announced last week by President Obama, focusing particularly on elements of the plan relevant to the Enterprises. FHFA was pleased to work with the White House, the Treasury Department, and the Enterprises in the development of this plan. It is a major step forward in reducing preventable foreclosures and stabilizing the housing market. It aggressively builds on the FDIC's and our streamlined mortgage modification programs. While the Enterprises will

receive less in monthly payments on the modified loans, this should be more than offset by the benefits of having far fewer defaults and foreclosures. The key elements of the plan are:

1. **Fannie Mae and Freddie Mac will provide access to low-cost refinancing for loans they own or guarantee.** This will help up to 4 to 5 million homeowners avoid foreclosure and reduce their monthly payments. This program is designed for current borrowers who seek to refinance at a lower rate or into a safer mortgage but who have experienced difficulties due to declining home values. They will be eligible for a refinanced mortgage with a current loan-to-value of up to 105 percent.

This refinance initiative covers only mortgages that Fannie Mae and Freddie Mac already hold in their portfolio or guarantee through their MBS. Thus, they already hold the credit risk on the mortgage. For those mortgages that at the time of origination had above 80 percent LTV ratios, there exists some form of credit enhancement, in most cases private mortgage insurance. For those that had LTVs below 80 percent at origination, no additional credit enhancement was needed.

The target beneficiaries of this initiative are those homeowners who are current on their mortgages. The initiative is premised on the unusual and exigent market circumstances that preclude such homeowners from refinancing to a lower rate mortgage because of the combined effects of the decline in house prices and limited availability of mortgage insurance.

The refinance initiative allows a borrower with a mortgage held or guaranteed by Fannie Mae (Freddie Mac) to refinance into a new mortgage that would be held or guaranteed by Fannie Mae (Freddie Mac). The key characteristic of this initiative is that the borrower need not obtain additional credit enhancement (such as private mortgage insurance) on the refinanced loan in excess of what is already in place for that loan. That is, the overall credit exposure of Fannie Mae (Freddie Mac) would not increase after the refinance. In fact, it would be reduced because, after the refinance, the borrower would have a lower monthly mortgage payment and/or a more stable mortgage payment.

There are several important limitations placed on the refinances permitted under this initiative. The refinance will not have a cash-out component, except for closing costs and certain de minimus allowances; the Enterprise will use its best efforts to continue existing mortgage insurance coverage; monthly principal and interest payments will be reduced or the borrower will be refinanced from a more risky loan (such as interest-only or a short-term ARM) to a more stable product; and this new authority extends only through June 10, 2010.

The refinance initiative is akin to a loan modification as it affects loans for which an Enterprise already holds the credit risk. By creating an avenue for the borrower to reap the benefit of lower mortgage rates in the market, the credit risk of that mortgage to the

Enterprise diminishes; thus, this is a loss-mitigation initiative in this very troubled time in housing finance. It has the added benefit of helping many households strengthen their own financial situation and enhance their commitment to their home and community. FHFA will maintain its oversight over the initiative as part of its safety and soundness responsibilities.

2. **A $75 billion loan modification plan, called the Homeowner Stability Initiative, will reach up to 3 to 4 million at-risk homeowners.** This program will help homeowners stay in their homes and protect neighborhoods. Importantly, there will be a national standard for loan modifications and the Treasury will partner with financial institutions to reduce borrowers' housing costs to 31 percent of their gross incomes through a combination of interest rate reductions, maturity extensions, principal forbearance, and/or principal forgiveness. The initiative will pay half the cost of the reduction from 38 percent to 31 percent. There will be "pay for success" incentives for servicers, incentives to encourage borrowers stay current, incentives to reach borrowers early, and reserve payments to encourage lenders to modify mortgages even though prices could fall further. For those loans owned or guaranteed by Fannie Mae or Freddie Mac, the Enterprise will bear the full cost of the modification.

3. **Treasury will support low mortgage rates by strengthening confidence in Fannie Mae and Freddie Mac.** The Treasury Department has doubled the size of its Preferred Stock Purchase Agreements to $200 billion each. This increase is to provide assurance to the markets that Fannie Mae and Freddie Mac will continue to fulfill their important mission of providing much-needed liquidity, stability and affordability to the housing market at this time.

Resetting these agreements from $100 to $200 billion each should remove any possible concerns that investors in debt and mortgage-backed securities have about the strong commitment of the U.S. Government to support Fannie Mae and Freddie Mac. In addition, the Treasury Department will continue to purchase Fannie and Freddie MBS, and is increasing the size of the GSEs' allowable mortgage portfolios by $50 billion to $900 billion, along with corresponding increases in the allowable debt outstanding.

Over the next several days, FHFA will be working with the Administration and the Enterprises to finalize the details and implement this program.

Thank you for the opportunity to offer this testimony. I will be happy to answer questions.

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Washington, DC 20036

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Diane Casey-Landry
Chief Operating Officer &
Sr. Executive Vice President
Tel: 202-663-5110
Fax: 202-663-7533
dcasey@aba.com

February 6, 2009

James B. Lockhart III
Director
Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

Re: Mortgage Loan Modifications for RMBS Transactions

Dear Director Lockhart:

The American Bankers Association ("ABA")[1] has been working with our members to address the many issues arising out of the ongoing turmoil in the mortgage markets. Chief among these are the issues surrounding foreclosure mitigation and loan restructuring. ABA has been in the forefront of efforts to assist our members in their efforts to modify home loans. We have been a strong supporter of the private HOPE NOW coalition and have supported the framework of the FDIC's loan modification proposal as well as the Hope for Homeowners program.

Given the FHFA's role as the regulator of Fannie Mae and Freddie Mac and the efforts you are undertaking with these GSEs to encourage loan modifications, we are writing to set forth the position of our corporate trustee members with respect to the subset of residential mortgages that have been privately securitized.

Our corporate trustees seek to encourage servicers of RMBS transactions to consider loan modifications as an appropriate loss mitigation strategy on RMBS transactions where the servicer believes such loan modifications will provide a benefit to investors as a whole. In addition, the trustees encourage servicers to commence loan modification efforts where the servicer believes a loan default is imminent and a modification will result in a more favorable recovery than foreclosure.

[1] ABA brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $12.7 trillion in assets and employ over two million men and women. ABA's corporate trust members represent the vast majority of banks who serve as trustee on residential mortgage-backed securitization transactions.

Over the past year, the trustee banks have been involved in discussions with the Federal Housing Finance Agency ("FHFA"), federal, state and local legislators, and various media outlets in an effort to educate government officials and the public about the unique challenges of modifying mortgages that secure RMBS transactions.

As a result of these discussions, the trustees believe that attempting to reduce the number of preventable foreclosures can be in the best interests of all of the parties to RMBS transactions, particularly given that increasing numbers of foreclosures drive down property values, which, in turn, diminishes the value of RMBS collateral.

ABA trustee banks are neither advocating nor advising servicers to adopt any specific loan modification program or framework promulgated by various industry groups, regulators or governmental agencies. Rather, ABA trustee banks are encouraging all servicers to consider and pursue appropriate modifications in a proactive and timely manner. We recognize that it is the servicer who must determine, in the exercise of its sound business judgment, whether a loan modification:

- Is appropriate for a particular borrower;
- Will be an effective long term solution;
- Is permitted under the applicable servicing agreement; and
- Maximizes the return to investors as a whole.

We believe that the general approaches discussed below can be adapted by servicers and subservicers to meet the requirements of the specific RMBS transactions for which they provide mortgage servicing services.

The servicing agreements for RMBS transactions are not uniform and may place limitations on servicers' ability to modify such mortgage loans. However, we believe that loan modifications when properly made in accordance with the underlying transaction documents can be in the best interests of all investors in RMBS transactions.

Types of PSA Provisions

The pooling and servicing or similar agreements (collectively "PSAs") in RMBS transactions specify the servicing standards to be followed, and the general provisions typically fit into one of three broad categories.

- *Discretionary PSAs.* Some PSAs allow a servicer to modify delinquent mortgage loans if, in its reasonable and good faith determination, such modification is in the "best interest" of securitization investors.
- *Industry Standards PSAs.* Other PSAs allow modifications so long as the servicer is acting in accordance with industry standards.

- *Restrictive PSAs.* A third category of PSAs can be more restrictive and either prohibit or materially limit loan modifications.

Thus, the type of PSA involved dictates the degree of discretion a servicer may exercise when entering into a loan modification for a delinquent or defaulted mortgage loan.

We believe that servicers must make an initial determination as to whether a particular loan modification protocol meets the existing standards of the applicable PSAs. Clearly this will be easiest to do with respect to Discretionary PSAs, since they specifically refer to modifications being made in the "discretion of the servicer," applying a specified standard (such as the best interests of investors).

Similarly, we believe that, as market participants, RMBS servicers are uniquely situated to determine whether a proposed protocol meets industry standards and therefore complies with Industry Standards PSAs.

If servicers make these determinations reasonably, in good faith, and in accordance with their PSAs, in many cases the outcome will benefit investors collectively. Where a servicer finds that a proposed protocol does not comply with a PSA as written, or that the PSA is sufficiently ambiguous to give rise to legal risks, trustees are willing to engage in multiparty discussions aimed at finding an appropriate solution. In some cases, the solution may mean seeking investor approval of PSA amendments.

Loan Modification When Default is Imminent

Trustees believe that if a servicer has a reasonable belief that a mortgage loan default is imminent, then the servicer should promptly analyze whether an appropriate and effective loan modification will result in a more favorable recovery than a foreclosure. Any analysis should consider the impact on the amount or timing of payments made by the borrower under any proposed modification versus the costs of foreclosure and anticipated recovery, based upon current market information. If the servicer determines that a loan modification will benefit investors in the RMBS transaction and is permitted by the PSA, the modification should be pursued *before* the borrower stops making loan payments. If servicers wait for missed payments, the borrowers may be so far behind in their payments that a solution is not achievable. By acting promptly before a default occurs, servicers can mitigate losses earlier and reduce the likelihood of foreclosure and the associated costs and expense.

Addressing Potential Liability for Loan Modifications

To address valid concerns that proposed modification procedures would expose servicers or trustees to liability, ABA's corporate trustees are working with servicers to seek the concurrence of legal and accounting authorities that the modification frameworks currently used in the industry are permitted by the PSAs and applicable law. This effort may include:

- Seeking the approval of the rating agencies for such procedures based on industry acceptance;

- Working to seek affirmation that the adoption of, or heavy usage of, the modification procedures will not affect the accounting treatment of the relevant RMBS transactions or other public reporting entities;

- Working with the Internal Revenue Service to ensure that such modifications will not affect the status of any Real Estate Mortgage Investment Conduits that are part of such RMBS transactions;

- Working with the American Securitization Form to identify ways that PSAs can be amended, to more easily allow loan modifications to take place or better clarify the standards that servicers have to comply with when making modifications (including guidelines and/or recommendations for any cost benefit analysis); and

- Exploring alternative legislative or regulatory sources of funding for servicer advances so that servicers can afford to take the time necessary to work with borrowers to fully consider effective loan modifications.

In addition, we will work with you and Fannie Mae and Freddie Mac to encourage support among investors for the application of the Streamlined Modification Program or similar programs.

Finally, ABA will work to have the U.S. Congress enact appropriate protections for servicers who use these foreclosure mitigation practices and for trustees who are named in such transactions. ABA strongly supports legislation passed by the House Financial Services Committee that includes a servicer safe harbor, and testified before the Committee that the safe harbor should be expanded to cover trustees. In addition, ABA will work to encourage the Senate to pass legislation including such protection for both servicers and trustees. We hope you and the RMBS servicer community will work with us to ensure passage of this legislation.

Conclusion

In conclusion, ABA's member trustees believe much can be done to enhance investor returns in RMBS transactions by increasing the pace and availability of loan modifications as an alternative to foreclosure. We would be interested in a forum to discuss loan modification proposals with the mortgage servicing community, industry trade associations, and other interested constituencies such as the FHFA, HOPE NOW, Fannie Mae and Freddie Mac., and would be pleased to assist. We look forward to working with you.

Sincerely,

Diane Casey-Landry

Federal Housing Finance Agency

Federal Property Managers Report No.3

February 12, 2009

Streamlined Loan Modification Report
In 2008, I submitted to your attention the details of our streamlined loan modification program (SMP) and FHFA's *Plan to Maximize Assistance for Homeowners and Minimize Foreclosures.* Both Fannie Mae and Freddie Mac rolled-out the SMP on December 15th as scheduled. The SMP targets seriously delinquent borrowers and creates "affordable" monthly mortgage payments of no more that 38 percent of the household's monthly income. Through this program, Fannie Mae and Freddie Mac have a greater ability to quickly and efficiently create sustainable monthly mortgage payments for troubled borrowers. Potentially hundreds of thousands more struggling borrowers will be able to stay in their homes at an affordable monthly mortgage payment. The Enterprises' servicers have received hundred of thousands of calls. The Enterprises' have sent approximately 90,000 solicitations related to the SMP to homeowners since the program was implemented. The numbers of finalized SMP modifications to date are small. It's too early to predict the success of this current program, but we are continuing to evaluate options to improve it.

New Fannie Mae and Freddie Mac Activities
Since our last report, Fannie Mae announced that it will extend its suspension of evictions from Fannie Mae-owned single-family properties through February 28, 2009. The suspension applies to all single-family properties including owner-occupied properties that have been foreclosed upon as well as foreclosed properties occupied by renters. Fannie Mae began implementing its National Real Estate Owned (REO) Rental Policy that allows qualified renters in Fannie Mae-owned foreclosed properties to stay in their homes. The new policy applies to renters occupying any type of single-family foreclosed properties at the time Fannie Mae acquires the property. Eligible renters will be offered a new month-to-month lease with Fannie Mae or financial assistance for their transition to new housing should they choose to vacate the property. The properties must meet state laws and local code requirements for a rental property.

Freddie Mac also announced it will extend its suspension of evictions triggered by foreclosures on single family properties with Freddie Mac-owned mortgages through February 28, 2009. Freddie Mac is simultaneously launching a new strategy to offer leases to qualified owner-occupants and tenants' so they can rent the properties on a month-to-month basis after foreclosure. Under the REO Rental Option, leases will be offered to current renters on a month-to-month basis at market rents or the rent amount they were paying prior to foreclosure, whichever is less. The rent for former owner-occupants will be the market rent, which will determined by the property management firm Freddie Mac contracted to manage the program. Freddie Mac is piloting a new workout strategy for high risk loans designed to keep more at-risk borrowers in their homes by employing third party servicers that specialize in servicing Alt A and other types of higher risk mortgages. Under the new pilot, a selected portfolio of higher risk mortgages that are at least 60 days delinquent will be given to a specialty servicer for intensive attention using the full range of Freddie Mac workout opportunities, including the SMP developed with the FHFA, Fannie Mae and the HOPE Now Alliance.

FHFA Activities
As the housing GSEs are the largest holders of private label mortgage-backed securities ($255 billion), FHFA has been working with their trustees, servicers and investors to be more aggressive in modifying the loans in those securities, including adopting SMP. The American

Bankers Association recently responded to FHFA in a February 6th letter on behalf of their trustees' committee that they support modifications as a better alternative in many cases than foreclosure as they said "attempting to reduce preventable foreclosures can be in the best interest of all of the parties to the RMBS transaction, particularly given that increasing numbers of foreclosures drive down property values, which, in turn, diminishes the value of RMBS collateral!"

Foreclosure Prevention Report

In accordance with the reporting requirements of Section 110(b)(5), please find attached our FHFA monthly *Foreclosure Prevention Report*, which reports on loan modifications and foreclosure activities of the Enterprises as of November 30, 2008. FHFA also publishes a quarterly report with detailed analysis. The most recent quarterly report, dated September 30, 2008, is posted to our website at www.fhfa.gov. The FHFA *Foreclosure Prevention Reports* summarize data provided by Fannie Mae and Freddie Mac and gives a comprehensive view of their efforts to assist borrowers through forbearance, payment plans, and loan modification, and other alternatives to foreclosure such as short sales and deeds-in-lieu. The reports cover 30.7 million mortgages and focus on the delinquencies, loss mitigation actions, and foreclosure data reported by more than 3,000 approved servicers.

The attached November 30, 2008 *Monthly Foreclosure Prevention Report* indicates that of the Enterprises' 30.6 million residential mortgages:

- The loan modifications for October and November, which were the first two full months of the conservatorship, had increased by 50 percent from the previous two months. These data reflect the increased commitment of the GSEs and their servicers to help borrowers in trouble modify their loans to keep them in their homes.

- Loans 60+ days delinquent (including those in bankruptcy and foreclosure) as a percent of all loans increased from 1.46 percent as of March 31, 1.73 percent as of June 30, and 2.21 percent as of September 30 to 2.39 for October and 2.73 percent for November.

- Loans 90+ days delinquent (including those in bankruptcy and foreclosure) as a percent of all loans increased from 1.00 percent as of March 31, 1.73 percent, 1.19 percent as of June 30, 2.21 percent, and 1.52 percent as of September 30 to 1.67 percent for October and 1.88 percent for November.

- Loans for which foreclosure was started as a percent of loans 60+ days delinquent declined from 8.29 for the first quarter, 7.81 percent for the second quarter, and 7.20 percent for the third quarter to 6.44 percent for October 2008 and 5.25% for November 2008.

- Loans for which foreclosure was completed as a percent of loans 60+ days delinquent decreased from 2.41 percent for the first quarter, 2.55 percent for the second quarter, and 2.56 percent for the quarter to 2.33 percent for October and 1.73 percent for November.

- Modifications completed increased from a monthly average of 2,883 for 2007, 5,218 for the first quarter, and 5,129 for the second quarter and 4,497 for the third quarter to 5,600 for October and 8,291 for November. Compared to the monthly average of 4,948 for the first nine months of 2008, October modifications increased by 13.2 percent and November by 67.6 percent.

- The loss mitigation ratio for November was 61.7 percent – the highest since June which was reported at 64.8 percent. The year-to-date loss mitigation ratio is 55.2 percent. The loss mitigation ratio is calculated at the total mitigation activities (payment plans, delinquency advances, loan modifications, short sales, deeds in lieu, assumptions, and charge-offs) divided by the total of loss mitigation activities plus foreclosures completed and third-party sales. This ratio allows for comparison of loss mitigation performance over time – irrespective of delinquency rates.

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	2007 Aver/Mo	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	2008 YTD Aver/Mo
Number of Loans (at period end)													
Total		30,135,490	30,367,051	30,408,771	30,483,080	30,661,811	30,619,891	30,623,407	30,650,194	30,744,135	30,634,428	30,586,564	30,537,711
Prime		24,952,459	25,153,692	25,217,229	25,307,364	25,498,551	25,498,297	25,533,099	25,581,750	25,700,544	25,680,402	25,666,584	25,435,452
Nonprime		5,183,031	5,213,359	5,191,542	5,175,716	5,163,260	5,121,594	5,090,308	5,068,444	5,043,591	4,954,026	4,919,980	5,102,259
60 Days+ Delinquency (at period end)													
Total		431,310	433,613	444,902	470,139	497,316	528,764	565,919	621,061	678,474	730,971	834,831	567,027
Prime		193,930	203,069	214,262	228,667	245,311	263,699	284,498	313,496	345,376	379,785	438,630	282,793
Nonprime		237,380	230,544	230,640	241,472	252,005	265,065	281,421	307,565	333,098	351,186	396,201	284,234
60 Days+ Delinquency (percent of total loans)													
Total		1.43%	1.43%	1.46%	1.54%	1.62%	1.73%	1.85%	2.03%	2.21%	2.39%	2.73%	1.86%
Prime		0.78%	0.81%	0.85%	0.90%	0.96%	1.03%	1.11%	1.23%	1.34%	1.48%	1.71%	1.11%
Nonprime		4.58%	4.42%	4.44%	4.67%	4.88%	5.18%	5.53%	6.07%	6.60%	7.09%	8.05%	5.57%
90 Days+ Delinquency (percent of total loans)													
Total		0.92%	0.95%	1.00%	1.05%	1.12%	1.19%	1.27%	1.38%	1.52%	1.67%	1.88%	1.27%
Foreclosure Starts													
Total	22,545	32,583	39,980	35,957	39,031	37,887	39,925	47,770	44,170	40,969	47,086	43,827	40,835
Prime	10,604	16,096	21,832	20,021	21,965	21,579	22,374	27,998	25,082	22,495	26,808	25,456	22,882
Nonprime	11,942	16,487	18,148	15,936	17,066	16,308	17,551	19,772	19,088	18,474	20,278	18,371	17,953
Completed Foreclosure Sales													
Total	6,408	10,571	10,317	10,645	11,916	13,305	12,964	16,364	15,528	15,605	17,008	14,408	13,512
Prime	3,226	5,786	5,623	5,797	6,715	7,514	7,626	9,929	9,242	9,394	10,226	8,769	7,875
Nonprime	3,182	4,785	4,694	4,848	5,201	5,791	5,338	6,435	6,286	6,211	6,782	5,639	5,637
Completed Foreclosure Sales (Percentage of Starts)													
Total	28.4%	32.4%	25.8%	29.6%	30.5%	35.1%	32.5%	34.3%	35.2%	38.1%	36.1%	32.9%	33.1%
Prime	30.4%	35.9%	25.8%	29.0%	30.6%	34.8%	34.1%	35.5%	36.8%	41.8%	38.1%	34.4%	34.4%
Nonprime	26.6%	29.0%	25.9%	30.4%	30.5%	35.5%	30.4%	32.5%	32.9%	33.6%	33.4%	30.7%	31.4%
Completed Foreclosure Sales (Percentage of Starts with a 6-month lag)													
Total	n/a	n/a	n/a	n/a	n/a	n/a	n/a	50.2%	38.8%	43.4%	43.6%	38.0%	36.8%
Prime	n/a	n/a	n/a	n/a	n/a	n/a	n/a	61.7%	42.3%	46.9%	46.6%	40.6%	38.8%
Nonprime	n/a	n/a	n/a	n/a	n/a	n/a	n/a	39.0%	34.6%	39.0%	39.7%	34.6%	34.3%
HomeSaver Advance (Fannie Mae Only)													
Total	n/a	0	11	1233	2,052	2,881	11,725	10,599	7,914	8,764	6,800	9,692	5,606
Prime	n/a	0	3	343	545	856	4,459	4,285	2,747	3,134	1,998	3,113	1,953
Nonprime	n/a	0	8	890	1,507	2,025	7,266	6,314	5,167	5,630	4,802	6,579	3,653

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Borrower Workout Plans (Repayment Plans Initiated + Modifications Plans Completed)													
Total	52,188	28,912	24,696	25,803	25,808	24,622	31,400	30,351	33,957	34,955	35,082	34,579	30,015
Prime	16,976	10,263	9,106	9,498	9,775	9,431	12,031	12,012	13,648	13,848	14,209	14,098	11,629
Nonprime	35,212	18,649	15,590	16,305	16,033	15,191	19,369	18,339	20,309	21,107	20,873	20,481	18,386
Formal Repayment Plans Initiated													
Total	17,585	24,683	18,809	20,264	21,837	19,945	24,661	26,082	29,506	30,183	29,482	26,288	24,704
Prime	6,061	8,946	7,244	7,696	8,571	7,786	10,022	10,506	12,094	12,120	12,197	11,235	9,856
Nonprime	11,524	15,737	11,565	12,568	13,266	12,159	14,639	15,576	17,412	18,063	17,285	15,053	14,848
Modifications Completed													
Total	34,603	4,229	5,887	5,539	3,971	4,677	6,739	4,269	4,451	4,772	5,600	8,291	5,311
Prime	10,915	1,317	1,862	1,802	1,204	1,645	2,009	1,506	1,554	1,728	2,012	2,863	1,773
Nonprime	23,688	2,912	4,025	3,737	2,767	3,032	4,730	2,763	2,897	3,044	3,588	5,428	3,538
Modifications by Type (EESA Section 110)													
Interest Rate Reduction	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	3,269	6,151	9,420
Reduction in Loan Principal	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	-	-	-
Other	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	2,331	2,140	4,471
Modifications as a Percent of Workout Plans													
Total	66.3%	14.6%	23.8%	21.5%	15.4%	19.0%	21.5%	14.1%	13.1%	13.7%	16.0%	24.0%	17.7%
Prime	64.3%	12.8%	20.4%	19.0%	12.3%	17.4%	16.7%	12.5%	11.4%	12.5%	14.2%	20.3%	15.2%
Nonprime	67.3%	15.6%	25.8%	22.9%	17.3%	20.0%	24.4%	15.1%	14.3%	14.4%	17.2%	26.5%	19.2%
Borrower Workout Plans (Repayment Plans Initiated + Modifications Completed) as a Percent of Completed Foreclosure Sales													
Total	814%	274%	239%	242%	217%	185%	242%	185%	219%	224%	206%	240%	222%
Prime	526%	177%	162%	164%	146%	126%	158%	121%	148%	147%	139%	161%	148%
Nonprime	1107%	390%	332%	336%	308%	262%	363%	285%	323%	340%	308%	363%	326%
Short Sales Completed													
Total	335	516	556	704	850	1,056	1,156	1,492	1,465	1,717	2,103	1,828	1,222
Prime	172	303	341	425	525	677	754	1,000	1,033	1,200	1,489	1,323	825
Nonprime	163	213	215	279	325	379	402	492	432	517	614	505	398
Deeds-in-Lieu Completed													
Total	69	102	84	122	107	62	67	118	138	171	156	150	116
Prime	48	62	61	93	82	42	44	80	114	118	123	113	85
Nonprime	21	40	23	29	25	20	23	38	24	53	33	37	31

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Charge-Offs in Lieu of Foreclosure Completed													
Total	40	56	42	70	41	49	66	73	57	72	96	75	63
Prime	14	24	11	28	16	20	27	34	25	28	38	32	26
Nonprime	26	32	31	42	25	29	39	39	32	44	58	43	38
Total Loss Mitigation Actions Completed (# of Loans)													
Payment Plans Completed	4,531	5,024	6,777	6,314	5,595	5,504	5,294	4,897	4,720	5,093	4,927	4,147	5,299
HomeSaver Advance (Fannie Mae Only)	-	-	11	1,233	2,052	2,881	11,725	10,599	7,914	8,764	6,800	9,692	5,606
Loan Modifications Completed	2,884	4,229	5,887	5,539	3,971	4,677	6,739	4,269	4,451	4,772	5,600	8,291	5,311
Short Sales Completed	335	516	556	704	850	1,056	1,156	1,492	1,465	1,717	2,103	1,828	1,222
Deeds-in-Lieu Completed	69	102	84	122	107	62	67	118	138	171	156	150	116
Assumptions Completed	-	-	-	-	-	-	-	-	-	-	-		-
Charge-offs in Lieu of Foreclosure Completed	40	56	42	70	41	49	66	73	57	72	96	75	63
Total	7,858	9,927	13,357	13,982	12,616	14,229	25,047	21,448	18,745	20,589	19,682	24,183	17,619
Foreclosure Sales Completed	6,408	10,571	10,317	10,645	11,916	13,305	12,964	16,364	15,528	15,605	17,008	14,408	13,512
Third Party Sales	42	687	652	592	711	672	660	726	725	1,953	773	577	793
Total	6,450	11,258	10,969	11,237	12,627	13,977	13,624	17,090	16,253	17,558	17,781	14,985	14,305
Total Loss Mitigation Actions, Foreclosure Sales, and Third Party Sales	14,309	21,185	24,326	25,219	25,243	28,206	38,671	38,538	34,998	38,147	37,463	39,168	31,924
Loss Mitigation Performance Ratio	54.9%	46.9%	54.9%	55.4%	50.0%	50.4%	64.8%	55.7%	53.6%	54.0%	52.5%	61.7%	55.2%