

Press Release



Federal Financial Institutions Examination Council

For Immediate Release

Press Release

August 6, 2009

FFIEC Support for Responsible Loss Mitigation Activities

The Federal Financial Institutions Examination Council (FFIEC) members today issued the following statement on *Support for Responsible Loss Mitigation Activities*. The statement reiterates the FFIEC members' continued support for responsible loss mitigation activities designed to preserve homeownership. This support extends to programs designed to achieve sustainable mortgage obligations regardless of lien position.

Support for Responsible Loss Mitigation Activities

The Federal Financial Institutions Examination Council members recognize that entities servicing first and subordinate liens on the same residential real estate property may be faced with potential conflicts of interest when making loan modification decisions. A servicer's decision to modify the first lien mortgage should not be influenced by the potential impact of the modification on the subordinate lien loan and vice versa. Any ownership interest in the subordinate lien cannot be a consideration. Consequently, the members offer these reminders:

- Servicers have an obligation to act in the best interests of the owners/investors of serviced residential mortgage loans and in accordance with the terms of the governing contracts. Any decisions that are not anticipated to produce a greater recovery to investors given the alternatives may constitute a breach of that duty.
- Regardless of any potential effect on the subordinate lien obligations, servicers should modify the first lien mortgage when doing so would produce a greater anticipated recovery to the first lien owners/investors than not modifying the loan. Failure to do so may be a breach of the servicer's obligation to those owners/investors.
- Similarly, regardless of any potential effect on the first lien mortgage, servicers should modify the subordinate lien loan when doing so would produce a greater anticipated recovery to the subordinate lien owners/investors than not modifying the loan. Failure to do so may be a breach of the servicer's obligation to those owners/investors.

This statement is consistent with the statement issued by the federal financial institutions regulatory agencies in April 2007, and the statement issued by the federal financial institutions regulatory agencies in conjunction with the Conference of State Bank Supervisors in September 2007 that encouraged owners and servicers, respectively, to modify residential mortgage loans to

avoid unnecessary foreclosure.

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The FFIEC was established in March 1979 to prescribe uniform principles, standards, and report forms and to promote uniformity in the supervision of financial institutions. The Council has six voting members: the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the State Liaison Committee (composed of five representatives of state agencies that supervise financial institutions).