



December 17, 2008

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Frank:

As a follow up to our dialogue when the American Securitization Forum (“ASF”)¹ testified before your Committee last month, we wanted to update you on significant developments concerning foreclosure mitigation. Securitization industry participants take seriously your call for constructive solutions to the nation’s housing and economic challenges, and the need to take bold action to keep people in their homes whenever possible. To that end, we believe the FDIC’s proposal to promote affordable loan modifications by providing federal government guarantees against redefault risk is a sound idea that we think could be organized into a large scale program. We would also like to offer some initial thoughts on the FDIC guaranty concept and the Hope for Homeowners Program (H4H) in order to make them more effective at addressing the foreclosure crisis. We also update you on our progress to develop more streamlined procedures for loan modifications on securitized loans. We are committed to working with you on this and/or other solutions.

Guarantees on Loan Modification Redefaults

Building on its loan modification program at IndyMac, the FDIC has suggested that the federal government, through TARP, provide credit guarantees for redefaults on modified loans. Although there are a number of details that would need to be worked out on both the modification protocols as well as the guarantee arrangements, ASF believes there is significant opportunity for such an approach to work.

¹ ASF is a broad-based professional forum of over 330 member organizations that are active participants in the U.S. securitization market. Among other roles, ASF members include institutional investors, servicers, issuers, financial intermediaries, and professional advisers working on securitization transactions backed by all types of mortgage and consumer credit assets. ASF’s mission includes building consensus, pursuing advocacy and delivering education on behalf of the securitization markets and its participants. Additional information about the ASF, its members and activities may be found at ASF’s internet website: www.americansecuritization.com. ASF is an independent affiliate of the Securities Industry and Financial Markets Association (SIFMA).

In our view, the most significant impediment to the effectiveness of the FDIC's loan modification proposal is redefault risk. We believe this risk can be substantially reduced by taking into consideration other – non-mortgage related debt.

As currently envisioned, the FDIC's proposal calls for large-scale modifications based on a borrower's mortgage debt-to-income ratio (HDTI). Unfortunately, without considering the borrower's other debt, significant redefault risk remains. Even if a mortgage servicer modifies a mortgage loan to 31% of the borrower's HDTI, a borrower with significant credit card, auto and/or student loan debt may be put into an unsustainable loan modification because they simply cannot afford all of their other debt. Loan modifications that ignore non-mortgage related debt are much more likely to result in redefault than those that account for non-mortgage debt. We believe the FDIC plan, and other future foreclosure prevention programs generally, will need to address the level and effects of non-mortgage debt on the viability of the borrowers to meet their mortgage and other obligations while also providing for their families' necessities. Unfortunately in the current economic environment, many borrowers at risk of foreclosure are also struggling to make other debt-payments. Modifying a mortgage, without also considering these other debts, can result in more redefaults and eventual foreclosures. Considering a borrower's total debt-to-income (TDTI) would make the FDIC's approach much more effective.

In addition to considering a homeowner's entire debt picture, the stipulation that no guarantee be available until the borrower has made six payments on the modified mortgage may significantly inhibit its use. Many borrowers will redefault in the first few months and this would ultimately create additional, unguaranteed losses to the owner of that loan. Finally, the lower loss sharing percentage for loans with loan to value ratios (LTVs) above 100% makes the guarantee much less attractive on those loans.

As noted above, because the current FDIC program only considers HDTI – significant redefault risk may remain. Accordingly, for the program to work on a large scale, guarantees may need to attach as soon as these major modifications are made. This will better incentivize participation and help significantly more homeowners obtain modifications that result in long-term homeownership. Requiring a delay before the guarantee attaches will lower participation because of the risk of nonguaranteed redefault. Accordingly, we recommend (1) accounting for TDTI to lower the borrowers' redefault risk, and (2) more immediate guarantees to facilitate greater foreclosure prevention.

Hope for Homeowners

Recent changes to the Hope for Homeowners Program should expand the range of borrowers eligible for the program. However, there are still a number of artificial limiters preventing that program from reaching its full potential. We believe the following changes could substantially increase the number of borrowers participating in the Hope for Homeowners Program:

Improve the DTI Requirements. Currently, the Hope for Homeowners Program debt-to-income requirements limit borrower participation significantly. The Program restricts borrowers to 31% HDTI and 43% TDTI for loans written down to 96.5% LTVs or 38% HDTI and 50% TDTI for loans written down to 90%. Although allowing writedowns to 96.5% LTV are helpful, they are

only allowed in cases where the HDTIs (31%) and TDTIs (43%) are lower. Unfortunately, there is a very limited universe of at-risk borrowers with these characteristics.

Generally, borrowers with the highest default and redefault rates have very high mortgage and non-mortgage debt relative to their income, which places many of these borrowers' HDTIs in excess of 50%. Even if servicers bring the mortgage debt and LTVs to the required ratios for H4H, the non-mortgage debt still prevents HUD from accepting that borrower into the H4H program. Put simply, outstanding consumer debt outside the control of the mortgage servicer is a significant impediment to borrowers' eligibility for H4H under the existing program rules. We recommend raising these DTI thresholds to make the program available to more at-risk borrowers.

Lower the Fees. Hope for Homeowners is a fairly "expensive" program for borrowers: it comes with a relatively high interest rate, the 1.5% annual fee and a shared equity component that (1) makes reaching the required DTI ratios difficult and (2) dissuades some eligible borrowers from accepting a refinancing into the program. Our mortgage servicing members indicate that even for the limited number of borrowers found eligible for the program, some are not accepting the offer for a Hope refinancing because the new interest rate is too high and/or they are unwilling to accept the equity share feature. We would recommend lowering these fees to make the Hope Program more borrower-friendly.

Efforts to Streamline Loan Modification Decisions

Apart from the important role that additional government initiatives can play, we are committed to ensuring that existing securitization structures do not present unnecessary barriers to optimal mortgage loan workouts. We are diligently working to develop an efficient and streamlined loan modification for all types of loans in private label securities, and expect to recommend a broad ranging new protocol for securitized loans within the next 30 days. Shortly after we issue this streamlined framework, we expect to issue additional guidance to facilitate usage of H4H under current rules for that program. We are also working to develop a streamlined protocol to allow services to modify, prior to any delinquency, option ARM borrowers who are approaching their recast date (date at which the loan contract resets their monthly payment to a higher, fully amortizing rate).

Finally, we believe that it would be productive to consider developing mechanisms to facilitate the purchase of distressed loans at discounted prices from securitization trusts, including via application of TARP funds. We believe that such purchases could be effected where the loan is in default or where default is reasonably foreseeable, and the loan is sold for a cash purchase price that is greater than the net present value of the anticipated recovery under foreclosure or other loss mitigation alternatives. Once purchased in this fashion, such loans could be subject to a wide range of workout options that would be at the complete discretion of the US government.

Thank you for considering our views and we look forward to working with you to provide meaningful options for borrowers to avoid preventable foreclosures. Please feel free to contact me at tdeutsch@americansecuritization.com or at 212.313.1135.

Sincerely,

A handwritten signature in black ink that reads "Tom Deutsch". The signature is written in a cursive style with a large, stylized "T" and "D".

Tom Deutsch
Deputy Executive Director
American Securitization Forum