

TESTIMONY OF
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Before the
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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Chairman Towns, Ranking Member Issa, and Members of the Committee, thank you for the opportunity to discuss Bank of America's loan modification performance. Helping those we serve through a difficult and prolonged housing downturn is complex, but we are committed to providing the aid and solutions customers need.

Providing solutions to distressed homeowners has been and remains a central focus for Bank of America. Since January 2008, we have completed more than 630,000 loan modifications, including more than 70,000 permanent HAMP modifications.

HAMP has proven a valuable tool that complements the proprietary loan modification programs Bank of America has developed. Success in helping customers avoid foreclosure has often been defined by HAMP. The reality is that a comprehensive approach is necessary to provide the additional solutions individual customers need. This is the approach we have taken.

My testimony will focus on the effectiveness of HAMP and our ongoing efforts to improve the customer experience. I will also outline the need for additional focus on helping customers who do not qualify for a modification transition to alternative housing with dignity.

First, I'd like to provide some context behind Bank of America's loan modification performance, and the various tools we've leveraged to help customers stay in their homes. While I will describe our progress and accomplishments to date, I do not intend any of this to suggest that there have not been challenges and difficulties, or that we do not fully appreciate the problems many of your constituents have brought to your attention.

Since the moment of the Countrywide acquisition, we have had to undertake a massive retooling of our servicing organization to shift from simply servicing loans to addressing the needs of distressed homeowners through the implementation of various modification programs. There have been rough spots and many individual customers have experienced service that is inconsistent with our standards. We continue to learn and improve as we work through these very difficult times; never losing sight of the impact these situations have on individual customers and their families.

Bank of America Loan Modification Solutions and Performance

Bank of America has been at the forefront of industry modification solutions. That leadership started with our decision to acquire Countrywide in 2008, providing the support millions of Countrywide customers needed as the housing crisis unfolded. We did so with a commitment to successful homeownership and a continuation of Bank of America's longstanding track record for responsible lending – including exiting the subprime mortgage origination business nearly 10 years ago.

With the acquisition, Bank of America became the nation's largest mortgage servicer – with a servicing portfolio that more than tripled post-acquisition to nearly 14 million customer loans – 1 in 5 of all U.S. mortgages. As such, we recognize the impact our efforts have to support the national recovery and sustain the neighborhoods and customers still in need of solutions.

Shortly after the Countrywide acquisition closed, we launched a precedent-setting modification program in October 2008 to help Countrywide customers with types of loans Bank of America discontinued when we acquired the company, including subprime, Pay Option ARM and subprime-hybrid loans. This program has become the foundation for other major efforts developed by the government.

When HAMP launched in March 2009, it became the first modification solution Bank of America considered for delinquent customers. We have built momentum executing the program, and since March of this year have led all servicers in the main HAMP performance categories – including number of permanent modifications, active trials, and trial offers.

Bank of America also became the first major loan servicer to sign the contract to participate in and begin implementing the Treasury's second lien program – known as 2MP. On April 1, 2010, less than one week after receiving Treasury's final 2MP program guidelines, we began mailing trial modification offers to home equity customers facing financial difficulty. We took this step to provide financial relief to customers who need it now, and to help keep them in their homes with a more affordable, combined monthly mortgage payment.

As the Committee knows, this March, we also announced an industry leading principal reduction program to help customers who owe significantly more on their mortgage than their home is worth. We will discuss this program and principal reduction in more detail in the testimony.

While the number of new delinquencies continues to stabilize, there are still customers who need help. As we consider new programs that could help additional customers qualify, it is vital to understand the current eligibility of delinquent customers.

Customer Eligibility for HAMP and Recommendations for HAMP Expansion

As the nation's largest servicer, Bank of America services nearly 14 million first and second mortgage loans. Within that portfolio, 1.4 million first mortgage customers are more than 60 days delinquent on their mortgage payment. Of those customers, Treasury indicates only about 470,000 are potentially eligible for a mortgage modification through HAMP. We have made trial offers to more than 404,000 customers as of May 31, 2010.

There are several changes Bank of America has proposed to help more customers qualify for a HAMP solution.

For example, for customers who have a debt-to-income ratio below 31%, Bank of America has advocated for some flexibility to extend modifications to low-to-moderate income customers who fall below this threshold. We are working on a program to offer modifications to low-to-moderate income customers down to a debt-to-income ratio of 24%.

For the unemployed or severely underemployed, the Treasury's April announcement to provide temporary forbearance of three months should provide a much needed solution.

Bank of America also continues to offer proprietary modification solutions for customers that fall outside the scope of HAMP and other government programs. To date, our proprietary programs have helped more than 560,000 customers with first and second loan modifications, and we maintain these efforts at a pace of about 13,000 a month.

HAMP Challenges and Solutions

HAMP was designed to assist customers who:

- have a hardship that makes their current mortgage payment unaffordable,
- have a desire to stay in their homes, and
- have the ability to make a reduced but reasonable mortgage payment.

As our results demonstrate HAMP has been largely successful in making offers to these customers. However, there has been less success getting customers to accept the offers and complete the documentation and trial period required to obtain a permanent HAMP modification.

In April, Bank of America implemented HAMP process changes that will require income and other documentation up front before the trial period is started. We believe these changes will make the overall modification process much more streamlined and customer-friendly, and we expect it will improve the conversion rate from trial to permanent modifications.

We continue to look at ways to evolve programs to achieve higher customer acceptance rates – learning from customer behavior and adapting to meet those needs. Efforts on principal reduction are an example.

Bank of America is supportive of principal reduction for customers who have high loan to value ratios and are experiencing hardship, and we believe solutions must balance the interests of the customer and the investor.

From the customer perspective, there is a fairness issue. Within Bank of America's residential servicing portfolio, nearly 86 % of customers are current and pay their mortgages every month – some of them making difficult choices and sacrifices to do so.

This does not mean that we should not do principal reduction for those unable to stay current, but we must do so in a measured, responsible way so that only customers with a legitimate hardship and genuine interest in maintaining homeownership qualify.

We believe the principal reduction program Bank of America announced in March is a solid start. The program is available for qualifying customers as part of enhancements to our proprietary National Homeownership Retention Program. It includes an innovative “earned principal forgiveness” approach to help customers who owe significantly more than their homes are worth.

Treasury has also announced a similar principal reduction program which includes an earned principal forgiveness concept that will be effective later this year and will be considered for a broader range of loans. Bank of America is working to align our program with Treasury's.

In the meantime, we began mailing offers May 17 under Bank of America's program to provide immediate relief to those in the most imminent danger of losing their homes to foreclosure.

Loan Modification Resources and Customer Outreach

Considerable resources have shifted to the default areas of our servicing business to manage the customer demand for aid as the housing downturn, prolonged recession, and high unemployment have put sustained pressure on some of our customer's ability to pay their mortgages.

Bank of America has increased staffing dedicated to default management to more than 18,000 – an increase of more than 60% from the beginning of 2009. They currently manage about 100,000 calls a day.

In addition to the high volume, a significant challenge specific to HAMP implementation has been the frequent guidance changes. While guidance is certainly needed and changes have generally worked to improve the program, they do create operational challenges that require new or revised systems, models and procedures, as well as staffing and training needs.

We have improved our ability to handle the volume of requests and complexity of the various loan modification programs, but we understand the frustration those growing pains have caused. We maintain an ongoing dialogue with customers, public officials, and community groups to gain insight on how we can continue to improve.

As a way to increase staffing, we've redeployed more than 600 mortgage loan officers from sales to servicing, and we've made a significant technology investment to facilitate the modification process and enhance transparency for customers.

We're in the process of transforming the servicing operation to leverage some of the fundamentals of the origination process. This new model will be in place this July and will create a clear delineation between the collections and modification processes. It will also implement a case management model so that customers seeking a modification will be assigned to dedicated teams of negotiators to keep customers better informed throughout the process.

We are establishing more consistent routines to ensure customers are kept informed of their modification status. For example, after a customer makes initial contact, a home retention specialist will contact them within 72 hours to review their situation and discuss modification options.

To help customers understand the loan modification process and solutions available to them we have created a website – www.bankofamerica.com/homeloanhelp - that provides detailed information and walks customers through the various home retention options. We also proactively reach out to customers in default to determine their eligibility for the various modification programs we offer, including HAMP.

To reach more customers we have implemented outreach methods including door knocking and customer assistance centers to provide in-person counseling. We've partnered with community groups, public officials and others and have participated in more than 360 community outreach events since January of 2009. We also have a dedicated team within Home Loans that works directly with housing counselors and the customers they serve. We are also participating in the HOPE NOW loan portal that streamlines the submission of completed loan modification applications, allowing housing counselors to more efficiently transmit the applications to servicers.

Bank of America continues to place on hold foreclosure sales for customers with whom we have made contact and who may also be eligible for HAMP or one of our proprietary modification programs. We believe the right policy approach is to ensure that no customer is taken through to foreclosure sale until they are considered for a modification or short sale or deed in lieu solution.

HAMP Decline Process and Solutions to Achieve a Dignified Homeownership Transition

Given the depth of the nation's recessionary impacts on homeowners, a considerable number of customers will transition from homeownership over the next two years. We must compassionately and responsibly help those customers who have exhausted all their options and can no longer afford to stay in their homes.

Among the initiatives we believe will be helpful to these customers are short sales and deeds-in-lieu that will allow customers to avoid the stigma of foreclosure and potentially reduce the damage done to their credit.

Bank of America is fully operational with Treasury's Home Affordable Foreclosure Alternatives (HAFA) program, which streamlines the short sale process for borrowers who have been considered for HAMP and offers customers relocation assistance of \$3,000.

For customers who do not qualify for HAFA, Bank of America has implemented our own proprietary cooperative short sale program to provide more ease and assistance to delinquent customers who can no longer stay in their home.

For those customers not interested in the short sale process, we are stepping up efforts to provide incremental funding in our cash for keys and deed in lieu programs. These programs provide an increased cash allotment for moving expenses and rental security deposits in exchange for the deed to the property in which the customer currently resides.

We are leveraging these options as part of the HAMP decline process underway. Bank of America, along with other servicers, has begun mailing decline letters to customers who have been found to be ineligible after entering the trial period, as required by the federal program guidelines.

Specific reasons customers will receive a decline letter include missed trial payments, failing to provide necessary documentation, and not meeting the debt-to-income ratio requirements, among

others. For example, more than 41% of the declines we've mailed are because of missed payments in the trial period.

Our HAMP letters clearly state the reason(s) for ineligibility, and remind customers that Bank of America wants to continue to work with them. We provide a dedicated toll-free number for customers to call if they believe they were improperly determined to be ineligible for a loan modification, if their financial circumstances have changed or if they have other questions about their options, and we won't complete a foreclosure sale until the appeal period has expired.

Depending on a customer's particular financial circumstances, our first choice after HAMP, if permitted by the investor or other applicable program guidelines, is to offer an alternative home retention option through one of our proprietary modification programs. If all home retention options are exhausted, we will offer short sale and deed-in-lieu solutions. Early responses to notification letters indicate that many customers are interested in these options as an alternative to foreclosure.

CONCLUSION

At Bank of America, we are working hard to balance the needs of our customers, investors, shareholders and communities. We believe innovative solutions have been created to help customers sustain homeownership, and we are committed to executing those programs well, and are in the process of doing so.

We take seriously our role in helping customers, as well as restoring confidence in the U.S. housing market. That's a role we willingly assumed and a responsibility every Bank of America associate is working to carry out.

Thank you.