# FORECLOSURE PREVENTION AND INTERVENTION: THE IMPORTANCE OF LOSS MITIGATION STRATEGIES IN KEEPING FAMILIES IN THEIR HOMES

## FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

NOVEMBER 30, 2007

Printed for the use of the Committee on Financial Services

**Serial No. 110–81**

U.S. GOVERNMENT PRINTING OFFICE

40–433 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

BARNEY FRANK, Massachusetts, *Chairman*

PAUL E. KANJORSKI, Pennsylvania
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
JULIA CARSON, Indiana
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
DENNIS MOORE, Kansas
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN McCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
MELISSA L. BEAN, Illinois
GWEN MOORE, Wisconsin,
LINCOLN DAVIS, Tennessee
ALBIO SIRES, New Jersey
PAUL W. HODES, New Hampshire
KEITH ELLISON, Minnesota
RON KLEIN, Florida
TIM MAHONEY, Florida
CHARLES A. WILSON, Ohio
ED PERLMUTTER, Colorado
CHRISTOPHER S. MURPHY, Connecticut
JOE DONNELLY, Indiana
ROBERT WEXLER, Florida
JIM MARSHALL, Georgia
DAN BOREN, Oklahoma

SPENCER BACHUS, Alabama
RICHARD H. BAKER, Louisiana
DEBORAH PRYCE, Ohio
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
RON PAUL, Texas
STEVEN C. LATOURETTE, Ohio
DONALD A. MANZULLO, Illinois
WALTER B. JONES, JR., North Carolina
JUDY BIGGERT, Illinois
CHRISTOPHER SHAYS, Connecticut
GARY G. MILLER, California
SHELLEY MOORE CAPITO, West Virginia
TOM FEENEY, Florida
JEB HENSARLING, Texas
SCOTT GARRETT, New Jersey
GINNY BROWN-WAITE, Florida
J. GRESHAM BARRETT, South Carolina
JIM GERLACH, Pennsylvania
STEVAN PEARCE, New Mexico
RANDY NEUGEBAUER, Texas
TOM PRICE, Georgia
GEOFF DAVIS, Kentucky
PATRICK T. McHENRY, North Carolina
JOHN CAMPBELL, California
ADAM PUTNAM, Florida
MICHELE BACHMANN, Minnesota
PETER J. ROSKAM, Illinois
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California

JEANNE M. ROSLANOWICK, *Staff Director and Chief Counsel*

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

MAXINE WATERS, California, *Chairwoman*

NYDIA M. VELÁZQUEZ, New York
JULIA CARSON, Indiana
STEPHEN F. LYNCH, Massachusetts
EMANUEL CLEAVER, Missouri
AL GREEN, Texas
WM. LACY CLAY, Missouri
CAROLYN B. MALONEY, New York
GWEN MOORE, Wisconsin,
ALBIO SIRES, New Jersey
KEITH ELLISON, Minnesota
CHARLES A. WILSON, Ohio
CHRISTOPHER S. MURPHY, Connecticut
JOE DONNELLY, Indiana
BARNEY FRANK, Massachusetts

SHELLEY MOORE CAPITO, West Virginia
STEVAN PEARCE, New Mexico
PETER T. KING, New York
JUDY BIGGERT, Illinois
CHRISTOPHER SHAYS, Connecticut
GARY G. MILLER, California
SCOTT GARRETT, New Jersey
RANDY NEUGEBAUER, Texas
GEOFF DAVIS, Kentucky
JOHN CAMPBELL, California
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California

# CONTENTS


| | Page |
|---|---|
| Hearing held on: | |
| November 30, 2007 | 1 |
| Appendix: | |
| November 30, 2007 | 91 |


WITNESSES

FRIDAY, NOVEMBER 30, 2007


| | |
|---|---|
| Albon, Michaela, Senior Vice President and General Counsel, Home Loans Division, Washington Mutual | 37 |
| Arnold, LeFrancis, Vice Chair, Affordable Housing Committee, California Association of Realtors | 72 |
| Bates, Joseph C., Director, Santa Ana Homeownership Center, U.S. Department of Housing and Urban Development | 15 |
| Blackwell, Brad, Executive Vice President, Wells Fargo Home Mortgage | 39 |
| Burnie, Evalyn, Leader, Los Angeles ACORN, accompanied by Richard Castro, NeighborWorks America | 79 |
| Cho, Hee Suk, Homeowner, Camarillo, California, accompanied by Joshua Byung An, Korean Churches for Community Development, serving as a translator | 68 |
| Clark, Yolanda, President-Elect, Multicultural Real Estate Alliance for Urban Change | 74 |
| Deutsch, Tom, Deputy Executive Director, American Securitization Forum | 41 |
| Frisbee, Margaret, Pacific District Director, NeighborWorks America | 78 |
| Heedly, William, Homeowner, Carson, California | 67 |
| Herrera, Pastor, Director, Department of Consumer Affairs, Los Angeles County | 21 |
| Krimminger, Michael H., Chairman's Special Advisor for Policy, Federal Deposit Insurance Corporation | 17 |
| Lee, Karen, Homeowner, Los Angeles, CA | 44 |
| Leonard, Paul, California Office Director, Center for Responsible Lending | 45 |
| Peters, Heather, Deputy Secretary for Business Regulation, Department of Business, Transportation, and Housing, State of California | 19 |
| Rogan, Sean, Director, Department of Housing and Community Development, City of Oakland, California | 22 |
| Samuels, Sandor, Executive Managing Director, Countrywide Financial Corporation | 35 |
| Smith, Ed, Jr., Vice President, California Association of Mortgage Brokers | 70 |
| Thomas, Anna M., Homeowner, San Pedro, CA | 44 |
| Twomey, Tara, Of Counsel, National Consumer Law Center | 76 |
| Villaraigosa, Hon. Antonio R., Mayor of Los Angeles, California | 12 |
| Young, Hon. Anthony, City Council President Pro Tempore, San Diego, California | 10 |


APPENDIX


| | |
|---|---|
| Prepared statements: | |
| Lantos, Hon. Tom | 92 |
| Albon, Michaela | 94 |
| Bates, Joseph C. | 99 |
| Blackwell, Brad | 103 |
| Deutsch, Tom | 108 |
| Frisbee, Margaret | 113 |
| Herrera, Pastor | 121 |

Page

Prepared statements—Continued
Krimminger, Michael H. ..... 125
Lee, Karen ..... 141
Samuels, Sandor ..... 142
Smith, Ed, Jr. ..... 157
Twomey, Tara ..... 165
Villaraigosa, Hon. Antonio R. ..... 176
Young, Hon. Anthony ..... 188

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Waters, Hon. Maxine:
Statement of the NAACP ..... 190

# FORECLOSURE PREVENTION AND INTERVENTION: THE IMPORTANCE OF LOSS MITIGATION STRATEGIES IN KEEPING FAMILIES IN THEIR HOMES

**Friday, November 30, 2007,**

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m., at the California Science Center, 700 State Drive, Los Angeles, California, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Representatives Waters and Green.

Also present: Representatives Napolitano, Richardson, Sanchez, and Watson.

Chairwoman WATERS. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good morning, ladies and gentlemen. I would like to start by thanking the California Science Center for once again allowing us to use this wonderful space for our subcommittee hearing, as they did last year.

In addition to the hearing, you all should be aware that resources are being made available next door to assist homeowners who are in danger of foreclosure. Please stop by if you or somebody you know is facing problems making mortgage payments, and the good folks from Neighborhood Housing Services and others can work with you.

I would also like to thank Congressman Al Green, from Texas—one of our most dedicated subcommittee members—for traveling all the way from Houston to join us today.

And, finally, without objection, Representative Grace Napolitano, Representative Laura Richardson, and we will soon be joined by Representative Linda Sanchez, will all be considered members of the subcommittee for this hearing, and their opening statements will be made a part of the record. I would like to thank them for participating today. They are not members of the subcommittee, but they care so much about this issue that they wanted very much to be here and they are here. Thank you very, very much.

Before we hear from our panels, I would like to explain briefly why we are having this hearing and what I hope to accomplish today. Hopefully, this will help the witnesses focus on their re-

marks and responses to members' questions. First, with respect to the "why" of holding this hearing, it would be arguably derelict of this subcommittee not to hold hearings regarding the subprime mortgage market and home foreclosure crisis.

This issue is not only the biggest story in housing, in the whole housing world that this subcommittee operates in daily, it is currently the biggest economic story in the Nation, and perhaps the world. A field hearing in California is warranted, given that our State lies at the epicenter of the foreclosure wave. California's third quarter foreclosure rate of 1 filing for every 88 households ranks second highest among all States and reflects a near quadrupling of the number reported for the same period last year; 8 of the top 20 cities in foreclosure filings are in California.

Clearly, then, there is no better place to gauge the response to date by public and private stakeholders than here. And the stakes could not be higher. Having watched the turmoil in the mortgage markets unfold over the past year, it has struck me that two assessments made at various points by key prognosticators inside and outside government have yet to hold true.

The first such claim is anything along the lines of, "This foreclosure crisis isn't as big as we thought it was, and we appear to have our arms around the magnitude of the problem." The second quote is, "This problem in the housing finance sector is unlikely to have tremendous impact on the rest of the economy and threaten growth." Rather, at every step the scope of the crisis has proven to be larger than originally anticipated, including by the Department of Treasury and the Federal Reserve. And we have not yet reached the crest of the wave, as millions of adjustable rate mortgages are scheduled to reset over the next 12 months.

Similarly, initial assurances that the problems of the mortgage market are unlikely to spill over into the rest of the domestic and global economy now seem wildly overoptimistic. Many of the Nation's largest financial institutions find themselves heavily invested in mortgage-backed securities of uncertain and declining value with extraordinary ripple effects being felt across the global financial markets.

Former Treasury Secretary Lawrence Summers now puts the chances of avoiding recession at less than 50 percent, unless decisive action is taken. I take this warning very seriously, as I witnessed how the S&L crisis of the late 1980's contributed directly to the recession of the early 1990's, which in turn brought a 20 percent drop in California housing prices during my first 6 years in Congress.

I would note, further, that the financial services industry now makes up nearly twice the share of gross domestic product compared to then, meaning an unredressed crisis in that sector is far less likely to be segregated from overall economic wellbeing today. So the magnitude and urgency of the crisis clearly merits a hearing.

Let me proceed, then, to my second point, namely what we are trying to accomplish with this hearing. As a senior member of the Financial Services Committee, I have obviously been involved in the committee's many activities around the subprime crisis spearheaded by a very able chairman from Massachusetts, Chairman

Barney Frank. However, the focus of many of our hearings and legislative activities has been on preventing the next crisis.

The House recently passed H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, which puts in place new Federal standards for loans designed to prevent ongoing abuses in the subprime market. While I remain concerned that the preemption provisions of this bill may inhibit States from taking on the pioneering enforcement role they assumed in the current crisis, there is no question that H.R. 3915 is a significant piece of prospective legislation.

Today, though, I want to focus on the effectiveness of what is being done to address this crisis right now. To a large extent, such measures by Federal regulators and the major private sector stakeholders have had to take place under existing legal authority, though we in Congress have certainly encouraged them to interpret the authority so as to take bold rather than timid steps. This has included, for example, House passage of my FHA modernization bill, H.R. 1852, designed in part to make FHA insurance more available to assist currently distressed homeowners.

Even before Senate and presidential action on this bill, HUD heard the signal of congressional intent and created the FHA Secure Program under its current authority to give the FHA a more central role in the current crisis. Simply put, the overarching question of the day is, how is it going? In other words, what has been the impact on the ground to actual borrowers of the various loss mitigation initiatives that we have heard about in Washington?

This, of course, includes such national initiatives as FHA Secure and HOPE NOW Alliance between major mortgage servicers—and NeighborWorks—and State efforts like the agreement announced by Governor Schwarzenegger a few days ago. I am especially focused on the rate at which distressed borrowers are receiving timely, effective loan modifications from their servicers.

I have said from the beginning of the crisis that the mortgage servicers are the key to any solution. They are literally where the rubber hits the road in a system, where a homeowner's actual mortgage may be sitting in third tranche of a security held by an investor 6,000 miles away.

I fully recognize that servicers face constraints on their actions, most obviously the pooling and servicing agreements that they have with their investors. They are under a fiduciary obligation not to just give away the store, and efforts to help a homeowner and avoid foreclosure, but not all homeowners are similarly situated in terms of the appropriate loss mitigation strategies.

At the same time, however, I am concerned about reports that servicers have not been moving as quickly as they might under their current authority. Indeed, I fear we may have lost critical time as servicers and the Treasury Department and the Federal Reserve have only recently begun to concede that a plodding loan-by-loan renegotiating and reunderwriting process simply won't get the job done fast enough to stem this crisis.

I understand that Secretary Paulson yesterday met with a number of the servicers represented here today to discuss this very issue, and I am interested to hear more about that meeting than

may have been reported in the press today. To be clear, I enter this hearing with an open mind.

I hope that servicers will tell me and the members of this subcommittee about any further obstacles to decisive action that this subcommittee might help with. And, further, that the reports we hear today from consumer groups, regulators, and homeowner witnesses, indicate things are moving in California at an appropriately rapid pace. But I would be less than honest if I did not share up front my concern that they are not.

Even more distressing are reports that servicers profit from foreclosure fees far more than I think many of us suspected, adding to my eagerness to confirm that their actions underground in California are consistent with their reports to the full committee when it comes to engaging in effective loss mitigation strategies.

Today's hearing, in turn, informed the subcommittee's legislative work in regard to mortgage servicers and loss mitigation. Indeed, during the markup of H.R. 3837, the Escrow, Appraisal, and Mortgage Servicing Improvement Act, Subcommittee Chairman Kanjorski and I agreed to focus on the question of whether some duty for servicers to engage in loss mitigation activities is called for and given current circumstances.

With that, I would like to thank all of our elected officials who may be in the audience today. I know that Assemblyman Mike Davis is with us today. And I know that he is working on this very issue and will be having a hearing that is coming up, I believe, on December 8th. So we will share that information with our audience before we leave here today.

With that, I would like to recognize Mr. Green, the Congressman from Houston, for his opening statement.

Mr. GREEN. Thank you, Madam Chairwoman. I especially want to thank you for convening this most timely hearing, and I would like to, if I may, just thank you for what you have been able to do in just a few months as Chair of the Housing Subcommittee. In a very short period of time, Madam Chairwoman, I am grateful that you have taken on some of the pressing issues, including issues of 2/28s and 3/27s, issues that would allow persons to get fixed financing for 2 years, and then variable financing for 28 years, 3 years in the 3/27s and 27 years of variable financing.

I am mentioning these things because I want you to understand that I am appreciative that you have made a difference in the lives of people by virtue of being chair of this subcommittee. You have truly been the harbinger of help for the helpless and a purveyor of power to the powerless.

And, friends, I think that even in subcommittee hearings like this it is appropriate to give an expression of appreciation to a Chair who is working tirelessly to make life better for the least, the last, the lost, and those who are trying to fulfill the American dream.

So I come today, and I am honored to be here, with an understanding that Dr. Martin Luther King imparted to us. He reminded us that life is an inescapable network of mutuality, tied to a single garment of destiny. What impacts one directly impacts all indirectly.

And that is why this subprime crisis is one that everyone must be concerned with. Those who say, "Let them suffer. They made their beds hard, let them lay, let them lie, let them stay," friends, they are mistaken. This problem is not one that will be localized. There are many prime homes in areas where subprime loans have been made.

And when the for sale signs are up, the value of property goes down. When the value of property goes down, taxes are smaller. When property taxes are smaller, schools, roads, and infrastructure don't get the repair that is needed. So you cannot conclude that because I did not get a subprime loan that may go into default that I don't have a problem. This is an American problem, and we all must be involved in the solution to the problem, especially the Housing Subcommittee and the United States Congress.

If the President decides that he is going to call together some business persons and try to work out a system, a solution, I think that is wonderful. If the courts rule appropriately in certain cases, the Judiciary Branch of government, I think that is wonderful. But I think people expect the Housing Subcommittee to do what we are doing today, and that is to hold hearings to try to find out how we can be of assistance to homeowners across the length and breadth of this country.

And when we do this, we are interested in not knowing that we have some catchy slogan, like "Hope Now," which is a good one, and I don't want to demean the process, but I understand that people really want help now. HOPE NOW is a great way to impart a desire for people to continue, but the people that I talked to, they want help now. And they understand that the details are where you either are going to have more hope that will lead to help or you are going to find that you are stalled in a process that does not lend itself to your getting the help that you need.

Again, this is not something that is isolated to any community or any given neighborhood. It is something that is happening across the length and breadth of this country.

I also want to acknowledge and appreciate very much what is being said by members of the Administration with reference to their desire to be of help, but I do wonder if they are aware that we have already passed legislation through this subcommittee to do much of what they are saying they want Congress to do. And it may be time for people to become truthful and say they want certain aspects of Congress to act that have not acted, because this subcommittee has been moving tirelessly to make sure that homeowners will have the opportunity to keep their homes.

So I look forward to hearing from the witnesses who are here today, and I assure you that I will have some questions that I think will be of interest to them and to me and to the constituents that I serve, given that we have about 2.5 million adjustable mortgages that will adjust by the end of next year, and that is about $600 billion. That is going to have a tremendous impact.

The U.S. Conference of Mayors has indicated that at least 1.4 million homes will enter into foreclosure next year. That is going to have a significant impact. The size of the problem is large, but it is one that we can manage. We only have to decide that we are willing to work together. This chairwoman has been willing to work

with whomever will work with her, and I join her, and I look forward to hearing from the witnesses today.

Thank you, Madam Chairwoman, for your time.

Chairwoman WATERS. Thank you very much. Thank you.

Next, I would like to recognize one of my colleagues that I work very closely with—and we are so lucky to have such a wonderful group of elected officials in this overall area—Grace Napolitano representing the 38th Congressional District.

Mrs. NAPOLITANO. Thank you, Madam Chairwoman. I will keep my remarks short and brief. But I echo Congressman Green's sentiments about Chairwoman Waters, because any time I have an issue on public service or on fairness and justice, I know I can call her and she is sitting right there next to me trying to fight for the ones who do not have a voice.

This is something that affects the economy of the United States. It affects the heart of our people. People have a home, they have roots, they have the ability to educate their children, they have the ability to own businesses. This is economy. This is the future of what we have been striving for, and to lose it for many will be catastrophic.

And we want to ensure that anybody who has an issue can understand that this Chair and this subcommittee has been putting forth the propositions, and hopefully they will get out of the Senate to be able to address what has been happening throughout the United States. And understand that a lot of what is—I have seen and heard is that foreign corporations are buying us up.

We cannot afford to have them do that. Land is ours. It is our people. And as you can see, it is a very diverse America that we must continue to be able to support in moving forward to protect our families and our communities.

So thank you for allowing me to be part of your hearing. I may not be able to stay the whole time, because I have other commitments, but this is a very serious matter for my area also, and I am sure for the rest of California and the Nation. And I thank you for your leadership and hope my colleagues will consider coming into my area some time within the not-too-distant future, because we need to spread the word about what is really happening and how we can work together to address that.

So thank you, Madam Chairwoman, and I am very happy to be here.

Chairwoman WATERS. Thank you very much.

We will be joined shortly by Ms. Sanchez, who is on her way here and has been caught up in traffic. But next we are going to hear from one of our newer Members of Congress. We are so pleased and proud that Laura Richardson has joined us in the Congress of the United States of America. She hit the ground running, and she is focused on this issue. I think she may have cut short a trip that she was involved in to get back here, so that she could be at this hearing today.

Thank you, Congresswoman Laura Richardson.

I will recognize you for your opening statement.

Ms. RICHARDSON. Thank you, Chairwoman Waters, for holding this very important hearing today. Domestically, I cannot think of another topic that is more important to all of the citizens of Cali-

fornia and the United States when you look at it nationwide than the current crisis that is occurring in the housing market.

It was just less than 5 years ago that lenders across the country were recording record sales, and countless Americans were experiencing the joy of becoming new homeowners as they took out subprime loans and adjustable rate mortgages to finance their dreams. However, as the old saying goes, "If something is too good to be true, it probably is."

Preying on wide-eyed aspirations of many low-income first-time homebuyers, some lenders disregarded industry-wide lending standards for an opportunity to take advantage of a booming housing market that saw home prices increase dramatically at the turn of this century. With teaser rates that are now set to explode, the dream that many families set out to achieve has become, in less than 2 years, an absolute nightmare.

The Center for Responsible Lending estimates that 8.4 million neighboring homes in California will experience devaluation because of foreclosures in California. The same study reveals that the foreclosures can bring down the values of not only that person's home, but their neighboring area as well.

As was stated by Representative Green, when you have the decrease in overall property value for a particular neighborhood, that reduces the tax base, and the local government then that depends upon those dollars is unable to adequately fund for police, firefighting services, garbage pickup, and public schooling. This clearly illustrates that this is a community problem that we are all affected by. It is painfully obvious that we cannot sit back and do nothing, not when the foreclosure crunch is being felt by more Californians than in any other State in the Nation.

As I get ready to close, I would like to speak to you a little bit about my district. Statistics from the 37th Congressional District, which includes Watts, Compton, Long Beach, Carson, and Signal Hill, are alarming to say the least. Thirty-six percent of the loans originated in my district were subprime loans. One in five of these subprime loans will end in foreclosure.

That means that the 37th Congressional District, of more than 225,000 surrounding homes, will be affected by the price declines as a result of these foreclosures. As a Member of Congress, we recently passed legislation, H.R. 3915, that was recently stated, but you need to know on something that I feel quite passionate about that if we were to look at this situation related to a disaster, similar to the recent fires or what happened in Katrina, stronger efforts probably would have been taken.

And I am here to say that just because there is not a fire, just because there is not a flood, this must be addressed in our community.

Again, I want to thank Congresswoman Waters. You should all know, sometimes when we are involved in local government you hear something that a person is a chair of a particular committee, and you may not understand the magnitude of that. Congresswoman Waters has had a long history of advocacy regarding many issues, but in particular of housing and the work that was done in Katrina was something that was needed. We are fortunate that she

happens to represent us here in California, but she is spearheading this issue across the Nation.

I am more than happy to stand with her and the other members of this subcommittee as we have this hearing to figure out what additional solutions can be brought forward to address this very serious problem.

Thank you, Chairwoman Waters, for your leadership.

Chairwoman WATERS. Thank you so very much.

The other member who will be with us today, working with us today, just arrived. And, again, as I said, we are so fortunate here in Southern California to have such strong advocates for people, for working people, for poor people, and such a representative is Ms. Linda Sanchez from the 39th Congressional District.

Thank you so much for being with us today, and I will recognize you for an opening statement.

Ms. SANCHEZ. Thank you, Madam Chairwoman.

My apologies for my tardiness, but the traffic and the rain are a bad combination in Los Angeles.

Chairwoman WATERS. Yes.

Ms. SANCHEZ. I am pleased to be here this morning, and I really want to thank Chairwoman Waters for organizing today's hearing and for inviting me to participate in it. Her leadership on this critical issue has been a key part of Congress' effort to develop solutions for working and middle-class families who find their American dream at risk of becoming a nightmare.

The subprime mortgage crisis has inflicted severe stress on our national financial system and has even triggered concerns in our global economy. Falling real estate prices and a reduction in the availability of loans are making it more difficult for overstretched homeowners to either refinance their way out of trouble or even to simply sell their homes.

In 2006, 1.2 million foreclosures in the United States were recorded. That is almost double the number that existed in 2005. By this year's end, foreclosures could reach the 2 million mark, and statistics of this magnitude haven't been seen in this country since the Great Depression.

The subprime mortgage crisis has hit our economy hard and will continue to spiral downward if we don't address it with swift and discernible action. If changes to the mortgage lending system are not made, an astounding $400 billion worth of mortgage defaults will occur in the United States between now and 2008.

In my Congressional District alone, where 31 percent of home mortgages made in 2005 and 2006 are subprime loans, that means that one in every five of those families will likely receive a notice of foreclosure. One in every five. Challenges posed by the subprime mortgage crisis don't end with those who lose their homes.

Even those who are fortunate enough to pay their mortgages on time and be able to maintain their homes will be affected. Foreclosures reduce property values of nearby properties and induce lenders to tighten credit, making borrowing credit more expensive even for those with good credit.

Approximately 198,000 homes in my district face price declines amounting to about $2.4 billion in home equity loss due to the fallout from the foreclosures. So even if you don't have a subprime

mortgage, don't think for a second that this crisis isn't going to affect you. We must all do what we can to help prevent additional foreclosures and to ensure that lenders no longer have incentives to lend carelessly to subprime borrowers with shaky credit.

The Emergency Home Ownership and Mortgage Equity Protection Act of 2007, which I introduced in September along with our colleague, Brad Miller of North Carolina, is just one of the measures that we are working on in Congress to protect American families during this financially turbulent time. This bill would protect homeowners whose situations are so dire that they have no other option but to declare bankruptcy.

This legislation would help at least 600,000 U.S. families and homeowners affected by the subprime lending crisis to avoid losing their homes as a result of foreclosure. It would allow bankruptcy judges to restructure home mortgage debt as they concurrently do for mortgages on investment properties, vacation homes, and family farms.

Currently, the law allows bankruptcy judges to modify mortgages for families who are fortunate to own a second home, such as a vacation home or an investment property, but denies judges the ability to do the same for working class families whose only property is the home they live in. And that simply doesn't make sense to me, given that most Americans only own one piece of property, and that is the home that they live in.

All homeowners should be treated similarly and have access to the full range of financial support and options available, whether they have multiple vacation homes or just one cozy cottage. The Emergency Home Ownership and Mortgage Equity Protection Act provides that relief and simultaneously lessens the pressure on the mortgage market and the broader economy.

With even more subprime loans scheduled to reset at higher interest rates in the next 18 months, mortgage servicers and Congress must act now to prevent the current wave of foreclosures from turning into a tsunami of foreclosures.

I want to thank all of our distinguished witnesses in advance for taking the time to be here, and I look forward to their testimony.

I thank the gentlewoman, and I yield back the remainder of my time.

Chairwoman WATERS. Thank you very much. Thank you.

Before I introduce our first panel of witnesses, I would like to thank all of you who have taken time to come here today, particularly in the rain. I had not expected such a turnout. You do me proud. Thank you very much. Give yourselves a big round of applause.

Ladies and gentlemen, we are expecting the Mayor, Mayor Antonio Villaraigosa, to join us. He has a very tight schedule, and we will try and put him on as soon as he comes in the room.

Now I would like to introduce our witnesses for the first panel: the Honorable Anthony Young, city council president pro tempore, from San Diego, California; Mr. Joseph Bates, Director, Santa Ana Homeownership Center, U.S. Department of Housing and Urban Development; Mr. Mike Krimminger, Chairman's Special Advisor for Policy for the Federal Deposit Insurance Corporation; Ms. Heather Peters, deputy secretary for business regulation, Depart-

ment of Business, Transportation, and Housing, State of California; Mr. Pastor Herrera, director, Department of Consumer Affairs, Los Angeles County; and Mr. Sean Rogan, director, Department of Housing and Community Development, City of Oakland, California.

I would like to thank all of you for appearing before the subcommittee today, and without objection, your written statements will be made a part of the record. You will now be recognized for a 5-minute summary of your testimony. I will start with the Honorable Anthony Young. Thank you for being here.

**STATEMENT OF THE HONORABLE ANTHONY YOUNG, CITY COUNCIL PRESIDENT PRO TEMPORE, SAN DIEGO, CALIFORNIA**

Mr. YOUNG. Thank you, Chairwoman Waters. And before I begin, I wanted to let you know how much I appreciate the work that you have done. The individuals in San Diego have recognized that, and they sent me to tell you thank you for all of your work. I have watched all of your careers, and I just want to say thank you for all the work that you have done.

Chairwoman WATERS. Thank you.

Mr. YOUNG. On behalf of the City of San Diego and the City-County Reinvestment Task Force, I would like to thank you again for your invitation. We appreciate your interest in a topic which for the City of San Diego, the State, and the country is having a profound impact on people's lives and our economy. The impact is being felt by all segments of the population, including our military.

In the first 9 months of this year, 15,582 homes have received notices of default from their lenders in San Diego County alone. Forty percent of those end up in foreclosure. Between January of 2007 and September, foreclosures have increased by 100 percent in San Diego County. We project this rate to increase and continue unabated for the next 2 years based on the volume of subprime loans dumped into the local market. And I say "dumped" onto our local market because the majority of those loans have come from mortgage brokers who are no longer in business.

Over 70 firms in San Diego County in our region are either—have either gone bankrupt or are selling off over the past 2 years. We have been victimized by an industry that functions without regulations, with minimal supervisions, that can appear and disappear without penalty and without responsibility for the damage that they inflict on people's lives in this economy. It troubles me to think that our servicemen and women who are currently fighting and putting their lives on the line to protect our country are particularly being preyed upon.

Historically, in San Diego, crises in the housing market are caused by a combination of external or economic factors. In this case, the foreclosure epidemic has been caused by unregulated funds from new State licensed mortgage lenders, most of whom are no longer in business as I said before, home mortgage brokers being paid double and triple commissions for subprime and predatory loans targeted to low-income, and particularly ethnic borrowers, lack of State supervision or authority to regulate interest rates and loan terms in the absence of supervision over Fannie Mae and Freddie Mac and their policies related to securities' pur-

chase of subprime and predatory home loan products, and lack of national regulations related to securities, and leveraged finance obligations for Wall Street investments.

The City-County Reinvestment Task Force, which I chair, has been following this issue for the last 2 years. We have filed comments on pending legislation with Federal bank regulators, the Banking and Finance Committee of Congress, the State, and directly to a number of major regulated financial institutions, many of them who actually sit on the Reinvestment Task Force that I chair.

Seeing little if any action at any level has resulted in our adoption of local strategies to attempt to manage this serious economic problem. For the last year, this task force has held hearings in order to define the problem and engage in finding tangible solutions.

We have created a list of recommendations that were presented and adopted by the City Council at the City of San Diego. Some of the recommendations and actions were to direct the City and county lobbyists to aggressively support Federal and State legislation which provides increased funding of nonprofits for foreclosure counseling, that establishes rules and regulations for unregulated mortgage companies and brokers, that the Reinvestment Task Force will work in partnership with nonprofits and State coalitions to negotiate with major lenders for reasonable workout programs and loan products for customers.

And we recommend that the city, county, and State legal authorities develop an enforcement strategy for interdicting, reducing, and removing predatory mortgage lending practices in the region, including review of potential security violations. We also requested that the city and county establish an ordinance regarding inspection and monitoring of foreclosed properties for code violations and ongoing maintenance.

That the FNMA and the Veterans Administration modify loan limits to compensate for the cost of housing in the San Diego market, which I also believe that is an issue here in Los Angeles. We encourage the FNMA and the Veterans Administration to develop specific foreclosure alternative products, including refinancing and engaging in aggressive marketing efforts to our veterans.

Many of our communities are now sitting with vacant properties—five to six on a block—depressing the local market and inviting blight and criminal behavior to normally pleasant communities. Following the lead of a City just south of us, Chula Vista, which has been hit particularly hard, we have an ordinance that requires banks to maintain these empty, vacant properties under the threat of penalty. We want them off the market before they infect the vitality of communities that have had to struggle for years—over the years to become—

Chairwoman WATERS. I need you to wrap up.

Mr. YOUNG. I will.

Chairwoman WATERS. Thank you.

Mr. YOUNG. Yes, ma'am. Basically, what I would say to this subcommittee—and thank you for the time that you have allotted to me—is that this is a national problem, even an international prob-

lem. But I would also say that local agencies really have to be a part of this.

Home counseling, aggressive marketing to individuals, letting people know that they do have options, and then one of the things I would say to this subcommittee is allow the use of CDBG funds that cities already have to be able to—to be used for the home counseling that is so important now.

The last thing I would say, Ms. Waters—and thank you for giving me this extra time—is to also understand that there is going to be something happening after this. And there is a tsunami that Ms. Richardson talked about that we are in the middle of. But after the tsunami, there are some things that we should do, including finding opportunities for individuals to get back in their homes.

Thank you for the opportunity to speak.

Chairwoman WATERS. Thank you very much.

Mr. YOUNG. I appreciate it.

Chairwoman WATERS. Thank you.

[The prepared statement of Mr. Young can be found on page 188 of the appendix.]

Chairwoman WATERS. Ladies and gentlemen, I mentioned that we would be joined by Mayor Antonio Villaraigosa. He is now here. We thank you for being here, Mr. Mayor. We know how concerned you are about this housing crisis that we have, so we will recognize you for the next 5 minutes.

**STATEMENT OF THE HONORABLE ANTONIO R. VILLARAIGOSA, MAYOR OF LOS ANGELES, CALIFORNIA**

Mayor VILLARAIGOSA. Madam Chairwoman, it is good to be here with you. Congressman Green, and Congresswomen Napolitano, Sanchez, and Richardson, it is good to be with all of you. Thank you for holding this hearing here in the City of Los Angeles. We believe that it is important to put a light on the widening crisis of home foreclosures here in the City. In the last year, we witnessed a dramatic rise in the number of foreclosures; 2007 has been the worst year on record here in the City of Los Angeles.

In the first quarter of 2006, there were 115 foreclosures in the City of Los Angeles. By the first quarter of 2007, foreclosures had increased 6-fold with 716 families losing title to their homes. Since then, we have seen the crisis escalate in its scope and scale. Foreclosures rose to 850 in the second quarter and 1,177 in the quarter ending in September.

Most alarmingly, we see the foreclosure crisis hurting people in our most economically vulnerable neighborhoods. In these neighborhoods, as was mentioned a few minutes ago, we are losing dozens of homes a day. The 10 zip codes with the highest foreclosure activity, notices of default, foreclosure notices, foreclosure sales, were located in either South Los Angeles or the Northeast Valley.

We also see that the crisis has a distinct face. The vast majority are subprime loans. The loans with the highest rates of foreclosure have been made to African-American and Latino households. There is gathering evidence that the corrosive effects of the foreclosure crisis is spreading, and one of the most pernicious side effects of widespread foreclosures is the increase in broken windows and neighborhood blight caused by abandoned buildings.

Already in Los Angeles, we are seeing an increase in the number of abandoned building referrals to the Department of Building and Safety and a rise in the number of nuisance building cases referred to our Abandoned Building Task Force. The crisis is simply too big for half-measures and tinkering at the margins.

And I do want to take a moment to go off script and acknowledge the leadership of Congresswoman Waters on this issue. This is not an issue that the Congresswoman first raised during this mortgage lending crisis. I remember being with her some 5 or 6—maybe it was 7—years ago with ACORN talking about this issue here in South Los Angeles, and I want to acknowledge you for that effort over the years.

As you well know, we need a concerted well-organized campaign to demand adequate resources to address the misery that has been caused to ensure that the needed reforms take place. For this reason, I am calling on fellow California mayors to join me in a coalition to demand State and Federal legislation to bring necessary resources to our communities and to reform lending practices.

We did not cause this crisis, but we are on the front lines of it. Our constituents are the ones who have suffered because those who have had the power to stop fraud and predatory lending were asleep at the switch. A strong, collective voice is needed to make sure this never happens again, and together with my fellow mayors, I intend to raise that voice.

We also need local lender accountability. For this reason, I will shortly convene a meeting of our City's largest lenders and mortgage servicers and create a program of local lender accountability. Lenders and mortgage servicers have signaled their desire to work with borrowers, and we believe that many of them are. However, we also believe that much can be done and much more should be done.

As the crisis grows, the need for a streamlined, transparent process for loss mitigation will grow even more urgent. We need lenders to publicize their loss mitigation programs, and the criteria they use to decide how they can help distressed borrowers. We need lenders to tell us how they intend to manage foreclosed homes that are vacant, so that they do not contribute to urban blight.

We need lenders to begin a meaningful discussion about creating a process to offer foreclosed properties to the City and to nonprofit organizations, so that these properties can be converted into community profit and affordable housing. Here in the City of Los Angeles, for 2 years running, and for the first time ever, we fully funded our Housing Trust Fund at $100 million, half of that money dedicated to permanent support of housing for the homeless.

We believe that it is incumbent on these mortgage lenders and banks to participate with us in an effort to convert this housing into affordable housing. We cannot allow these properties to be snapped up by speculators. What we need now is support for the foreclosure counseling and legal aid agencies that help home buyers at risk of foreclosure.

Here in the City of Los Angeles, we have committed $100,000 for foreclosure counseling, but as you know much more money is needed to expand these services. Incredibly, at the State level, these funds were cut to $2 million for the current fiscal year. An infusion

of Federal funds specifically designated for foreclosure counseling and legal assistance would not only help to avert future predatory mortgages but also help avert foreclosure of mortgages that are currently at risk.

For this reason, we strongly support the Mortgage Reform and Anti-Predatory Lending Act of 2007, and would urge immediate Senate passage of your bill. Furthermore, we have to address the needs of borrowers who are currently at risk of losing their homes, and we have to challenge the banking industry to accept their responsibility to be a part of the solution.

Here in California, Governor Schwarzenegger is demonstrating what is possible. A recent agreement announced between his office, Countrywide, GMAC, Litton, and HomeEq should serve as a model for the entire Nation to follow. Working in partnership with the mortgage industry, the Governor is forging a commonsense solution. We intend to work with him to build on that here in the City of Los Angeles.

Finally, I also want to acknowledge the work of assembly speaker Fabian Nunez and assembly member and chair of the Assembly, Committee on Banking and Finance, Ted Lu. The speaker and Mr. Lu have put together a much-needed package to address foreclosure prevention measures, banning such things as prepayment penalties, no documentation loans as well. Requiring that lenders consider the borrower's ability to repay the loan over the entire period is also crucial to protecting California borrowers.

I am here today in support of this hearing, and intend to work with you, all of you. I have worked on many issues in the past on this very, very important issue.

[The prepared statement of Mayor Villaraigosa can be found on page 176 of the appendix.]

Chairwoman WATERS. Well, Mr. Mayor, I would like to thank you so much for taking time from your busy schedule to be here today. Clearly, based on your testimony, you certainly know what is going on, and some of the proposals that you have just made and talked about are extremely important. You are absolutely correct. We need to get more money to the cities for counseling.

We have $200 million that is in conference right now. The President is threatening to veto it. We hope not, because the cities just don't have enough money to allocate toward this counseling and educating of our citizens. The Honorable Anthony Young from San Diego recommended that we use more CDBG money to do it, but you are so limited in your CDBG money, and there is such competition for it until it would put a real strain on the City's use.

We need new resources and new money, and we are going to fight for it. But we would hope that we get the message out there to encourage the President of the United States to sign the legislation that would put $200 million out into the cities very soon.

I know that your time is limited. We thank you so much for appearing here today, and we look forward to working with you.

Mayor VILLARAIGOSA. Well, thank you.

Thank you, Chairwoman Waters. And I want you to know that on behalf of the City of Los Angeles, I recognize that though this hearing is being held here, if it is necessary for me to be with you anywhere, including Washington, D.C., on this issue I certainly am

prepared and willing to join you in this effort to ensure that the Federal Government is responsible and assisting in this effort.

Thank you very much.

Chairwoman WATERS. Thank you so much, Mr. Mayor.

Mayor VILLARAIGOSA. Thank you.

Chairwoman WATERS. Ladies and gentlemen, I mentioned that we have such a strong group of Members of Congress in this area, and we are very blessed to have been joined by Congresswoman Diane Watson who is representing the 33rd Congressional District. Thank you very much for joining us today, Congresswoman Watson.

We are going to move on with our witness panel, and then we will return to our members here to ask questions.

I have something that I must do. There are so many rules of Congress when you run these committees. I must say that Representative Diane Watson will also be considered a member of this subcommittee for the duration of this hearing.

Without objection, such is the order.

We will move now to Mr. Joseph Bates, the Director of the Santa Ana Homeownership Center, U.S. Department of Housing and Urban Development.

**STATEMENT OF JOSEPH BATES, DIRECTOR, SANTA ANA HOMEOWNERSHIP CENTER, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. BATES. Thank you. Chairwoman Waters and the distinguished members of the subcommittee, thank you for this opportunity to testify today on the efforts made by the U.S. Department of Housing and Urban Development in the areas of foreclosure prevention and intervention. I am Joseph Bates, Director of HUD's Santa Ana Homeownership Center.

The significant effects of foreclosure on our national economy and on the world markets brings us here today. Congress and the Administration have for some time been looking at legislative and regulatory options for minimizing foreclosures. At HUD, I can report that we are working on both in our efforts to mitigate the adverse effects of this market correction on borrowers.

One of the strongest tools we have to protect both borrowers and markets is the Federal Housing Administration, FHA. As you may know, HUD helps individuals secure credit by providing mortgage insurance through a private sector distribution network that makes owning a home more affordable and safe, and, therefore, a reality for many borrowers who might otherwise go underserved.

HUD Secretary Alfonso Jackson has stated in previous testimony before Congress that he has firmly believed for some time that many of those who ultimately entered the subprime market would have been better off with an FHA-insured loan. Many may still be eligible to refinance today.

Although we cannot go back in time to ensure that each borrower had made the best decision when obtaining a mortgage, we can provide refinancing options to many subprime borrowers, and we can do more to help people make better decisions going forward through both innovative products and counseling support.

This week HUD released informational video footage containing foreclosure prevention tips and information for homeowners who are struggling to pay their mortgage. Among other things, the video includes a list of 10 tips on how to avoid foreclosure. I suggest that anyone who owns a home or who is in the market to buy a home visit HUD's Web site at www.hud.gov for more information.

Secretary Jackson has commented that the dramatic rise in single-family foreclosure starts is fueled in great part by the proliferation of subprime loan products, including hybrid ARMs. More than 2 million subprime ARMs are expected to reset to higher interest rates by the end of 2008, and many of those borrowers, unable to afford the higher payments, will be forced into foreclosure unless the industry takes immediate and aggressive action to provide alternatives.

In September, FHA announced one such alternative. FHA Secure is one of our refinance options designed specifically for conventional and subprime borrowers who default on their mortgages solely because they can no longer afford the payments on their ARM loan after the interest resets to a higher rate. Through this very new program, over 800 FHA lenders are already using FHA Secure to rescue delinquent borrowers from the potential loss of their homes. Since September, more than 100,000 conventional borrowers have applied for FHA Secure refinance loans.

On October 10th, HUD Secretary Alfonso Jackson and Secretary of the Treasury Henry Paulson announced the HOPE NOW Alliance, an unprecedented alliance of the Nation's largest mortgage servicers, housing counselors, and real estate investors, all committed to one common goal—to help as many homeowners as possible avoid foreclosure and retain homeownership.

One of the goals of the HOPE NOW Alliance was to develop and fund a nationwide advertising campaign to encourage delinquent borrowers to seek help through the 888–995–HOPE network of HUD-approved housing counselors. The 888–995–HOPE line is up and running with 122 experienced counselors nationwide. Another 50 are currently being trained and more are being recruited.

Throughout this year, HUD staff and senior officials nationwide have sponsored and participated in more than 125 homeownership retention events including fairs, targeted mailings, and joint task forces that reached a combined audience of 25,000. The Santa Ana Homeownership Center, in cooperation with the Southern California Congressional Representatives and HUD field offices have put together a series of seven town hall foreclosure summits to spread the word on foreclosure prevention.

Participants besides HUD include Fannie Mae and Freddie Mac, the Federal Reserve Bank of San Francisco, the IRS, local congressional representatives, and representatives from Wells Fargo and Countrywide, both of whom are major local mortgage providers in California and participants in the FHA Secure refinance program.

Attended by over 1,000 participants, these meetings have also featured on-the-spot housing counseling with HUD-approved counselors from 1 or more of our 15 Southern California nonprofit agencies employing an estimated 125 certified counselors. In addition to these town hall meetings, the Santa Ana Homeownership Center

has attended several banking and Realtor conventions and meetings as part of our outreach effort to help publicize FHA Secure.

The recent National Association of Realtors Convention in Las Vegas was attended by an estimated 5,000 Realtors who lined up at the FHA booth to obtain information on the work we do. As you can see, the Department has taken several steps to address foreclosures, but there is much work still to be done.

Thank you for your time this morning, and I look forward to your questions.

[The prepared statement of Mr. Bates can be found on page 99 of the appendix.]

Chairwoman WATERS. Thank you very much.

Next we will hear from Mr. Mike Krimminger, Chairman's Special Advisor for Policy, Federal Deposit Insurance Corporation.

**STATEMENT OF MICHAEL H. KRIMMINGER, CHAIRMAN'S SPECIAL ADVISOR FOR POLICY, FEDERAL DEPOSIT INSURANCE CORPORATION**

Mr. KRIMMINGER. Good morning.

Chairwoman WATERS. Good morning.

Mr. KRIMMINGER. Chairwoman Waters, and members of the subcommittee, thank you for the opportunity to testify on behalf of the FDIC. As you know, the rising level of foreclosures across America is of great concern to FDIC Chairman Sheila Bair. I would like to focus my oral remarks this morning on her plan for modifying the more troubling of these exotic mortgages known as 2/28 and 3/27 subprime hybrids, which are forcing many homeowners into default and foreclosure.

As you know, poor lending standards and weak consumer protections are at the root of the problem. After a huge run-up in these 2- and 3-year adjustable rate loans that began after 2003, they now make up more than half of the $1.3 trillion in subprime mortgage loans outstanding.

Now, some 1.5 million or more of these loans will reset by the end of 2008, and another 375,000 will reset in 2009. Without a doubt, we are just now getting into the thick of the problem.

California's exposure to subprime mortgages is especially significant. The large numbers of subprime hybrid ARM loans with approaching resets in California places many thousands, perhaps hundreds of thousands, of California borrowers at risk between now and December 2008. These borrowers had hoped to refinance their homes as prices rose to pay off the loans before reset and avoid crippling monthly payments.

And let me point out one important fact: The lenders and investors also expected these borrowers to refinance the loans. No one expected them to pay the reset payments.

Unfortunately, housing prices now are declining, closing off these options for many. California's subprime mortgage problems also are spreading, affecting home builders, suppliers and others, resulting in layoffs, lower tax revenues, and higher foreclosure rates. We believe that all of this calls out for creative solutions to keep people in their homes by restructuring their loans on a long-term and sustainable basis.

Now, some of the borrowers who have the 2/28 and 3/27 subprime loans will be able to refinance at better rates. Today, unfortunately, that is probably a fairly small number. Some others have been seriously delinquent, even at the starter rate, and even if their loans are modified there may be limited prospects for keeping their properties.

Another group, however, has generally remained current. Chairman Bair's proposal focuses on this last group. Her proposal is simple and effective, but often misunderstood. It is this: For owner-occupied homes where the borrower is making timely payments, but clearly cannot afford the reset payments, we think those loans should be converted to fixed rate loans at the starter rate. At a minimum, the starter rate should be continued for a long-term sustainable period of 5 years or more. This could keep hundreds of thousands of people in their homes and stabilize our mortgage markets.

Chairman Bair is urging loan servicers to do this in a streamlined way. Renegotiating the terms of the loans, loan-by-loan, as some are doing, is costly and time-consuming. A standardized approach is urgently needed.

We believe there is an emerging consensus among policymakers and servicers that this is the best way to start dealing with the subprime meltdown. For example, as you noted, Governor Schwarzenegger announced last week an agreement with four major subprime lenders to work with homeowners unable to afford escalating mortgage payments.

In line with Chairman Bair's proposal, the servicers agreed to maintain the initial lower interest rate for subprime borrowers who occupy the homes, have made their payments on time during the starter period, and have proved they cannot afford payments at the higher reset rates. We support this agreement and believe it will spur other servicers to adopt this approach and speed up the pace.

We also would urge the homeowners who cannot afford their mortgages to please contact their lenders or servicers as soon as possible to look for a workout solution before the reset date. I underlined that, because I think that is a critical factor in making sure that there is a relationship and a conversation between the homeowners and their servicers.

Now, to the critics who say such a large-scale approach is untested and unworkable, we say these and other loan servicers are already doing it successfully. Not only is it feasible, the servicers say that it is saving them time and money and keeping people in their homes. We think that just about anything beats foreclosure, which, as you noted very accurately, runs down neighborhoods and costs up to half of the initial loan amount.

Chairwoman Waters, the FDIC is committed to working with you to find solutions to the growing mortgage crisis, not only here in California but for all of those subprime borrowers who are living the American dream, but in need of better deals so they can continue to do so.

Thank you very much.

[The prepared statement of Mr. Krimminger can be found on page 125 of the appendix.]

Chairwoman WATERS. Thank you very much.

Next we will hear from Ms. Heather Peters, deputy secretary for business regulation, Department of Business, Transportation, and Housing, State of California.

**STATEMENT OF HEATHER PETERS, DEPUTY SECRETARY FOR BUSINESS REGULATION, DEPARTMENT OF BUSINESS, TRANSPORTATION, AND HOUSING, STATE OF CALIFORNIA**

Ms. PETERS. Good morning, Chairwoman Waters, and members of the subcommittee. My name is Heather Peters, and I am the deputy secretary for both business regulation and for housing for the State of California. I am also the chair of Governor Schwarzenegger's Interdepartmental Task Force on Non-Traditional Mortgages.

We appreciate the interest of the subcommittee, and the interest of the chairwoman in bringing the subcommittee here to California to hear this very important testimony today, because by all measures we can agree that California has been disproportionately impacted by the crisis in the housing and mortgage foreclosure arena.

I commend the subcommittee for putting together such a distinguished panel of witnesses today, and for recognizing the multi-dimensional challenge that we are facing here and realizing that there is no silver bullet. To make an impact here, we need the cooperation of Federal, State, and local authorities, we need the cooperation of private lenders, brokers, servicers, and investors, and we also need the cooperation of the public, the consumers, and the homeowners who are losing their homes and losing the American dream. Together we can come up with solutions to this most daunting crisis.

I will skip over the statistics in my testimony, because we can all agree that the magnitude of the problem has reached epic proportions. Governor Schwarzenegger is a man of action, not a man of words, and he agrees that we need help. Early this year, in January, he appointed me to unify leadership of our various departments in business transportation and housing that have various responsibilities for regulating aspects of the mortgage industry.

In March of this year, we put together a task force to make sure that we were putting our best and our brightest together and getting us on the same page and moving forward. The task force consists of the department heads from our Department of Financial Institutions, which regulates banks and credit unions, the Department of Corporations, which regulates non-depository lenders such as Countrywide, the Department of Real Estate, the Department of Real Estate Appraisers, the Department of Housing and Community Development, and CAL HFA.

Very quickly we realized that regulation alone was not going to be able to solve this problem, and that there was a huge consumer component to this. So we added the leadership from State and consumer services agencies, Secretary Morin, as well as the Director of the Department of Consumer Affairs. We have all been working together very closely all year on this issue, and the subcommittee has asked us to address the factors that contributed to the crisis as well as what the State is doing about it.

There are numerous factors. The first is the lack of affordability of housing in California, which has been a problem for us for many

decades. According to the Building Industry Association, only 12.6 percent of the housing in California is affordable to income earners in the median income range; that is versus 42 percent nationwide. It has been a massive problem here.

This year we have passed, and the Governor has signed, AB–929, which increases the amount of affordable housing in California by raising the total debt the California Housing Finance Agency can carry by $2 billion. Additionally, the Housing Community Development Department is working diligently to implement the $2.85 billion housing bond that was passed by the voters in California last year, which is estimated to generate over 118,000 new affordable housing opportunities and rental opportunities.

However, we cannot do this alone, and we need your help. The Governor has written to the leadership of both the House and the Senate, and he has urged increases in both the FHA and the GSE loan limits. Currently, the FHA loan limit is $362,790, and the GSE loan limit is $417,000. The median cost of a home in California is well over $500,000, reaching toward $600,000.

Clearly, these programs are not relevant in California anymore. Unfortunately, the FHA loan volume in California has dropped from 109,000-plus loans to a mere 2,599 loans in the entire State of California. Now, that is a decrease, a loss of $13.6 billion in funding through FHA. Reform is crucial, and clearly the lack of safe, affordable financing through these programs in California has been a contributing factor to homeowners being forced to go through non-traditional financing.

Chairwoman WATERS. I need you to wrap it up.

Ms. PETERS. Additionally, we have passed regulations that are some of the strongest in the Nation, assuring that underwriting standards make sure that people can afford the loans they are getting into. We have a brand-new disclosure form in five languages that illustrates to the consumer very early in the process what the worst-case payment could be if all the resets adjust to their worst-case scenario.

We have made appraisal fraud a crime. We have had the agreement referred to by the FDIC with the lenders that is a nationwide leader and is being picked up by the Federal authorities. And we work closely with them and applaud their efforts. We applaud the chairwoman for her leadership and reform in this area.

And yesterday the Governor was in Riverside to announce a $1.2 million public outreach campaign. He will personally be involved in PSAs to reach out to homeowners to ask them to call the Hope Hotline, to call their lenders, that there is help available. But, unfortunately, more than half of the people who lose their homes to foreclosure never contacted their lender.

Chairwoman WATERS. Thank you very much.

Ms. PETERS. Thank you.

Chairwoman WATERS. Next, we will hear from Mr. Pastor Herrera, Director, Department of Consumer Affairs, Los Angeles County.

**STATEMENT OF PASTOR HERRERA, DIRECTOR, DEPARTMENT OF CONSUMER AFFAIRS, LOS ANGELES COUNTY**

Mr. HERRERA. Good morning. I am Pastor Herrera, Jr., the director of the Los Angeles County Department of Consumer Affairs. And let me echo my congratulations to you, Congresswoman Waters, for really taking the initiative and leadership in this area. It is an issue that is on everyone's radar screen, whether it is here in California, in Washington, north or south of this country, and definitely we see that there is no end in sight.

Here in L.A. County, we know that approximately 5,000 notices of default are filed monthly, and that to me is staggering. That indicates that there is definitely a problem here in Los Angeles County, and it is probably reflective not only in California but throughout the country.

I hope that my comments this morning will assist the subcommittee to develop some additional recommendations, and from a Department of Consumer Affairs perspective, an agency that deals with consumers day in and day out, a more consumer-friendly business practices, not only in this area but other areas that impact consumers.

I will summarize my comments today; my written comments have been submitted. The Department of Consumer Affairs here in Los Angeles County is very unique. It is, of course, supported and funded by the Board of Supervisors, and we are very proud of that, because unfortunately many, many communities do not have a Department of Consumer Affairs, which is their first point of contact when they may be victims of consumer fraud.

We are very fortunate that we have a unit, a program, that is, the Real Estate Fraud and Information Program, which I will get into momentarily. But we also have an Identify Theft Unit, a Consumer Fraud Unit, an Elder Fraud Prevention and Education Unit, Small Claims Court, and also a Volunteer and Internship Program. And we serve over 750,000 consumers a year.

Our Real Estate Fraud and Information Program does assist consumers and homeowners, particularly in the area of real estate fraud and information. It serves and helps them in areas such as foreclosure prevention, review and recorded documents, buying a home, reviewing refinance loan documents, and assisting first-time buyers. The Department also, and this unit in particular, accepts complaints for investigations and mediations. We receive complaints against foreclosure consultants, predatory lending, fraudulent recorded deeds, and refinance transactions.

Last fiscal year, for example, our real estate unit assisted over 29,000 consumers with real estate fraud issues. Approximately 650 of those 29,000 of those homeowners needed assistance with a foreclosure problem. That was an increase over last year of 33 percent. Last year, the Department handled on a case-by-case basis 100 homeowners who were facing a foreclosure problem, and our Department was able to stay, delay, or cancel a property from being sold in a foreclosure sale.

The Department's success rate was approximately 65 of those cases. Unfortunately, it was not 100 percent.

Some of the other things that we do as far as prevention, we work very closely with the media, which is a very good outlet. In

fact, 50 percent of our referrals to our Department come from the media. We also work with prosecutory agencies when we deal with a foreclosure consultant. We deal with legal services, nonprofits, and do a very, very good job here in Los Angeles County. We do speaking engagements, participate in community forums, and our Web site is also very, very definitely in tune with this issue.

We have information on foreclosure, predatory lending, evictions, and we also have an opportunity for consumers to ask questions. Interesting enough, the inquiries for real estate-related questions have increased by 85 percent. And that represents an increase of 85 percent; 35 percent were in the area of foreclosures.

Chairwoman WATERS. Could you wrap up your testimony, Mr. Herrera?

Mr. HERRERA. Very good. Of course, the challenges are funding, the challenges are how do we get homeowners to get information and seek counseling. And, of course, the other issue is financial institutions. They need to identify a point of contact in their organization, so that we can negotiate and resolve foreclosure type of issues. And, of course, we need to reach out to homeowners.

Very quickly, some of the recommendations, pooling and servicing agreements limit sometimes the servicer's ability to engage in loss mitigation strategies. Other recommendations are in my written testimony.

Chairwoman WATERS. Thank you, and we will have all of your testimony in the record—

Mr. HERRERA. Thank you very much.

Chairwoman WATERS. —for review by all of the members.

[The prepared statement of Mr. Herrera can be found on page 121 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Rogan, director, Department of Housing and Community Development, the City of Oakland, California.

**STATEMENT OF SEAN ROGAN, DIRECTOR, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, CITY OF OAKLAND, CALIFORNIA**

Mr. ROGAN. Thank you, Madam Chairwoman, and subcommittee members. On behalf of Oakland Mayor Ron Dellums and the City of Oakland, I am happy to be here today to give testimony and speak to some potential solutions as we look forward to solving this foreclosure crisis.

The City of Oakland has been greatly affected by foreclosures brought on in large part by the subprime lending practices. Record numbers of foreclosures are occurring weekly. Over 345 notices of default have been recorded in the month of October alone. East Oakland, made up predominantly of people of color and of low income, is currently experiencing a 14.9 percent foreclosure rate.

Lenders and investors have been unwilling to discuss workout options with borrowers. This is greatly impacting families and neighborhoods as foreclosure activity continues to grow. And additional consequence includes lenders foreclosing on rental properties and locking out tenants in good rent standing and with legitimate rental agreements.

Immediate action is needed to curb the number of foreclosures and assist families who were given loans with terms that they either did not understand or did not qualify for. Actions that the City of Oakland would like to see implemented include the following: Extend time notices of default from 90 days to 150 days; extend time period for notice of trustee sales from 30 days to 60 days to allow more time for counseling and workouts; provide additional funding for counseling agencies to help work with borrowers facing foreclosures; and work with lenders and investors on rate and terms of mortgages, so that borrowers in good standing with pending interest rate hikes can continue mortgage payments at lower rates for up to 3 years.

Additionally, future legislation should be written so that qualifying borrowers should be based on documented income and at a highest adjusted rate during the loan term, provide clear disclosure of any balloon payments or interest rate adjustments, and strengthen anti-predatory lending legislation. Interestingly enough, Oakland at one time had adopted anti-predatory lending legislation, which was then overturned by the State. And we certainly question where we would be today if some of that legislation had in fact been implemented.

Additionally, lenders and investors need to partner—and this has certainly been echoed throughout this testimony this morning—but the lenders and investors, in particular the Wall Street investors, need to partner with the local, State, and Federal Government to set guidelines and regulations so that borrowers and lenders and servicers know how to accomplish the workouts.

And then, finally, as I was driving here this morning in the wonderful L.A. traffic, and I was speaking with a colleague of mine, he brought up an issue which really hasn't been discussed today, and I think it is important for the Members of Congress here today to hear.

You know, an impact that affects these borrowers who have been foreclosed on is depending on the difference between what the bank collects and what their mortgage is, they end up with an IRS price tag in some instances $30-, $50-, to $100,000 that then gets stated as income. I certainly believe that with the folks here today that is an additional point that should be taken under consideration.

Again, I thank you for your time today, and I am happy to answer any questions you may have.

Chairwoman WATERS. Thank you.

I would like to thank all of our panelists for being here today, and we are going to start with our question period where our members will each be afforded 5 minutes to ask questions.

I will begin. I would like to focus first on Mr. Mike Krimminger's recommendation, because I like what I hear. I don't know what took place in a meeting I think that was held yesterday on this very subject, but I am very, very interested in the idea that instead of trying to solve this problem one loan at a time that we can come up with a policy that would allow the servicers to automatically extend the reset period. Is that what you said?

Mr. KRIMMINGER. Yes. What Chairman Bair has recommended is to extend the starter rate period. Her preference was clearly, if the borrower can make—has been making payments at the starter

rate, but cannot make the payments at the reset rate, extend the starter rate, for the life of the loan preferably, but certainly for a long-term period.

Chairwoman WATERS. For the life of the loan?

Mr. KRIMMINGER. Certainly for a long-term sustainable period that will give the borrower an opportunity to do the normal refinancing. Five-plus years might be an appropriate period to do that.

Chairwoman WATERS. That is very significant. That is very significant, because the folks who got in the ARMs and the adjustable rate mortgages received teaser rates, and those teaser rates were something they could afford. But then, when they reset and they quadruple, then they certainly cannot afford, and particularly if you are on a fixed income.

Or even if you are working a regular job, your cost of living increases just don't increase that fast, and you are certainly going to lose that house. But if this is a recommendation that the reset be extended for a long period of time, or for the life of the loan, I really do think that is an absolute viable way by which to save these homes from foreclosure.

I would like to say to Mr. Young, I appreciate your recommendation on CDBG. CDBG is those funds that we give to our local governments to help out in so many ways with poor people and working people and programs. And we are working hard to extend it. I heard your recommendation about the use of CDBG to be of assistance in counseling and education, and we will certainly take that into consideration.

Mr. YOUNG. Madam Chairwoman?

Chairwoman WATERS. Yes.

Mr. YOUNG. If I may, and the reason why I recommended CDBG initially, because at this point in time local agencies, local municipalities, that is really their only funding that they have at their disposal right now. And that is what we are doing at the City of San Diego, but we certainly do appreciate the opportunity to get additional monies to do that home financing.

Chairwoman WATERS. Well, we know that we have $200 million in conference that we are trying to get, but let us find out from our representative here, from Governor Schwarzenegger's efforts, she mentioned that there would be some funding perhaps, about $1.2 million, that would be used to help in this situation. Where does that money come from? When will it be in process? And who will have access to it?

Ms. PETERS. Great question. Thank you for asking. There are actually two sources of funding coming out of the State currently. Several months ago—I believe it was back in September, speaking of CDBG—our Housing Community Development Department issued a notice that $1.16 million in CDBG money that is flowing through the State, not directly from the Federal Government, would be made available for consumer counseling.

Additionally, we put out an advisory quite along the lines that the councilman has already suggested, that some of the areas that receive funding directly from the Federal Government may likewise be able to reallocate some of the funds they have on hand. And our Department is happy to work with any local governments on how we can maximize the access to that.

The second source of funding that I mentioned in my testimony was just announced yesterday by Governor Schwarzenegger. This is a $1.2 million campaign that is a public awareness campaign to get homeowners to call for help. And people are absolutely terrified. We have heard horror stories of homeowners who believe that they can be arrested for failing to pay their mortgage.

Chairwoman WATERS. So basically this is for public service announcements, for advertising.

Ms. PETERS. Right. And that is coming from our existing budgets within my departments at BT&H, and we are putting together a proposal today—

Chairwoman WATERS. That is great.

Ms. PETERS. —to expedite availability.

Chairwoman WATERS. While we are talking about that, could you explain to us the agreements that the Governor made to Countrywide, for example?

Ms. PETERS. Yes.

Chairwoman WATERS. What is it he asked them to do, and what have they agreed to do?

Ms. PETERS. Thank you for asking. The Governor announced with—an agreement with four of the major loan servicers—Countrywide, GMAC, HomeEq, and Litton Loan Servicing—which together nationwide represent 25 percent of the subprime loans. They have agreed to reach out proactively to borrowers well before the loans reset.

We are talking several months, maybe 6 months before the loans reset, to let them know that the reset is coming. They have agreed to streamline the process by which they determine whether the borrowers can afford that reset payment as the chairwoman mentioned, and, if they are unable to afford it, to fix the initial rate for a sustainable period of time.

Now, there is more discussion to be—

Chairwoman WATERS. So basically—

Ms. PETERS. —had on the details of this.

Chairwoman WATERS. —basically what you are saying is early notice the reset is coming, and after you do that notice the homeowner will have an opportunity to get a workout and try and do a rearrangement of that loan. And did these four major subprime lenders agree that they would be involved in the kind of proposal that we just heard that would have to extend the low rate that they got in with?

Ms. PETERS. Yes.

Chairwoman WATERS. Will they—

Ms. PETERS. That is exactly what they have already agreed to.

Chairwoman WATERS. Is this in writing somewhere?

Ms. PETERS. It is on the Department of Corporations' Web site, which is—

Chairwoman WATERS. Okay. Good.

Ms. PETERS. —corp.ca.gov.

Chairwoman WATERS. Thank you.

Ms. PETERS. Additionally—

Chairwoman WATERS. Thank you very much.

Ms. PETERS. —there is an important element to that, which is accountability, because we hear a lot from consumer servicers, con-

sumer counselors, that they talk the talk, but they are not walking the walk. The Department of Corporations will be releasing within this coming month the results of a survey of the lenders that quantifies exactly how many of these workouts they are doing, so that we can follow up. And if consumers are not receiving the help that the lenders have agreed to do, we want to hear about it, and we want them to call us.

Chairwoman WATERS. That is exactly what we are going to do, and we thank you for that.

And, FHA, since in the bill that I introduced—and we got passed—we were very concerned about being able to use FHA to refinance. We are very proud about that possibility. Now, what is this Hope program that you are talking about? And what does it do?

Mr. BATES. Well, the HOPE NOW Alliance is a grouping of the large lenders, Freddie and Fannie, four of the national intermediary counseling agencies, and others, to kind of develop a measured and appropriate response to the subprime problems. And the—

Chairwoman WATERS. I want to know specifically, because we want Fannie and Freddie really involved in this solution, but I have not heard anything specific about what they are going to do.

Mr. YOUNG. Well, the first thing is, of course, they have the hotline, and they have the housing counseling agencies in place.

Chairwoman WATERS. So they have a hotline and people can call and say, "I am in trouble." And then, what are they going to do?

Mr. YOUNG. And then, they are working on trying to establish a standard for workouts or loss mitigation measures that would be taken in response to people's difficulties.

Chairwoman WATERS. Did you hear Mr. Krimminger's proposal?

Mr. YOUNG. Yes, I did.

Chairwoman WATERS. Can they adopt that?

Mr. YOUNG. I don't know whether they can adopt that.

Chairwoman WATERS. They can dispute that.

Mr. YOUNG. But I would be happy to get with the Chair on that.

Chairwoman WATERS. Would you get a copy of that proposal, since we are all here and working together? We have FHA, we have FDIC. You are talking to some of the same subprime lenders. Everybody should get on one track on this. There is no reason why we should have a Hope program that is talking about convening and getting them together.

But, rather, you know, we should all do—and it should be substantial. We talk about a sustainable period of time. I like the idea of just converting that into a permanent long-term, 30-year, 40-year loan so that we can make sure we can afford it. So you all get together. We will be following up with you to see if we can get everybody on the same track.

Thank you all very much. This panel is dismissed.

Excuse me. Before you go, you are not dismissed.

We have questions from the other members. We have several other panels that we are going to do, but our members get a chance to ask you all questions today.

Let us start with Mr. Green.

Mr. GREEN. Thank you, Madam Chairwoman. As is usually the case, when the Chair finishes, there is not much left to be said.

But I do want to make a couple of comments and make a couple of inquiries. Mr. Krimminger, I greatly appreciate your comments, but I do want to just remind you that, when you indicated no one expected the buyers to pay the adjusted rates, some of these lenders did. And let me explain why.

Many of them had prepayment penalties that coincided with the teaser rate, which means that you are either going to pay a lot of money to avoid the adjusted rate or you are going to end up paying—with a prepayment penalty or you are going to pay the adjusted rate. Now, look, I appreciate what you have said. I just want to point that out—that not all of them were acting with the same amount of good faith as many of them were.

Yes, sir.

Mr. KRIMMINGER. I would just say that we have certainly noted that there are prepayment penalties on some of the adjustable rate mortgages. In fact, many of the 2/28s and 3/27s do have prepayment penalties.

Chairwoman WATERS. Please talk right into the microphone. This is very important. This is about prepayment penalties.

Mr. GREEN. And speak quickly, please, because my time is running.

Mr. KRIMMINGER. I will be very brief. We have certainly noted that many of the 3/27 and 2/28 mortgages have prepayment penalties.

Chairwoman WATERS. Can you hear him in the back? Okay. Bring it closer, and don't be shy. Speak up.

Mr. KRIMMINGER. We have noted that many of the 2/28 and 3/27 mortgages do have prepayment penalties. Most expire just before the reset period, but we have certainly been very critical of some loans that do have prepayment penalties that extend out until just before the reset date.

Mr. GREEN. Let me intercede quickly and say this. When you said "just before," define "just before," because usually that is about a month or two before, which doesn't give the person enough time—the buyer who is acting in good faith—to secure the kind of loan in the environment that we have now that will protect the buyer.

Mr. KRIMMINGER. And we fully agree with you.

Mr. GREEN. Okay.

Mr. KRIMMINGER. We think that is far too short of a period of time. Chairman Bair has advocated that if you are going to have a prepayment penalty at all—and we would prefer not in the subprime market—then it certainly should expire 180 days before.

Mr. GREEN. Okay. Now, after we go through the 3/27s, the 2/28s, the prepayment penalties, the no-doc loans, the yield spread premium—yield spread premium, for those who don't know, that is the kickback that the originator gets for getting a person to take a loan that is higher in interest rate than they qualified for. Now, some people may not know this, but that kickback is legitimate, but we are working on that. The Chair is going to help us with that.

But once you go through all of these things and steering into higher interest rates than people deserve, what it boils down to is

people were qualified for teaser rates, and they were not qualified for the adjusted rates. And if that is the cause of the problem, and we have now about $600 billion at risk, we are talking about millions, possibly $2.5 million adjustable mortgages that are going to reset by the end of 2008.

I don't see how we can possibly manage the problem on a case-by-case basis. It really defies logic to think that we can do this on a case-by-case basis. It does. So now, if it defies logic to do it on a case-by-case basis, we have to find a way to transform Hope Now into Help Now. Really, that is what we have to do.

And, Mr. Bates, no disrespect to you, I think you have articulated what is happening quite clearly. But what has to happen is what the chairwoman has suggested. We have to find a way for the lenders to acquire something called enlightened self-interest. Enlightened self-interest. And sometimes people have to be pushed to that point. On other occasions, they can acquire it by some sort of revelation.

But, clearly, enlightened self-interest would dictate that they not let these properties go into foreclosure, and that a teaser rate is much better than no rate at all. And that is what we have—you have to take that message back, if you would, to the folk who can help us out and make a distinction between Hope Now and Help Now, or Help is on the Way because we are at a point now where help has to arrive.

And, Madam Chairwoman, I thank you for allowing me the time, and I will yield back, given that we have so many members.

Chairwoman WATERS. Thank you very much.

Congresswoman Grace Napolitano?

Ms. NAPOLITANO. Thank you, Madam Chairwoman, and I sit here with great interest. Since I don't sit on the subcommittee, a lot of it just goes over my head in terms of terminology, but let me tell you the result is the same. What I hear is a lot of talk about things we need to do, things we are going to be doing, but what is being done?

Because this is not just something that happened yesterday, it has been happening for several years, and yet we are still not at a place, as you say, that we can turn around and say to our constituency, "Okay. Here is where you can go. Call my office, call the City Council, call"—have you engaged the media, anybody? Have you talked to being able to have them be the purveyors of information to get people to know where the heck they have to go for assistance?

You talk about CDBG. Does that need any legislative approval to be able to channel those funds? Or can it be done without having to go through the process of legislative approval? Then, we have Mr. Bates, and, again, you talk about tips, you talk about a Web site. Who the heck knows where to go? What if they don't have a computer? What about if they—you know, you talk about HOPE NOW, and I will submit some questions for the record, Madam Chairwoman, because I—

Chairwoman WATERS. Yes.

Ms. NAPOLITANO. —my time is short, and I have a lot of things I want to get out.

The HOPE NOW, how many people are aware? You said that there were the tips. The Chair has not seen them, I have not seen them. At least we should be able to have this Financial Services Subcommittee know where it is, so we can impart that to our constituency, so they know where to go and how to access those services.

But lo and behold, and I know you have a constraint funding issue, but please use what you have at hand—the media, the net, the public access channels, the Council of Governments, the COGs, all of those need to be partners in getting the word out to the constituents, because if we lose, they lose. If the subcommittee loses, the COGs lose. So unless we work together, all of it in tandem, then we are all just spinning our wheels separately.

Financial servicers—have they been informed of some of those programs you are talking about? Because the Chair here says, "I didn't know that." So somehow there is a disconnect within our own agencies to Members of Congress in the subcommittee. That is another one.

Credit unions—what role can they play? Because they have at the local level a very strong sense of community, and they will help their own. But are we allowed—again, do we have to go through legislative approval to allow them to be able to help their local folks?

I don't know. I am running out of breath here.

Have all of you brought the financial institutions together and asked, "When are you starting? Where are you starting? And how can we channel our folks, so they can get help through you?" I mean, we talk great, and, I am sorry, the wheels of government move very slowly. But we need to move faster than that, and be able to put things on the table now, yesterday, not tomorrow, not next month, not next week, but now. That is something that is just missing in what I hear.

Everybody has great ideas, and certainly since I don't sit on the subcommittee, I am grateful to be able to find out a lot. My area is devastated. I have three of my members working in real estate. I hear it from them, and I hear in my office people calling in and, "Where do I go from here? What can I do to save my home?"

But have we made an intense effort to be able to tell people, "Don't wait until your date is set before you go for help?" I have heard it in Washington, I have heard it in our circles, but I don't hear the people—how many of you—just give me a show, how many of you knew that? Anybody who is out there, how many of you actually knew that you could call your financial institution and ask for help prior to your reset date?

There you go. They don't answer the phone. So how do we get the people who need to have the information ahead of the game?

The lack of knowledge of where to go, institutions unwilling or unable to institute these expansion of the mortgage. Many are—about 5 or 6 years ago I held a predatory lending forum, and I was very concerned because in some areas there is that—was that practice very prevalent, and it was taking advantage of people who didn't know any better. So we brought it out, and we started putting it into the general area to allow people to vent.

And I asked one of the lenders, "Why don't you go to a 30-year mortgage?" He said, "Oh, no, there is no difference between a 20- or 25- to 30-year mortgage." I replied, "I beg your pardon, because that amount of money can help send somebody to school, to college. That amount of money can help somebody be able to move forward in education, and purchase, or a business," whatever. But they didn't want to do it.

So have we changed that mindset of the lending institutions to expand those mortgages so people cannot lose their home, and then we don't have that impact at the local level of buildings that are going to the dogs.

Chairwoman WATERS. Thank you.

Ms. NAPOLITANO. Thank you very much, and I would like to submit questions for the record, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

Congresswoman Richardson, for questions?

Ms. RICHARDSON. Yes, thank you, Madam Chairwoman.

Ms. Peters, you spoke pretty boldly of saying our Governor is a man of action. Well, I am not too impressed with the movies and the machine guns and all of that, so I hope that some of what is being said today will in fact be translated to action.

We heard Mr. Rogan here from the City of Oakland give some specific request, and I was wondering if you could take to our Governor, the man of action, asking him to do two of these points, and they were quite simple. Number one, to extend the time notices of default from 90 days to 150 days, and the second request was to extend the time period for notice of trustee sales from 30 to 60 days to allow for more time for counseling and workouts.

So as our Governor is negotiating these private side agreements—and I could give you a whole dissertation on what I think about some of the private side agreements that have been done in the past—but as he formulates these with the lending institutions, if you could request that these two items be included as well.

Ms. PETERS. I will take that back to him, yes.

Ms. RICHARDSON. Thank you.

My second comment is for Mr. Bates. I was quite alarmed when I read Ms. Peters' testimony that said that the access to FHA loans have decreased to such the amount that she stated. In fact, she said that they have dropped from 109,000 to just 2,600, which represents in California a 98 percent decline. Do you know that to be true?

Mr. BATES. With some caveats about the exact numbers, yes, essentially that is true as it pertains to forward mortgages, which is what we are talking about here. We do a fairly decent business in California on reverse mortgages, which are the home equity conversion mortgages which seniors can use to get equity out of their property. But in terms of forward—now we have to adopt the term "forward mortgages," the standard mortgages people think of to buy a house or to refinance a house, yes, we have had a vast fall-off.

Ms. RICHARDSON. And why is that?

Mr. BATES. Well, when it began in 2003, when I first started noticing it, I could attribute it almost entirely to the loss of refinance business. But then, it just kept going and going and going. And in

conversations with our counterparts, part of it would be, well, FHA hasn't kept up with the market in terms of having flexibility. Some of its requirements were dated and not important anymore, and the mortgage limit issue.

And so what happened I think is, as we became less and less a part of a lender's business, there might have been a tipping point to where they just didn't go to the trouble of doing any FHA business, even if there were many borrowers who still could get an FHA mortgage, even in California.

Ms. RICHARDSON. Are there any discussions to change that?

Mr. BATES. Well, I think Chairwoman Waters has been very assiduous in pursuing FHA modernization, which is a big part of what the Administration I think is advancing, and I think is something that would be essential to bringing FHA back as a viable alternative in California, high-cost States like California.

Ms. RICHARDSON. Well, my request would be that you would take the message back that this hearing—we completely support the chairwoman of this subcommittee in requesting FHA to take a second look at their role in the marketplace. When you talk about a 98 percent decline, from the time that I have had an opportunity to become a homeowner, clearly when FHA was more involved with the average borrower, we didn't see some of these creative financing and some of these other issues.

FHA I think took a greater responsibility to ensure that people were getting the right loans, and, if problems occurred, were I think better prepared to assist those borrowers as well. So clearly there has to be a better commitment to get back into this marketplace, because I think that you can assist in bringing the stability that our borrowers need. So that would be the message I would like to see brought back, that from this hearing the chairwoman has our complete support in asking for that change to occur.

Mr. BATES. Thank you.

Ms. RICHARDSON. Thank you. I yield back my time.

Chairwoman WATERS. Thank you very much. Let me just say, if I may, for a moment, the whole idea of revitalizing FHA was to get it back in the business, Ms. Richardson. And what I really do believe happened is the financial institutions, the loan initiators, with the subprime market just forced them out of the market, because they came along with all of these exotic products.

And basically what they said is, "You can get in with this teaser rate." They were not vetting these qualifications to make sure people could afford them. They had no-doc loans, no-documentation loans. FHA couldn't compete with a financial institution or a loan initiator that was saying, "We will give you a loan without documenting your income." They couldn't compete with these teaser rates that would reset within, you know, 6 months or 2 years or so.

So we are revitalizing FHA. We passed that bill out of committee off the floor, and I just don't know what is happening on the Senate side. Where is my bill?

We understand they are working on it.

I am told that they have hotlined it. It may not be the same version. Staff, let us get up to date with what is happening on the Senate side with our bill. That is extremely important.

Yes, sir.

Mr. KRIMMINGER. Chairwoman Waters, I would just like to make one note that I would be derelict in not noting.

Chairwoman WATERS. Yes.

Mr. KRIMMINGER. For the benefit of the subcommittee, as well as members of the public, in responding to Congressman Green's questions about the prepayment penalties, I think one important thing to look at in terms of Chairman Bair's proposal for real modifications on a streamlined basis is that the prepayment penalty provision would not apply to the loan modifications.

It does apply when you are talking about refinancing, but it would not apply to the loan modifications because you are not doing a prepayment of the loan. So I think that is an important thing to keep into consideration.

Chairwoman WATERS. Oh, very important.

Mr. KRIMMINGER. I think that is very important for the public to know as well, which is, again, I would re-urge, in response to your comments as well, Congresswoman, for the people to reach out to their servicers. I think that it is critical for them to do that in advance, so that something can be done before the reset, because obviously if they can't make the payments after reset, there are going to be dire consequences to their credit history and to other obligations they may have.

Chairwoman WATERS. All right. We are going to move on. Our constituents would reach out, if they thought it was going to do any good. Most people just don't believe the bank is going to be kind, that they are going to do anything for them, and I have not seen the same people who are initiating the loans doing the outreach to tell them to call. I am watching the ads every day, and I am going to ask some of our financial institutions about them.

They are saying, "Come on, we want to give you a loan." They are saying some of the same things they said that got us in trouble before, and I don't get it. So if they would spend some money advertising that they want people to call, so that before these loans reset, then people will feel a lot more comfortable in calling that telephone line that never answers. Okay?

Thank you very much.

All right. We will move on now to—Ms. Watson, thank you very much for being here today, and I know this is an issue you are very concerned about. You have 5 minutes for questioning.

Ms. WATSON. Thank you so very much, and I want to thank the chairwoman for calling this hearing. I cannot think of anything we could do during this period of time, but all come together—at the local level, State level, and Federal level—to look into the fraud that has been perpetrated on this Nation through subprime and other gimmicks. And I want to say this—mine is more a statement than a question because I do have to go on—but I pledge to work together with all of those who represent the public to do something from the top.

What we haven't focused on is that these are gimmicks that come out of the financial institutions, and they change all the time. Someone sits in the back room and figures out how they can make a bigger profit and give back to their shareholders. So what we are doing is running after the caboose. We are trying to solve indi-

vidual problems. We will never be able to do that. We have a whole list—and I am sure the chairwoman has it—of community agencies, that this hearing is to mitigate the loss in L.A. County, California.

I want to go one step above that and into the Federal Government. I believe that the State ought to hold a conference and set up a commission that will look at all of the lending institutions. And we need to have some ground rules to prevent these kind of products from being perpetrated on those who are seeking the American dream. So I would propose that, because if there are a million people in this room, a million people have a different problem with how they are going to save their homes.

And so what we have to do is go higher, and in the Federal Government we need to look at—we have all of these different agencies that intend to help homeowners avoid foreclosures. But we can be doing this year after year after year. Let us set some standards for the State of California, City of Los Angeles, the county included, and some Federal standards, that control the kinds of products that are offered to those who are seeking to buy property and to have their homes for a lifetime if they wish.

So what I want to do is say to all of you presenters and to this panel, and the one that comes up after ours, I would like you to come together and look at ways the State of California can set up regulations for the kinds of financing of homes that come out of their various institutions.

Then, I am going to ask the chairwoman to call us together where we can talk about some Federal guidelines that will cover all kinds of financial institutions that do home loans and that introduce products that really are perpetrated to make a profit and not necessarily there to keep people in their homes.

And I want to say this in closing, that the American dream has to be supported by those who represent you. And if it is a real dream, it will become a reality. And the banks don't want your homes. What are they going to do? They want to sell them off, but they certainly are calling in your loans. You can't pay those increased payments. So we really need to deal with this at the top, we need to speak loudly and clearly to the institutions that finance these loans and tell them, "We will not tolerate the fraud that has been perpetrated on those seeking to own homes and sustain their homes."

So with that, Madam Chairwoman, thank you so much for letting me sit with you these few minutes, and I am ready to join with all of us to protect not only our constituents but all people who seek the American dream. Thank you so very much.

Chairwoman WATERS. You are welcome.

Ms. WATSON. And what I would like to do is submit to you a proposal that we have to assist in the foreclosure. I will put it in writing and give it to you.

Chairwoman WATERS. Thank you. As you know, Congresswoman, we have H.R. 3915—

Ms. WATSON. Right.

Chairwoman WATERS. —that was introduced by our chairman and passed out of our committee. Did it pass on the floor? It passed on the floor. This is the Mortgage Reform and Anti-Predatory

Lending Act of 2007. You did support that. We had good support from our side of the aisle on this, and we took a lot of action in this bill on the Federal duty of care. And we have another title that set minimum standards for all mortgages. We have a signee securitizer liability, and on and on and on.

The biggest fight with this bill was something called preemption, and this is always a big fight in Federal Government. Oftentimes, we will run into problems like the one that we have now on foreclosures. Some States have tougher laws than the Feds will ever have, because when you are dealing with the Feds, you are dealing with all of the States and all of the interest groups, all of the entities that are represented in Congress, and they come with different ideas.

So we try to support the States when they have stronger laws, but I want you to know this is when the big boys roll out big time. They roll out big time with the money, with the lobbyists. Sometimes they hire two, three, four lobbyists to every individual who serves on the Financial Services Committee, and they back these efforts because what they would like to have are Federal laws that are basically minimum standards.

They would like it to apply to everybody, and we are trying to preserve the right of States to be even tougher than the Federal Government would ever get. So it is an ongoing struggle and an ongoing fight that we have to engage in.

Ms. WATSON. Yes. And in response, that is why I would address Ms. Peters that you go back and carry the message that California always is in the lead. We go above those standards, and I think it becomes an obligation for the State to protect its homeowners. And so, again, I want to thank you, and we know we are kind of concentrating on Los Angeles, but we are dealing with a problem that is so overwhelming it means the loss of the American dream. So I commend you for those efforts, and we will work together to have better regulations and better laws.

Chairwoman WATERS. Thank you so very much.

Ms. PETERS. We have new regulations this year. We actually have new regulations this year in California that are some of the toughest in the Nation.

Ms. WATSON. Yes.

Chairwoman WATERS. Thank you very much. And we were waiting for Ms. Sanchez. I think she had to leave, and so now is the proper time to dismiss this panel.

Thank you all very much for your participation.

Thank you for responding today, and we anxiously await to see the results of Chairman Bair's recommendations. We think that is an answer.

Okay. With that, let me introduce our next panel as they come forward. Let me just say that the Chair notes that some members may have additional questions for this panel which they may wish to submit in writing. So without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses, and to place their responses in the record.

Thank you very much.

Panel number two consists of: Mr. Sandor Samuels, executive managing director of Countrywide Financial Corporation; Ms.

Michaela Albon, senior vice president and general counsel, Home Loans Division, Washington Mutual; Mr. Brad Blackwell, executive vice president, Wells Fargo Home Mortgage; Mr. Tom Deutsch, deputy executive director, American Securitization Forum; Ms. Anna Thomas, a homeowner in San Pedro, California; Ms. Karen Lee, a homeowner in Los Angeles, California; and Mr. Paul Leonard, California office director, Center for Responsible Lending.

Without objection, your written statements will be made part of the record. I will recognize each of you for 5 minutes. We are going to try and keep each of you to your 5-minute presentation. We would ask you to summarize and submit for the record, so that we can move on with all four of our panels today. And we are going to ask our members to keep their questions to 5 minutes, so that we can complete this in a timely fashion.

I would like to welcome all of you who are serving on panel two, and we will start with Mr. Sandor Samuels, the executive managing director of Countrywide Financial Corporation.

**STATEMENT OF SANDOR SAMUELS, EXECUTIVE MANAGING DIRECTOR, COUNTRYWIDE FINANCIAL CORPORATION**

Mr. SAMUELS. Thank you, Chairwoman Waters. In addition to my position at Countrywide, I also serve as the chairman of the board—

Chairwoman WATERS. Let me see if I can get a little bit of—

Mr. SAMUELS. Okay.

Chairwoman WATERS. —attention for you here. Some people are moving out, some people are moving in, and it is creating quite a bit of conversation. So if you will just hold your conversation to a minimum and quiet down, so that we can hear our panelists, I would appreciate it.

For those of you who are standing back in the doorway on the side walls, we do have plenty of seats. Please feel free to occupy any of them.

Thank you. We will start again with you, Mr. Samuels.

Mr. SAMUELS. Okay. Thank you, Chairwoman Waters.

Chairwoman WATERS. You are welcome.

Mr. SAMUELS. In addition to my position at Countrywide, I also serve as chairman of the board of Bet Tzedek Legal Services, and I am also on the board of the Los Angeles Urban League and the Housing Preservation Foundation.

As you may know, I testified earlier this month before the full committee about the recent expansion of our foreclosure prevention efforts, a $16 billion home preservation program to assist as many as 82,000 Countrywide hybrid ARM customers facing unaffordable ARM resets, and about our ground-breaking partnership with the Neighborhood Assistance Corporation of America, or NACA, as well as with other consumer groups.

Today I want to update you on our progress with those initiatives and provide additional information on our activities here in California. California borrowers represent about 17 percent of our almost 9 million customers. More than 64 percent of our California borrowers are located here in Southern California. As the largest group in our servicing portfolio, California borrowers will benefit

significantly from our home retention programs and will remain a major priority of our outreach efforts.

Last week we endorsed the home retention principles announced by Governor Schwarzenegger. These principles are also consistent with those articulated by Treasury Secretary Paulson, FDIC Chairwoman Bair, OTS Director Reich, and other Federal banking regulators, calling for a systematic and scalable approach to home retention that is up to the challenges ahead.

We believe that we are ready for these challenges and already can point to results that show loan modification activity is sharply increasing. Although the majority of our efforts will result from direct contact with our customers, nonprofit organizations are also critical to our efforts. On a national level, we recently entered into a groundbreaking partnership with NACA, as I mentioned. NACA has more than 30 offices around the country, including two very effective branches in California, one here in Los Angeles and one up north in Oakland.

In just 5 weeks since the partnership was announced, more than 177 home save solutions have been completed or are in process. The NACA partnership is a model that allows us to leverage the unique capabilities of some of the best nonprofit counseling agencies on the ground in many of the communities we serve. Countrywide also is working with the L.A. Neighborhood Housing Services. We participate in the Foreclosure Solutions Task Force and support home preservation fairs like the one being held here as we speak.

We are collaborating with Lori Gay and the LANHS to expand our relationship and strengthen our ability to help more borrowers preserve homeownership and avoid foreclosure throughout the L.A. area. I look forward to providing you and the subcommittee with additional details on this collaboration in the near future.

Countrywide also has sponsored homeownership preservation seminars in 30 communities around the country, including events in Anaheim, Fresno, Oakland, Ventura, and earlier this month in support of the ACORN event here in Los Angeles at the St. Vincent School. We plan to significantly expand these efforts in 2008.

Most importantly, Countrywide's initiatives are producing results that help borrowers avoid foreclosure and preserve their homes. Congressman Green, we are providing help now.

Through today, in 2007, Countrywide has helped over 55,000 borrowers stay in their homes through loan modifications, repayment plans, and other home retention solutions, and we have about 100,000 borrowers in some stage of a workout transaction. To give you some sense of how our more recent initiatives and partnerships are paying off, in October we completed 11,000 home retention transactions, workouts where the family stays in the home.

That is more than twice our previous monthly high. And more than 9,000 of these, 82 percent, were loan modifications, meaning that they involved a change to a loan's interest rate, principal balance, or maturity date, or a combination, designed to provide long-term affordable payments. By comparison, about 28 percent of our workouts in 2006 involved loan modifications.

These trends reflect not only the changing nature of the market, and the causes of loan defaults, but also the efforts of servicers, investors, and regulators, with substantial help from this sub-

committee, to secure the needed clarifications of accounting standards and other barriers to ensure that loan modifications can be done whenever they present a better alternative to the mortgage holder than a foreclosure.

In short, unlike what you may have read in the press, loan modifications have become a primary tool for keeping borrowers in their homes. I have offered a lot of statistics in my comments, but I also want to offer you two assurances. First, we understand that this is a human problem, not simply a numbers problem. Second, Countrywide readily acknowledges that these are dynamic times, and we fully understand that additional initiatives may be needed as events unfold.

Thank you, Madam Chairwoman, for your leadership and for your continuing efforts to help borrowers sustain the dream of homeownership.

[The prepared statement of Mr. Samuels can be found on page 142 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. Albon, senior vice president and general counsel for Home Loans Division, Washington Mutual.

**STATEMENT OF MICHAELA ALBON, SENIOR VICE PRESIDENT AND GENERAL COUNSEL, HOME LOANS DIVISION, WASHINGTON MUTUAL**

Ms. ALBON. Thank you, Madam Chairwoman, and members of the subcommittee. My name is Michaela Albon, and I am senior vice president and general counsel of the Home Loans Division of Washington Mutual. I am pleased to be here today on behalf of WaMu to discuss our efforts in helping our borrowers find alternatives to foreclosure and the ways they can overcome financial obstacles to keep their homes.

Clearly, the housing market is currently experiencing a sharp downturn. These events are painful for homeowners, lenders, investors, and our communities alike. This is especially true in markets such as California, which are coming off an extended period of rapid home price appreciation. Moreover, delinquencies and foreclosures are increasing as fewer borrowers are able to refinance or quick sale their way out of financial trouble.

While California remains a key concern, as you have already noted, this is a national issue. Simply put, we view foreclosure as a last resort, and we work very hard to keep our customers in their homes and keep them as customers. We fully recognize that no party wins—in fact, all parties lose—if a lender is forced to foreclose.

Our firm belief is that early intervention, as has been noted earlier today, combined with expanded options is instrumental to helping our customers avoid foreclosure. To that end, we are applying particular emphasis on reaching out to our adjustable rate mortgage customers at least 6 months prior to the first reset date through direct mail, dialing campaigns, and state messaging.

Overall, we have sent almost 5 million pieces of outreach mail year-to-date and we will continue to work with our borrowers requesting assistance up until their reset dates and beyond. In April, we announced a $2 billion assistance program, which is focused on

helping our subprime customers who are current in their payments but who are feeling the effects of this challenging environment. We are reaching out to our customers and encouraging them to contact us if they are concerned about making their new mortgage payment as a result of a payment adjustment on an adjustable rate loan or for other reasons.

Our offers of assistance include refinancing or modifying their mortgage into a fixed rate loan at a discounted interest rate. To date, we have refinanced or modified approximately $720 million in loans, and we expect this number to increase sharply in the coming months. For those borrowers who have already become delinquent and are in need of additional assistance, we are offering expanded forbearance and loan restructuring plans, including permanent reductions in rate, extended terms, and even partial forgiveness of debt.

To the latter end, WaMu has publicly supported the initiative to reduce or eliminate the income tax on forgiven debt. WaMu maximizes the opportunities to meet with our customers by reaching out to them via mail, phone, and personally inviting them to attend homeownership preservation events, even to the extent of offering $100 gift cards if our customers will attend and talk to us about their loans.

These homeownership preservation events are held throughout the United States, in the homeowners' own communities, so borrowers may meet face-to-face with WaMu employees to work out a solution to keep them in their homes. WaMu recently participated in events held in Anaheim and Ventura, both of which were considered quite successful.

With regard to the percentage of home loans currently in foreclosure, we do not publicly disclose this information, but we give borrowers every consideration as we work to assist them while making prudent lending decisions and adhering to investor and regulatory requirements.

Despite the efforts of lenders and servicers to help borrowers avoid foreclosure, the industry does face challenges. It has already been noted today that the terms and the conditions of applicable pooling and servicing agreements, as well as tax law and accounting rules, determine the requirements regarding the loans we service on—to some extent the requirements regarding loans we service on behalf of securitizations and third party investors.

Declining home values, subordination of junior liens, and securitized seconds are also impacting our ability to help some customers. Perhaps our biggest challenge, however, is simply reaching the borrowers who are most in need. If we can't reach them directly or indirectly, such as through community organizations, we cannot help them.

In addition to WaMu's own efforts as a lender and servicer, we partner with local, regional, and national nonprofits to combine raising rates of borrower delinquency and default. We have found that these organizations can be very, very effective in reaching customers who may not feel comfortable contacting us directly.

We are a member of the HOPE NOW Alliance that has been mentioned some this morning, and we recently participated in the HOPE NOW outreach efforts. And our employees, including myself,

are active participants in all of the working groups, including the groups responsible for expanding and funding counseling initiatives as well as advancing our ability to do more workouts and loan modifications.

The final area I would like to briefly cover today is our industry-leading measures we have taken to help borrowers through the ongoing origination process. In late September, WaMu co-sponsored a national conference on consumer education that was held at our training center in Seattle. In October, we introduced a requirement in our wholesale channel that we hope will soon become industry standard practice.

Chairwoman WATERS. Could you wrap it up for us, please?

Ms. ALBON. I am sorry?

Chairwoman WATERS. Could you wrap up your presentation?

Ms. ALBON. Yes. Basically, we have increased the disclosures that must be provided by brokers on loans that they broker to us, including more clear disclosure of their compensation.

[The prepared statement of Ms. Albon can be found on page 94 of the appendix.]

Chairwoman WATERS. Thank you very much.

We have to move on Mr. Blackwell, executive vice president, Wells Fargo Home Mortgage.

**STATEMENT OF BRAD BLACKWELL, EXECUTIVE VICE PRESIDENT, WELLS FARGO HOME MORTGAGE**

Mr. BLACKWELL. Chairwoman Waters, and members of the subcommittee, thank you for the invitation to testify. I am Brad Blackwell, executive vice president of Wells Fargo Home Mortgage's National Sales Force.

Chairwoman Waters, we commend your leadership on housing issues. Wells Fargo is proud to have spoken at numerous national forums of this nature, as we believe collaboration with you and other Members of Congress is critical. We, too, are concerned about foreclosures, particularly in parts of California where the market correction continues to depress housing prices.

It is important to note that, culturally, Wells Fargo is committed to lifetime customer relationships. Our vision is to satisfy all of our customers' financial needs, not just their mortgage needs, and to help them achieve financial success. This includes ensuring all customers have access to and can sustain homeownership.

Working with organizations like Los Angeles Neighborhood Housing Services, Operation Hope, the West Angeles Community Development Corporation, and the East Los Angeles Community Corporation, we have introduced a number of innovations to help homeowners, including conducting seminars to help borrowers review loan documents and training local lawyers to give aid to people facing foreclosure.

In your congressional district alone, Madam Chairwoman, Wells Fargo has contributed over $19 million toward low- and moderate-income housing investments. When faced with the tension that can naturally exist between doing what is right for the customer and generating a profit, responsible lenders do what is right for the customer.

Unlike many in our industry, Wells Fargo chose not to offer negatively amortizing option ARM products. In 2006 alone, these loans generated close to 40 percent of the industry's revenue. We know that having fair and responsible lending principles makes a difference. The subprime loans originated by Wells Fargo Home Mortgage have foreclosures half that of those not originated by our company.

Our principles include focusing on the customer's ability to repay, providing information to make fully informed decisions, making only those loans that provide a demonstrable benefit to the customer, and doing all we can to keep people in their homes by providing experts, tools, and services that help customers manage their credit.

While we believe we have made good decisions that align with our responsible lending and servicing practices, like most others we did not predict the extreme confluence of market events currently affecting customers. So we have stepped up our efforts to find more ways to help at-risk customers.

Wells Fargo has weathered the current subprime crisis well, relative to our competitors, because we respect that what is good for consumers and what is good for investors are inextricably linked. Selling mortgages into the secondary market makes homeownership possible for millions, including minority and low-income consumers, and we are careful to avoid practices that could limit responsible access to funding.

To ensure the future health of the housing industry, it is very necessary to preserve liquidity and capital from the secondary market. We must find a good balance between upholding investor obligations and meeting consumer needs.

Since the vast majority of subprime loans we service are held by investors, an ongoing industry dialogue organized by the American Securitization Forum has helped us develop solutions that take into account our secondary market obligations. Over the past few weeks, we have been working closely with Treasury Secretary Paulson, the Federal banking regulators, and the ASF on more systematic solutions, as you have been discussing earlier, for segments of subprime consumers who share similar credit characteristics.

Now, HOPE NOW, which Wells Fargo was instrumental in creating, is another great example of how industry and government have come together in nationwide solutions. This alliance harnesses the strengths of mortgage servicers' counselors to capital markets in the U.S. Government to help consumers get budget guidance.

A critical component—and this was not discussed in the last panel—is encouraging customer contact, since it is the biggest obstacle we face in helping customers. HOPE NOW is already beginning to prove that when we come together and mobilize to help consumers we can have great impact.

To gain further insights on the best ways to help more customers, we analyzed our 2007 subprime ARM servicing portfolio, considering the life of the loan and current market trends. About 3 percent of the 7.9 million real estate-backed loans Wells Fargo services are subprime ARMs that have or are expected to reset by the end of 2008.

At this time, it appears we can find workable solutions for the vast majority, 80 to 88 percent. These customers will pay in full, they will refinance, manage the higher loan payment, or benefit from a workout solution. We either seek refinancing solutions or modify all loans for customers who can afford the modification and are willing to manage their mortgage payments. If a repayment or modification will not be successful for the customer, we turn to foreclosure avoidance options to protect the customer's credit standing.

As the Nation's leading FHA lender, we appreciate Congresswoman Waters spearheading FHA reform in the House, as we believe this will provide yet another conduit for helping customers. Six months in advance of a reset, we contact borrowers.

Chairwoman WATERS. Could you wrap it up for us, please?

Mr. BLACKWELL. Thank you. I will. And by working—so we make sure we contact those borrowers to see what we can do to help them with the reset.

By working together, our industry, government, capital markets, consumer groups, and not-for-profit counseling agents can help people stay in their homes, and it takes the effort of all of them. Together, we must get all customers facing difficulty to call their servicers or credit counselor, and we must explore refinancing, modification, and workout options. We are there for the help of our customers.

Chairwoman WATERS. Thank you very much.

Mr. BLACKWELL. And we thank you very much for your time.

[The prepared statement of Mr. Blackwell can be found on page 103 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Deutsch?

**STATEMENT OF TOM DEUTSCH, DEPUTY EXECUTIVE DIRECTOR, AMERICAN SECURITIZATION FORUM**

Mr. DEUTSCH. Thank you, Madam Chairwoman. I am honored to be here on behalf of the American Securitization Forum, as well as the Securities Industry and Financial Markets Association.

As indicated before, the ASF represents members, over 375 members, including all of the major servicers in the securitization marketplace, all of the major originators, as well as the institutional investors, to purchase these mortgage-backed securities as well. Our mission and goals can be succinctly summarized as: first, providing good market standards and practices in this area; second, advocating on behalf of our members; and, third, providing a good education as to how securitization works and the different incentives market participants have.

Before I address the specifics of the securitization process, and some of the many initiatives that we are working on right now, I would like to make one fundamental observation about the current mortgage market. That is, no one—no one—benefits from foreclosures, not the mortgage servicers, nor pension funds, nor mutual funds or hedge funds who ultimately invest in these mortgage-backed securities benefit from foreclosures at all. It is often the costliest outcome for both the borrower as well as the investor in

those mortgage-backed securities. And let me just put a placeholder in there and come back to that towards the end of my testimony.

Fundamentally, the process of securitization, though, allows originators of consumer and commercial credit to pool hundreds of like obligations and securities, which often generates stable and predictable cashflows for the investors in those mortgage-backed securities as borrowers pay their principal and interest payments.

Recent developments in the current subprime residential mortgage place has generated a number of significant concerns, and have impacted both the borrowers in those mortgage-backed securities as well as all of the securitization market participants. Given these market conditions, servicers of the mortgage loans, whether they are held in portfolio by the different banks, or whether in securitization trust, have redoubled their efforts, as you have just heard by all of the testimony from some of the servicers here, to help borrowers avoid foreclosure and minimize the losses to the securitization investors.

This is a very key point. The securitization investors are the ones who keep capital flowing into this marketplace. Refinancing is the number one option for many borrowers in these homes, not everyone, and let me speak to a couple of the general tenets that we have been discussing through numerous discussions both with various industry participants as well as the various Federal regulators and the Administration.

For many of those who are coming up on their reset date, and they have generally been current in their introductory mortgage payments, and have built up some equity in their home, refinancing opportunities continue to exist and to be accessible to borrowers even in the current marketplace. But for some borrowers with significantly impaired credit, or little equity in their home, these refinancing opportunities may not be available, and this is an area where the servicers as well as the industry have taken particular note and focus, especially over the last few months.

For borrowers who have been able to stay relatively current in their introductory rate—again, showing their ability and willingness to pay in that current introductory rate—servicers are and will continue to employ the full tool kit of loss mitigation options, including, but not limited to, loan modifications to try to help that borrower to stay in their home, again coming back to the point. For those leaving their home, whether it is through foreclosure or even short sales, it is often not the best outcome for anybody in the securitization process.

So let me just talk a little bit about the securitization pooling and servicing agreements that have been discussed a little bit today and get to some of the recent industry developments. As many of you are aware, all of the securitizations are covered by pooling and servicing agreements that are effectively the contract, if you can think about it, between the servicer and the investor of the mortgage-backed securities, various provisions that allow servicers to do a wide range and open up the full tool kit of what servicers can do.

Given current market conditions, the American Securitization Forum has taken particular note of that. And as far back as June of this year, we instituted a statement of principles, recommenda-

tions, and guidelines for the modification of securitized subprime residential mortgage. That is attached to my testimony as Exhibit A.

This document concludes that loan modifications—and this was back in June—that are in default, for subprime loans that are in default or for which default is reasonably foreseeable, an important serving tool as part of the full servicing tool kit to often help borrowers avoid foreclosure and remain in their homes.

I would also like to note that the development of the ASF statement was a first and important step towards industry collaboration and coordinated solutions. Since the ASF and SIFMA have also been pleased to be involved with the HOPE NOW Alliance that was formed on October 9, 2007, under the leadership of Treasury Secretary Paulson and HUD Secretary Jackson, this HOPE NOW coalition again brings all of the counselors, servicers, investors, and other mortgage market participants to maximize the outreach to borrowers and to help develop industry solutions.

On that same day, we also released a statement allowing for the reimbursement of borrower counseling expenses to be viewed as servicing advances, effectively Help Now. That is, that servicers can deduct out of securitization trust cashflows many of the expenses that they reimburse for counseling expenses, something we spent a great deal of time working with both servicers and investors to develop this.

Finally, I believe that brings me to the work that we are currently working on now with Federal policymakers, including the FIDC, FASB, the Federal Reserve, the Treasury Department, and other Federal bank regulators to identify the loss mitigation obstacles and promote best servicer practices throughout the industry.

Fundamentally, the ASF believes, and is continuing to pursue, streamlined methods of segmenting borrowers with various types of characteristics including loan-to-value ratios, credit scores, and, most importantly, payment history at the introductory rate. We believe that streamlining this approach by doing this very quickly, as servicers have been doing and working on over the last few months, will achieve very measurable outcomes and ultimately help even that many more borrowers stay in their homes.

We are pursuing these efforts in great earnest, and hope to report out the progress of these efforts in the very near future.

Madam Chairwoman, and distinguished members of the subcommittee, I thank you for the opportunity to participate in today's hearing. The ASF and SIFMA stand by to assist you.

[The prepared statement of Mr. Deutsch can be found on page 108 of the appendix.]

Chairwoman WATERS. Thank you very much, Mr. Deutsch.

Now we will hear from some homeowners. First, Ms. Anna Thomas, a homeowner from San Pedro, California. Thank you for being here.

**STATEMENT OF ANNA THOMAS, HOMEOWNER, SAN PEDRO, CA**

Ms. THOMAS. Thank you. Thank you. It is exactly a year ago that I got into a bad loan with Freemont Investment and Loan, almost to the day, and they did nothing to help negotiate or modify my loan. Over 6 months, I paid them $5,190.35 for my mortgage. I had

help to do that. I had family members in my home, and I was able to do it for 6 months.

And it turned out, towards the sixth month, I realized my family members were not there any longer, they had to go back to New York, and I could not make those payments. Freemont Investment and Loan would do nothing to help me. I heard mentioned today that the consumers don't know where to go, and I didn't know where to go either.

I got a book, this Consumer Action Handbook. I found the Department of Consumer Affairs, their Real Estate Fraud Unit, a lady, Dawnnesha Smith called me right away to see how they could help. They got on the phone with Freemont—now, I had been negotiating with them for over 6 months now. They would not take any partial payments. They wanted me to sell my home.

Investigator Gutierrez spoke with them at length on one particular day. She called me at work and said, "I have been talking with them all day. I am sorry, they are not bending. You are going to—on the 16th of November, they will file foreclosure notice, and you are going to have to move out of your home. And as a matter of fact, within 72 hours you would have to vacate your home."

I was devastated at that news, and I felt the compassion in her voice. There was somebody that I was able to call. I don't know what she said to them, but she called me back 15 minutes later and said, "Ms. Thomas, I am on a conference call with Freemont Investment and Loan, and this gentleman would like to speak with you." So within a 15- to 20-minute period, I went from devastation to elation. He told me he would modify my loan at 6 percent. Would I be able to pay them a fee of $5,190.35? I said yes, I would.

I didn't have it then, 6 months ago. I don't really have it now either, but my friends and relatives got that money together. I sent it in to them, my payment now is approximately $3,700. I asked if they could put that $5,000 maybe onto the loan, so that I would not have to pay that money on the 16th of November, and then go back on the 1st of December now with $3,700, but that is another hurdle that I will have to make.

I am here—hopefully other consumers will get in touch with our agencies, especially the Consumer Affairs Department and the people who helped me—perhaps they, too, can save their homes. I am a survivor of this foreclosure crisis. I am happy to say that at this point. Going forward, I have learned a lot of things, and I would like to thank you for having this panel and hopefully preventing this from happening to other people.

Thank you.

Chairwoman WATERS. Well, you are so very welcome, and we thank you for being here.

Ms. Karen Lee, also a homeowner, from Los Angeles. Thank you for being here today.

**STATEMENT OF KAREN LEE, HOMEOWNER, LOS ANGELES, CA**

Ms. LEE. Thank you. It is my pleasure to be here and share my story. I feel like I am one of the lucky ones, because I was not losing my home at the time I think I had—my health went down, so I had to quit work. My husband wasn't in the greatest health either, and he was on the verge of retiring.

So we discussed what we would do, since we knew we didn't have a lot of money coming in, and we had refinanced before a couple of times for our children's education. So we, therefore, did not even consider what would happen to us once we retired or if something drastic like my health going down the tubes would affect our lives.

I had been getting a lot of literature through the mail about reverse financing. I didn't understand it. There was a seminar that we attended, and we still didn't give it a lot of thought. But then, as the time got nearer for my husband to retire, then I started thinking, well, gee whiz, I am ill, my house note was $1,300 a month, and maybe to some people that is not a lot of money, but for us raised in South Central Los Angeles, it was a lot of money.

So I couldn't imagine how, if something should happen to him, how I could get this money together if I should miss a payment or whatever. So we discussed it, and I am very pleased to say that we were happy with the decision that we made to go ahead on and do something about it before anything happened. So we went on and we applied. I have a new that is with the HUD Corporation, and he was instrumental in giving us advice and putting us with the right people to give us the right understanding, and now we can breathe easy and it is a good feeling.

I appreciate you allowing me to come and share my success story.

[The prepared statement of Ms. Lee can be found on page 141 of the appendix.]

Chairwoman WATERS. Well, thank you very much.

Mr. Paul Leonard,California office director, Center for Responsible Lending.

**STATEMENT OF PAUL LEONARD, CALIFORNIA OFFICE DIRECTOR, CENTER FOR RESPONSIBLE LENDING**

Mr. LEONARD. Madam Chairwoman, thank you and the other members of the subcommittee for coming out today. I can't help but say the timing of this hearing couldn't have been better given the landscape that we are facing now, the Governor's intervention, the discussions that are happening in Washington around expanding the scale of modifications. It is critical.

I am Paul Leonard, the director of the California office of the Center for Responsible Lending. We are a nonprofit, nonpartisan policy organization working to eliminate financial abuses in the marketplace. We work with a lot of other civil rights, labor, consumer groups. We work closely with the NAACP, and the National Council La Raza, at the national level as well as here in the State.

We are also affiliated with Self-Help, which is a credit union, so we are a lender to people who have imperfect credit in North Carolina directly. And through a national lending program, we have bought some $5 billion and helped finance more than 4½ million homeowners and small businesses.

I would be remiss if I didn't reiterate the fact that California really is the epicenter of the national foreclosure crisis. Last year we put out a report that projected there would be 2.2 million foreclosures as a result of subprime lending that occurred in 1998 and 2006. We estimated that close to 500,000 of those would be right

here in California, and some 45,000 here in L.A. County specifically.

As others have mentioned, this is a problem that is disproportionately focused on minority communities and minority borrowers. Both African Americans and Latinos are much more likely than similarly-situated, similarly credit quality white borrowers to get high cost subprime loans and to experience foreclosures.

You know, not too long ago the problem for homeownership lending used to be redlining, that minority folks couldn't get a lender to say yes to a loan. Unfortunately, the pendulum has swung way too far to the other end where the saying in the industry is is that if you could fog a mirror, you could get a loan, and the whole issue is now not about whether you can get a loan but how much you are going to pay for it and what the terms of those loans are.

And, unfortunately, far too many people got into loans that they fundamentally are not going to be able to repay, and that the lenders didn't evaluate their ability to repay beyond the initial starter rate period and didn't verify their income as to determine their ability to repay.

The costs of this are staggering, not just for the borrowers, for whom it is a tragedy for them to lose their homes, but also for the neighbors, as several of the members mentioned. We have done some analysis. Here in L.A. County, we estimate that 3 million homeowners will experience price declines in their homes totalling some $31 billion as a result—specifically as a result of foreclosures that are happening to their neighbors.

And as others have mentioned also, the problem is going to get worse. We are going to see a spike in subprime ARM borrowers who are facing resets for the first time over the next 12 to 18 months. Unfortunately, for the last 6 to 9 months, we have heard a lot of what I call "happy talk" from the lenders, promises of efforts to reach out, staff up their loss mitigation efforts, contact borrowers and offer a full range of loss mitigation tools, including loan modifications. Unfortunately, that rhetoric has often been hollow.

Moody's did a survey of the largest servicers in the country a couple of months ago, and they found that only 1 percent of borrowers at reset were getting modifications. And when we have scratched below the surface and looked at the types of modifications that are being provided, often they are of a very short-term nature, not the long-term affordability that Chairman Bair is seeking in her approach to loan modifications.

Now, why isn't this happening despite the obvious economic appeal and the point that Mr. Deutsch made that nobody really benefits from foreclosures? Well, we think there are a few reasons. One is that the financial incentives for the servicers may very well be mismatched with the incentives of the investors. There was a recent quote in an Inside Mortgage Finance from a Deutsche Bank official who said, "Just this week, servicers are generally disincented to do loan modifications because they don't get paid for them, but they do get paid for foreclosures."

This official went on to indicate that it costs servicers between $750 and $1,000 to complete a loan modification. So we have to dig beneath the surface and really get into the guts of these operations to understand where the financial incentives are internally, even if

the outcomes of foreclosures are clearly worse off for investors and for borrowers.

There are other issues. Clearly, the servicers haven't had the capacity to deal with the wave of folks who are facing problems. There are potential lawsuits from investors that are tying the hands of how many modifications, at least that the lenders suggest that they can do. And, finally, there are some complicated incentives with many loans that have second mortgages, which make it difficult to offer these loan modifications.

Well, what is needed to make this work? I think there really are three things. First of all, we wholeheartedly endorse the proposal put forward by Chairman Bair to essentially identify quickly and in a streamlined fashion those borrowers who are not going to be able, who are current and occupying their homes, current at the time of reset and aren't going to be able to afford it. And let us just, as she said, get on with it, convert these loans to the starter rate for the life of the loan.

I would also point out that we should expand the universe of those folks who are affected, because there are many people who have already passed their reset date and who have fallen behind on their loans but were current before, and they have fallen behind on their loans because they couldn't afford this reset that they have already experienced. Those folks, too, should be included in the universe that we are looking for for this streamlined, simple modification process.

The second thing that I think is really, really important is there has to be transparency about who is going to qualify for these streamlined modifications. I have talked to a lot of housing counselors and borrowers who you have already heard today have trouble finding the right person, have trouble knowing what their clients are eligible for in terms of a loan workout, and so we have to make it simpler and easier to understand for borrowers and for the lenders alike.

And perhaps most importantly, we need regular reporting of data, because right now—Madam Chairwoman, you know, you were intimately involved in the effort to get—expand the Home Mortgage Disclosure Act, which has shed a light on and provided a real democratization of data around home lending practices.

We need similar data collection right now for the servicing activities, so that we can know and measure the lenders up to the standards that they have set for themselves, that if they are providing the long-term affordable loan modifications that they are talking to, they will make this data—readily make this data available for you and me and everybody else to see, so that we can know that people's homes aren't being lost.

Two final points that I think are important to sort of level the playing field to help current borrowers. One is Ms. Sanchez's proposal for bankruptcy reform. It is a critical, critical component, because right now, as she said, the first home mortgage is the only asset that a bankruptcy judge can't rework the terms of their loan.

Second home, vacation home, a nice yacht, or an RV, even credit card debt, all can be restructured in a bankruptcy process. First home mortgages isn't one of those items. And if we don't do that—

if we do that, we are actually giving the borrowers a whole lot more leverage in their ability to negotiate with their lenders today.

The one final point I want to say is requiring mandatory loss mitigation activities on behalf of the lenders, establishing some requirements as are required by FHA today that would require lenders to reach out and document their loss mitigation efforts before they came move to foreclosure we think would be a strong Federal policy that should be adopted. Thank you very much, and I am happy to answer your questions.

Chairwoman WATERS. Thank you very, very much.

Thank you very much.

Again, I would like to thank all of the panelists for their testimony. It was indeed tremendously informative, and we have a few questions to raise of our panelists.

Let me just say to the lending institutions who are here today that I know oftentimes you don't feel comfortable coming to these kinds of hearings, and particularly when it is chaired by Maxine Waters. You think you are going to get beaten up.

And we don't want to do that. We want to make you feel as comfortable as we possibly can, but we have to ask you some tough questions. The first question I would like to ask is something you alluded to, Ms. Albon. Can each of you tell me how many foreclosures are in your portfolios? Let me start with Countrywide. What is the total amount of foreclosures that you are working with at Countrywide? How many foreclosures have you had?

Mr. SAMUELS. Could you start with someone else? Let me just review—

Chairwoman WATERS. All right. We will start with WaMu.

Ms. ALBON. Yes. We do not publicly disclose that data, so I—

Chairwoman WATERS. I am sorry. Would you please give her the microphone?

Ms. ALBON. We do not publicly disclose that data, so I do not have it with me today.

Chairwoman WATERS. All right. I know that you said that. I just wanted to get it into the record, because we have to talk about what we do about that.

What about Wells Fargo?

Mr. BLACKWELL. Wells Fargo's foreclosures currently represent .66 percent of our portfolio.

Chairwoman WATERS. What is that—

Mr. BLACKWELL. That was as of the end of the third quarter.

Chairwoman WATERS. What is that in raw numbers?

Mr. BLACKWELL. I am sorry. I don't know that number.

Chairwoman WATERS. Okay.

Mr. BLACKWELL. We have—

Chairwoman WATERS. Okay.

Mr. BLACKWELL. —roughly 7.9 million loans in our portfolio.

Chairwoman WATERS. All right.

Mr. SAMUELS. Ours is .89 percent of our portfolio of almost 9 million.

Chairwoman WATERS. Almost 9 million?

Mr. SAMUELS. Yes.

Chairwoman WATERS. All right. For Wells Fargo, do you have—do you own other companies that initiate loans for you? Any

other—do you own any other banking or mortgage companies that do loan initiation for you?

Mr. BLACKWELL. Thank you, Chairwoman Waters. I think I understand the question.

Chairwoman WATERS. Yes.

Mr. BLACKWELL. Do we own any separate companies, not under the—

Chairwoman WATERS. Yes.

Mr. BLACKWELL. —Wells Fargo umbrella—

Chairwoman WATERS. Yes.

Mr. BLACKWELL. —that originate mortgages?

Chairwoman WATERS. Yes.

Mr. BLACKWELL. The answer to that is no. We do originate loans under the Wells Fargo Home Mortgage name, and under the Wells Fargo Financial name. Both are wholly-owned subsidiaries. Wells Fargo Home Mortgage is actually a unit of Wells Fargo, and Wells Fargo Financial is a wholly-owned subsidiary.

Chairwoman WATERS. Are all of your loans initiated by loan officers that work in these entities?

Mr. BLACKWELL. If you mean are all of our loans originated as in the loan officer takes the loan application—

Chairwoman WATERS. Yes.

Mr. BLACKWELL. —the answer to that is no. We have—and our primary origination source is retail, in which loan officers take the loan applications. But we also have a wholesale unit which originates loans through mortgage brokers who can deliver loans to us. And we have a correspondent unit that buys loans from mortgage bankers, and those three units all do mortgages for Wells Fargo.

Chairwoman WATERS. What percentage of your loans, your subprime loans, are originated by mortgage brokers?

Mr. BLACKWELL. I am sorry. I don't have that information. I can tell you that more than half of our loans were originated through our retail channels, but I do not have the percentage of loans that were done through our wholesale channels.

Chairwoman WATERS. What about you, WaMu?

Ms. ALBON. We also do business through licensed brokers, and a large percentage of our subprime loans that we currently service were originated through mortgage brokers, and then some were purchased from sellers.

Chairwoman WATERS. What percentage again?

Ms. ALBON. I don't have that number on me, but I can go back and get that information.

Chairwoman WATERS. Can either of you tell me—can you trace whether or not your foreclosures are more tied to or related to the loans that were initiated by your banking operation or by the operations of the mortgage brokers and the mortgage bankers, others that were initiating for you?

Ms. ALBON. We would internally have that data.

Chairwoman WATERS. Well, I know you would have it internally, but can you tell me?

Ms. ALBON. I do not have it with me right now.

Chairwoman WATERS. But is this something that you can publicly disclose?

Ms. ALBON. I will go back and check on that.

Chairwoman WATERS. Yes, sir.

Mr. BLACKWELL. I apologize. I don't have the exact numbers, but I do know that the performance of our portfolio originated directly by our loan officers is better than that originated by mortgage brokers that delivered in to us.

Chairwoman WATERS. At any point in time leading up to this crisis, did you know and understand that?

Mr. BLACKWELL. I do not have the answer to that personally.

Chairwoman WATERS. Okay. Let me just move on to Mr. Deutsch. Mr. Deutsch, did you say what I heard Mr. Leonard say? Was it true that you said that the servicers don't get paid for doing the workouts on foreclosures?

Mr. DEUTSCH. I am sorry. As much as I would like to have the resources of Deutsche Bank, I think that is who he was referring to, not Tom Deutsch.

Mr. LEONARD. That is correct.

Chairwoman WATERS. Oh, okay.

Mr. LEONARD. It was a Deutsche Bank official that—

Chairwoman WATERS. Oh, okay.

Mr. LEONARD. —I was quoting.

Chairwoman WATERS. All right. I am sorry.

Mr. LEONARD. Not Mr. Deutsch.

Chairwoman WATERS. I just saw Deutsch there, and—

Mr. LEONARD. You have seen one Deutsch, you have seen them all I think.

Chairwoman WATERS. That is right. That is right. So but since you are an expert in this area, is this a problem?

Mr. DEUTSCH. Could you repeat the question?

Chairwoman WATERS. The question is, because you understand and know you are the forum, and you have under your umbrella all of these servicers, have you heard or have you learned that they do not get paid for doing workouts? That it is too costly, it is too time-consuming, that it is not—you don't have any incentives for doing these kinds of modifications or workouts. Have you heard that said before?

Mr. DEUTSCH. I have heard that said before, and personally having, for better or for worse, drafted many of these pooling and servicing agreements, quite familiar with many of the provisions that are applicable, I guess I would respond I guess with two notes. Is that, first, the servicer does have an incentive to continue servicing and not foreclose or create some sort of short sale arrangement, because they are continuing to receive a servicing fee for servicing that loan ongoing.

So if they were to—to say that they are not paid to actually do a loan modification misses the point that they will continue to receive a servicing fee for servicing that loan going forward.

Secondly, is that they—

Chairwoman WATERS. No, no, we understand that.

Mr. DEUTSCH. Sure.

Chairwoman WATERS. We understand that if they continue to service the loan they are going to get paid. So that is the incentive for wanting to service rather than—well, you said it. If you do the workout, and it stays on the books, then you do get paid for it. So what point were you making, Mr. Leonard?

Mr. LEONARD. I was simply sort of reiterating this comment from my friends at Deutsche Bank as opposed to Mr. Deutsch that—

Chairwoman WATERS. Yes.

Mr. LEONARD. —that, in fact—that from this person's perspective that the incentives were not necessarily aligned and moving in the direction of making sure that the servicers were going to be striving for to deliver modifications rather than foreclosures. And combined with the risk of investor lawsuits and other complications, the default may very well still be easier to do—to accept a foreclosure, have the loan off the books, than it is to go through the effort of doing a workout.

Chairwoman WATERS. Mr. Deutsch, are you guys worried about liability? Is there something that needs to be done to relieve you of that concern of liability based on the contracts that you have with the investors?

Mr. DEUTSCH. Absolutely, liability has been raised as an issue, and I would respond with two notes, is that servicers have indicated a concern if they do too few loan modifications that investors and mortgage-backed securities could sue them for that, but they have also noted—servicers—in the same breath that if they do not enough loan modifications that investors could also sue them for not doing enough loan modifications, because they haven't modified to an extent that would maximize the net present value of the trust.

Chairwoman WATERS. They could be. Do you know of any servicers who have been sued?

Mr. DEUTSCH. I am not personally aware of lawsuits that have been filed. Most of those would be private litigation that I—

Chairwoman WATERS. But in a forum where you are looking to make sure that you strengthen the industry and protect your investors and do the work that they—you would know whether or not there was a rash of—

Mr. DEUTSCH. Certainly, there has been, as far as I am aware, no rash of suits as of yet. But I would note that it is—there is always litigation risk. Absolutely. But that is—

Chairwoman WATERS. In life.

Mr. DEUTSCH. —life in the capital markets.

Chairwoman WATERS. Yes.

Mr. DEUTSCH. Servicers, when they sign up for these agreements, they do have to take those risks, the risks associated with—

Chairwoman WATERS. Have you made available—maybe my staff would know—a copy of these kinds of service agreements that are worked out between the investors and the servicers? Have you seen these kinds of agreements?

Mr. LEONARD. My colleagues have reviewed these pooling—a sampling of these pooling and servicing agreements, as well as many other Wall Street firms that have reviewed them and—

Mr. DEUTSCH. Ms. Waters, I might note you can go to the sec.gov Web site, and within that Web site is a filing of all pooling and servicing agreements on publicly-issued securities, so you can look at any particular issue through that Web site.

Chairwoman WATERS. Thank you. And I would instruct my staff to do that. We are going to gather those and take a look at them and see what you are talking about.

One last thing. You mentioned that in these workouts that we are still trying to find, you know, all of these workouts that have been done.

Mr. DEUTSCH. Sure.

Chairwoman WATERS. But one of the things you look at is whether or not there is impaired credit.

Mr. DEUTSCH. Correct.

Chairwoman WATERS. Now, don't forget these are workouts that are being done by people who have already been extended credit.

Mr. DEUTSCH. Correct.

Chairwoman WATERS. They got into a teaser loan.

Mr. DEUTSCH. Correct.

Chairwoman WATERS. So did the credit become bad after they gave them the loan, or when did they have such bad credit that they can't do a workout to remedy the risk that they are now involved in?

Mr. DEUTSCH. Sure. I might distinct out between credit and payment on their mortgage payment. I think it—

Chairwoman WATERS. Well, they have been in this for 6 months.

Mr. DEUTSCH. Okay.

Chairwoman WATERS. They got a teaser rate.

Mr. DEUTSCH. Okay.

Chairwoman WATERS. They are in for 6 months. It is going to reset. Are you saying the credit went bad in 6 months?

Mr. DEUTSCH. No. What we would—what we are proposing, and through I think all of the different proposals that you have heard, both from Chairman Bair as well as others, is that if they are current in their introductory rate, and their credit hasn't taken a significant or drastic slide, that they would be eligible for either refinancing when they come up upon their reset, or that upon that reset they would receive a loan modification.

Chairwoman WATERS. So you do support Chairman Bair's recommendation to freeze the ARMs at the starter rate?

Mr. DEUTSCH. I think there is a lot of nuances associated with that statement.

Chairwoman WATERS. Well, just the general idea. Do you support that?

Mr. DEUTSCH. As a general idea, the American Securitization Forum has come out in our statement in June noting that loan modifications are extremely important and should be done on a loan-by-loan basis. But let me quality that. By streamlining the process of evaluating the borrower characteristics—and there is many different metrics that can be done to make that a very efficient and fast process, and I think over the—in the very near future you will see the industry working hand in hand with the Federal regulators—

Chairwoman WATERS. Well, let me just say that we are way past 101 Loan Modifications. It is too slow, it is too time-consuming, the consumers are not getting the information, we don't see the kind of outreach that we are hearing about today. Chairman Bair has a proposal to say, "Let us do it in a significant way. Let us just come up with an agreement that we are going to freeze these ARMs at a starter rate." You are telling me you are not prepared to say you support that today?

Mr. DEUTSCH. I think one could—

Chairwoman WATERS. Yes or no.

Mr. DEUTSCH. One—

Chairwoman WATERS. I want to be nice.

Mr. DEUTSCH. I agree. I think the statements that Chairman Bair has made have indicated on a specific basis that loan-by-loan analysis, even under her proposal, still needs to be done on a loan-by-loan basis, but that systematic criteria can be used. I think they are the exact same approach, but different nuances in the words have made them seem as if they are different approaches.

Chairwoman WATERS. Well, I would hope that at some point in time our subcommittee, and perhaps our entire committee, is going to make it very clear where we stand on the idea, and we are not going to nuance it. We are going to want some real action.

I know I have taken a lot of time here, but you are extremely important to solving this problem. And I have been wanting for us to get to you guys to see what you were doing, what you were initiating. I am concerned about the liability issue, and I am concerned about any other obstacles to doing these workouts that would freeze these ARMs.

And so we have a lot of work to do, as I can see, but you could be very helpful in helping us to understand how best to do it, and supporting a real proposal by which to get it done.

Now, having said that, I am going to wrap up, so that my colleagues can get their questions in. How many of you in your outreach, not your national town hall meetings, but you know—Countrywide, for example, you hold most of your paper, is that right?

Mr. SAMUELS. Yes.

Chairwoman WATERS. So you are doing your own servicing, is that right?

Mr. SAMUELS. Yes, ma'am.

Chairwoman WATERS. So your people are sending out the notices every month?

Mr. SAMUELS. We are not only sending out notices, but we are also calling.

Chairwoman WATERS. When the notice goes out, for whatever reason, on that loan, what is your organized systematic way of making sure that everybody is getting an invitation, either notifying them that—

Mr. SAMUELS. Right.

Chairwoman WATERS. —the loan is going to reset—

Mr. SAMUELS. Right.

Chairwoman WATERS. —or that they are in trouble already and come in and they can get a modification consideration?

Mr. SAMUELS. As I mentioned, we have several notices that go out—180 days, 90 days, 45 days—before the reset. And we do several things on the notice. We say, "If the interest rates at the date of the reset are what they are today, this is what your payment would be." So somebody could see, compare what their existing payment is, to the payment reset. And we say, "If you have an issue with what is going—you know, with this reset, please call us, please call the Housing Preservation Foundation, NeighborWorks," you know, one of those organizations.

And we also call—we also call these borrowers, because sometimes when an envelope comes, as you know, we get a lot of junk mail. When an envelope comes, sometimes people may not pay attention to it. So in order to try to make sure that people are aware of the coming reset, we also make phone calls.

Chairwoman WATERS. You made an arrangement with a nonprofit organization to help you to do what?

Mr. SAMUELS. Yes. That is—well, we have a number of arrangements, but the one that I think you are referring to is—

Chairwoman WATERS. NACA?

Mr. SAMUELS. Yes, the Neighborhood Assistance Corporation of America.

Chairwoman WATERS. What is that arrangement?

Mr. SAMUELS. The arrangement that we have there is where people come to NACA. What NACA does is they do counseling.

Chairwoman WATERS. How do they get to NACA?

Mr. SAMUELS. They get to NACA a variety of ways. they—well, we are actually doing some advertising, are going to be doing some advertising.

Chairwoman WATERS. How much money have you put into paid ads?

Mr. SAMUELS. To paid—

Chairwoman WATERS. On television. You know, the same kind of ads where you say, "Come to Countrywide and get this loan."

Mr. SAMUELS. Right.

Chairwoman WATERS. How many of those have you done that say, "Come to Countrywide and get this loan modification?"

Mr. SAMUELS. We haven't done any of that yet.

Chairwoman WATERS. Well, that is what I thought. And not only have you not done any, but you are still spending money on ads to say, "Come and get this loan," and you are still doing direct mailings. And those mailings look like some of the same mailings that went out prior to this crisis that has created this problem. I don't get it.

Mr. SAMUELS. Well, Congresswoman, we are still—we still want to make loans to people who can qualify for loans, and we think that that is still important.

Chairwoman WATERS. No. We want you to do that.

Mr. SAMUELS. Yes.

Chairwoman WATERS. Except we don't want you to do it the same way that you have done it. It was described here earlier that we were at a time and point, in minority communities in particular, where we were redlined. And we worked awfully hard—awfully hard—to open up these doors.

Now we are being accused of not being appreciative, that we opened up the doors and you allowed us to get all of these loans, and it is not your fault that we are defaulting. However, everybody has to take some blame in this, and certainly the initiators have to take some blame in this, because what you did was you extended exotic products to people who thought they were able to realize the American dream and get a loan. They didn't understand these exotic loans and these teaser rates and these interest only and these no-doc loans.

And what I think I see is you are still advertising and soliciting on these exotic products.

Mr. SAMUELS. No, we are not doing that. That is not—we are not doing that anymore, no.

Chairwoman WATERS. What are you doing in your solicitations that is different?

Mr. SAMUELS. Well, we are not doing—we are not doing 2/28s and 3/27s anymore. So these products—our subprime, you know, we are—our subprime products have been very, very significantly reduced from what they were. But I want to—

Chairwoman WATERS. Do you have a way that you can document how many modifications you have done?

Mr. SAMUELS. Yes. In fact, I have—I think we have been—

Chairwoman WATERS. Is it public information?

Mr. SAMUELS. Yes, absolutely. And we have been very—I think of all the lenders, we have been very, very forthcoming in terms of how many we have done. And it is in our written testimony, and I have also mentioned it in—

Chairwoman WATERS. So you have made 18 million phone calls.

Mr. SAMUELS. Yes.

Chairwoman WATERS. And you have done what with 30,000? Did you do workouts? Did you do successful workouts?

Mr. SAMUELS. We did 50—

Chairwoman WATERS. Did you talk with 30,000 people? What did you do?

Mr. SAMUELS. We have done—since the beginning of the year, we have done 55,000 workouts, meaning people stay in their homes. It is not—we do not include—

Chairwoman WATERS. Does your workout include a modification?

Mr. SAMUELS. Yes. Of the—

Chairwoman WATERS. All of these have been—

Mr. SAMUELS. No, not all of them have been modifications. There are other—

Chairwoman WATERS. So you talked with some people—

Mr. SAMUELS. But there are other kinds of workouts that are—

Chairwoman WATERS. Yes, there are. There are a lot of them. There are some that result in modifications and some that don't.

Mr. SAMUELS. Yes. And in October—

Chairwoman WATERS. How many modifications have come out of this 18 million phone calls?

Mr. SAMUELS. Well, I will tell you, in October we have done 11,000 workouts, and 9,000 of those 11,000 were modifications.

Chairwoman WATERS. Okay. All right. I said I wasn't going to get too tough with you guys, but, you know—

Mr. SAMUELS. And we are prepared to be very open with the—you know, our figures as to—

Chairwoman WATERS. Okay.

Mr. SAMUELS. —what we are doing in terms of our—

Chairwoman WATERS. Okay.

Mr. SAMUELS. —workout transactions.

Chairwoman WATERS. I do appreciate that. This is such a serious problem.

Mr. SAMUELS. Yes.

Chairwoman WATERS. And so many homeowners are at risk. We recognize and appreciate that the industry is in business to make money. We don't deny that, and that is okay. But we cannot be in a situation where we find that people have gotten involved over these exotic products and these loans, and they are going to lose the homes. Everybody tells us it is not in the investor's best interest. Everybody tells us it is not in the lending institution's best interest.

Mr. SAMUELS. That is correct.

Chairwoman WATERS. Then, why don't we just fix it.

Mr. SAMUELS. We are trying.

Chairwoman WATERS. Why don't we—

Mr. SAMUELS. Yes.

Chairwoman WATERS. —do something that is significant. For example, I bet you, Countrywide, you spend millions of dollars on ads on television. Put some of the money into soliciting people to come back to you and get these workouts. Think about it. You don't have to answer me, but just think about it.

With that, let me just move on. I can't ask another question.

Congressman Green, they belong to you.

Mr. GREEN. Thank you, Madam Chairwoman.

Does everyone agree that there were some lenders who took advantage of borrowers? If you agree that there were some, would you raise your hand, please, so that we can have you on record? Okay. Some lenders who took advantage of borrowers.

All right. Now, if you did not raise your hand then, raise your hand now. That way we will—so everybody agrees.

I ask this because when you ask a person to go back to the person that took advantage of you, sometimes it is difficult to negotiate that when you are saying, "Come back to me, and I am going to help you now." Well, maybe you are, and maybe you aren't, is what happens in the minds of many people.

And I am not saying that you—do not personalize it. I am trying to give some notion of why people are not rushing back to the place where they perceive that they got into trouble. Why would you run back to trouble? People just don't do that.

Let us examine a couple of things. Is it better to allow the borrower who can afford the teaser rate, but who cannot afford the adjusted rate, to maintain the loan with a teaser rate? If you think it is better to allow the borrower who can afford the teaser rate, meaning he or she can continue to pay that rate, but they cannot afford to pay the adjusted rate, to let that borrower keep that teaser rate and stay in that home. Is it better to do that? Is that the better thing to do? If you think it is, raise your hand, please.

Okay. Everybody seems to agree. Now, if you think that is the better thing to do—and I don't want to just pick on one person, but Mr. Deutsch, why did you have such difficulty with the chairwoman's question? Because that is in essence what she is asking. Why can't you simply allow borrowers who can afford the teaser rate, but cannot afford the adjusted rate, to keep the adjusted rate?

Mr. DEUTSCH. We absolutely agree with your statement. The issue is determining whether or not they can afford the reset rate or not, and that is not an easy thing to do.

Mr. GREEN. Can I give you one example of how you can find out whether they can afford it?

Mr. DEUTSCH. Sure.

Mr. GREEN. They go into foreclosure. That is a pretty good indication.

Mr. DEUTSCH. Absolutely.

Mr. GREEN. People don't want to lose their homes. So at the point that they start to go into foreclosure, because what we want to do now is get to people before they get there, but clearly when they get there that is pretty good evidence that they can't afford it. So why not, at that point, at least suggest that, "Let me let you keep this teaser rate and keep this home."

Mr. DEUTSCH. I guess the answer is if you don't do any kind of determination whether they can afford it or not, you go back to a characterization of a categorical loan modification, that everyone would get a loan modification—

Mr. GREEN. I understand.

Mr. DEUTSCH. —across the board.

Mr. GREEN. I understand. But, look, let us assume now that you have done your due diligence. After due diligence, are you saying then that you would do this? This has—

Mr. DEUTSCH. Absolutely.

Mr. GREEN. After due diligence.

Mr. DEUTSCH. Absolutely.

Mr. GREEN. Okay. Now, let us examine the statement that no one benefits from foreclosures. The real question is, who really loses in foreclosures? Because we keep saying no one benefits, and that seems to give some air of comfort to certain institutions. But the question is, who benefits?

You are familiar with PMI, correct, sir?

Mr. DEUTSCH. Correct.

Mr. GREEN. And you are familiar with MIP.

Mr. DEUTSCH. MIP mortgage? Oh, correct.

Mr. GREEN. Okay. Do you agree that MIP and PMI are designed to help the lender become whole in the event of a foreclosure?

Mr. DEUTSCH. I am not sure I could make a firm—

Mr. GREEN. Wait a minute. Hold on. Let us examine that now. Why does one acquire PMI? What is the purpose of it?

Mr. DEUTSCH. One is to provide additional insurance to—

Mr. GREEN. And what does that insurance do?

Mr. DEUTSCH. It guarantees that to a certain extent some of the equity associated with that hump.

Mr. GREEN. And who does it guarantee benefit?

Mr. DEUTSCH. The guarantee ultimately would benefit the mortgage investor.

Mr. GREEN. Would that be the lender, the investors?

Mr. DEUTSCH. The institutional investors.

Mr. GREEN. Okay. So if they have the benefit of PMI, do you agree that they are not going to be the big losers in this process? Because that is what PMI does. It helps them to avoid losing money. That is what MIP does. So when we continue to say, "No one really benefits," we really are overlooking the fact that there are some who are not going to be the big losers. The big losers are the borrowers.

The lenders get the benefit of MIP and PMI. The borrowers do not. Isn't that true?

Mr. DEUTSCH. Well, they do benefit, but they don't benefit to the full extent of the principal amount.

Mr. GREEN. Well, let us examine that statement. Doesn't that depend on where you are in the loan process, in your repayment process?

Mr. DEUTSCH. I think—

Mr. GREEN. For example, if you didn't—if you put down 10 percent, and you have a certain amount of equity in the property, when the lender forecloses, you get to sell the property, you get the benefit of PMI/MIP. So you do get pretty close to being whole in terms of your principal when you add those two together, if you have some equity in the property.

Mr. DEUTSCH. I think the definition of "some equity" might be a concern there, because PMI oftentimes only covers, say, 10 percent of the equity.

Mr. GREEN. Okay.

Mr. DEUTSCH. Loss severities oftentimes on a foreclosed home will reach 60 percent, 40 percent.

Mr. GREEN. Okay. All right. Then, let us take it this way. This will be my final question in this area, one more thing. Do you agree that the borrower walks away with zero while the lender or the investor walks away with something?

Mr. DEUTSCH. They can walk—the lender does walk away with the principal, but it is usually somewhere in the range of, like I said, something along the 60 percent of the principal that may have extended to that borrower.

Mr. GREEN. And to some extent, as was indicated by the gentleman—what is your name, sir? I am sorry. I can't see it.

Mr. LEONARD. Mr. Leonard.

Chairwoman WATERS. Mr. Leonard.

Mr. GREEN. Okay. Mr. Leonard, there are some conflicts in this process that will cause one element of the process to conclude that it is not to my advantage to foreclose right now, whereas another might conclude it is to my advantage to foreclose right now. Is this true?

Mr. DEUTSCH. Again, there are—you would have to provide additional details and color. Again, it is very difficult to make a determination—

Mr. GREEN. Okay.

Mr. DEUTSCH. —on all of the different borrowers.

Mr. GREEN. Let us go to one more real fast. The credit rating agencies—do you agree that there may be some conflict of interest as it relates to credit rating agencies in that they are paid by—who are they paid by? You tell me.

Mr. DEUTSCH. Credit rating agencies are often paid by the issuers of the mortgage-backed securities.

Mr. GREEN. Okay. And who are they rating?

Mr. DEUTSCH. They are often rating the issuance of those mortgage-backed securities.

Mr. GREEN. Is that the same person who is paying them?

Mr. DEUTSCH. It is.

Mr. GREEN. And is it to their advantage, just to the average person, to give a rating that will be pleasing, if you will, to the person who is making the payment or the entity making the payment?

Mr. DEUTSCH. We don't believe so.

Mr. GREEN. You don't believe so. You don't believe that the person who is paying you dearly would like to have a favorable report from you?

Mr. DEUTSCH. Absolutely not. And the rationale for that is that investors in these mortgage-backed securities—and, remember, the American Securitization Forum represents the institutional investors in these mortgage-backed securities. If you rate something once, or you rate something twice, or you rate something three times, in each of those times those ratings were incorrect. Institutional investors may lose some confidence in those ratings. So if you do that over an extended period of time, your word effectively is not your bond.

Mr. GREEN. In fact, that is what has happened.

Mr. DEUTSCH. There has been. Some of—

Mr. GREEN. But that is what has happened in this market, because they rated those bundles higher than they should have and many of them are now paying a price for that, because their credibility is on the line. That is how we got into this.

Chairwoman WATERS. Would you please discuss, if you will, this moment, the tranches?

Mr. GREEN. The tranches, yes.

Chairwoman WATERS. They were securitized, and they were placed in these tranches. Some of them were worse than others, and the investors took them. Why?

Mr. DEUTSCH. I am sorry. Took what?

Chairwoman WATERS. They took the bundle—mortgage-backed securities that were placed in tranches. And as I understand it, the tranches were good, bad, and not so good mortgages. And the investors took the not so good ones along with the good ones. Is that right?

Mr. DEUTSCH. Absolutely. It is a fundamental premise of mortgage-backed securitizations is that you want to create different variations of risk. Over 90 to 95 percent of all mortgage-backed securities are AAA rated. Those are oftentimes the tranches that pension funds or that mutual funds will purchase. But lower-rated tranches effectively are tranches that will receive part of the waterfall effectively, is that once the higher ones are paid off, then the lower tranches will be paid.

The reason mortgage-backed securitization works very well is it is able to divide up the risk. Pension funds—

Chairwoman WATERS. In the lower-rated tranches, were the high credit risks persons who had impaired credit?

Mr. DEUTSCH. No. Those tranches are based on the entire pool, not on any particular borrower in that pool.

Mr. GREEN. But if you have a tranche A as opposed to a tranche F, and let us assume that A is a better rated tranche—

Mr. DEUTSCH. Correct.

Mr. GREEN. —if you have a tranche A as opposed to a tranche F, which is more likely to accept foreclosure as a remedy?

Mr. DEUTSCH. Neither. Neither benefit from foreclosure.

Mr. GREEN. No, no, not benefit. I said accept the foreclosure.

Mr. DEUTSCH. Which is more likely?

Mr. GREEN. Yes.

Mr. DEUTSCH. I think you would have to ask that institutional investor.

Mr. GREEN. But would not the person in tranche A—well, let me ask this way. Would the person in tranche A have a greater amount of benefit in a foreclosure than a tranche F?

Mr. DEUTSCH. I think there are different incentives for different investors along—

Mr. GREEN. But let us just talk about money as the incentive.

Mr. DEUTSCH. Sure.

Mr. GREEN. The money from a tranche A foreclosure is larger than the money from a tranche F.

Mr. DEUTSCH. No, because all of the funds are pooled into the same entire pool. So the tranche A, you could argue, that over the extended period of the actual security, which extends anywhere from 15 to 30 years, say, depending on the amount, the length of the loans that are backing that security, so over those 30 years, the net present value of having that mortgagee paying the entire amount, over time both class A and class F would benefit from that borrower continuing to pay and stay in that home.

Mr. GREEN. Madam Chairwoman, if I could have just 30 seconds. But let us talk about an immediate foreclosure we are talking about within this period of time where you have the teaser rate, and then you move into the adjusted rate that you cannot pay.

Mr. DEUTSCH. Right.

Mr. GREEN. All right. In that period of time, the tranche A holder, does the tranche A holder benefit to a greater extent than the tranche F?

Mr. DEUTSCH. In that period of time?

Mr. GREEN. Yes. Because that is really what we are talking about. That is the period of time we are talking about.

Mr. DEUTSCH. I think a more appropriate way would say that they suffer less loss—

Mr. GREEN. Okay. They suffer less loss. All right. I will adopt your terminology.

They suffer less loss. Okay. If they suffer less loss than the tranche F, do you agree that the person who is holding the tranche F, that this person may have some conflict when you are trying to decide whether you should do this, and you are talking to your investors. The modifications, as the Chair has indicated, that is when you run into these conflicts, because they have different levels of interest. Do you agree?

Mr. DEUTSCH. They have different levels of interest, but I would you to the American Securitization Forum statement in June of 2007, where we specifically addressed this issue. It is that servicers, when they service mortgage loans, they are serving for the net present value of the entire trust. They are not, and should not, be looking to the implications on any individual class within that trust.

Mr. GREEN. No, but the servicers, in doing due diligence, they will consult with the investors. Servicers don't just do this without consulting investors. True?

Mr. DEUTSCH. They have their pooling and servicing agreements.

Mr. GREEN. Well, you just talked about lawsuits a minute ago.

Mr. DEUTSCH. Sure.

Mr. GREEN. Now, do you think servicers are doing this without consulting investors?

Mr. DEUTSCH. Absolutely. Servicers do talk to the investors who are purchasing those.

Mr. GREEN. Okay. That is when they get the intelligence that we just talked about.

Mr. DEUTSCH. Sure. But they have a contractual obligation to service in the best interest of all of the security holders, not any individual tranche.

Mr. GREEN. The chairwoman has given me the proper terminology: tranche warfare.

Have you heard of that term?

Mr. DEUTSCH. I have heard that term used—

Mr. GREEN. The various tranches in mortgage-backed securities resist loan modifications that might disparately affect their particular slice of that security. That is what we have been talking about.

Mr. DEUTSCH. Sure.

Mr. GREEN. So we have to be careful when we say, "No one benefits." While that may be true, there are some who benefit a little more than others, or some who don't suffer as much as others. Do you agree?

Mr. DEUTSCH. Well, I think, again—yes, absolutely I agree.

Mr. GREEN. And that is what is creating a lot of—all I am trying to get you to do is help people to understand why it is difficult for the foreclosure to take place, for—excuse me, for the modification to take place. Do you agree that is a part of the difficulty?

Mr. DEUTSCH. I think that has been raised, the consideration, and that there are some servicers who have expressed that concern. But again, going back to the point I made to Ms. Waters earlier, is that at the end of the day servicers do take litigation risks. They are—

Mr. GREEN. All right. Let me just close with this. If you are familiar with the tranche discussion that we just had, raise your hand, if you understand tranches and you are on this panel and you understand tranches? Okay. Now, those of you who understand tranches, let me ask you, do you agree that these various level of tranches do provide difficulty, cause difficulty in trying to modify these loans? If you do, raise your hand.

Yes, sir.

Mr. BLACKWELL. It is a complicated issue. Is there—

Mr. GREEN. I understand.

Mr. BLACKWELL. I barely understand tranches, I will tell you that, but it is a complicated issue. What I will say is that it is very important for us all in this room to ensure that we preserve not only homeownership of those who own homes, but those who will in the future.

Mr. GREEN. Sir, we passed that when we had opening statements, so we are with you there.

Mr. BLACKWELL. Okay.

Mr. GREEN. But no—no disagreement. What we are trying to do now is get some intelligence out that we have acquired about what is really happening with these investors and how these investors are sometimes at odds with each other over what should be done, and that is what creates a problem with restructuring some of these loans. Do you agree with that?

Mr. BLACKWELL. What I will say is it is very important that we get the investors on the same page with the lenders in the—

Mr. GREEN. I agree. But to get them on the same page by implication means that they are not on the same page. Do you agree with that?

Mr. BLACKWELL. Yes.

Mr. GREEN. Okay. That is what we are talking about. They are not on the same page.

Mr. Samuels, do you agree that many of them are not on the same page?

Mr. SAMUELS. Well, no, I agree with what Mr. Deutsch said about the fact that as a servicer we have an obligation to try to maximize the total return on that security. And so whether you are tranche A or tranche F, we are trying to maximize the present—the net present value of the cashflows on that total security. How it gets distributed is a function of the—

Mr. GREEN. Do you agree that a servicer does not have the authority to dispose of the loan as he—as the servicer sees fit without consulting the investor?

Mr. SAMUELS. It depends on the pooling and servicing agreement.

Mr. GREEN. Okay. But do you agree that most of those agreements would require the investor have some input?

Mr. SAMUELS. Some of them do, and some of them give delegated authority.

Mr. GREEN. Let us talk about most. Most lawyers don't write agreements so that the investor does not have some input. Do you agree?

Mr. SAMUELS. Oh, well, I don't know. I can't—I don't know the answer to whether most do.

Mr. GREEN. Okay.

Mr. SAMUELS. Mr. Deutsch could probably answer that better than I can.

Mr. DEUTSCH. Thank you, Sandy. I am going to remember that.

Mr. GREEN. All right. Thank you, Madam Chairwoman.

And, listen, I thank all of you for your kindness in trying to help us to get this information out. Thank you very much.

Chairwoman WATERS. Thank you very much, Mr. Green.

All right. Ms. Richardson? Before you start your question, let me just say that Councilman Bernard Parks, who is very interested in this issue, just came in. Thank you very much.

Mr. Parks, we appreciate your being here.

Ms. Richardson?

Ms. RICHARDSON. Yes. Thank you, Madam Chairwoman.

A couple of questions. Regarding Countrywide and some of the questions that were asked, it was stated that you make approximately 18 million phone calls. Of those 18 million calls, 55,000

were workouts, and of that 29,000 were loan modifications. What happened to everyone else?

Mr. SAMUELS. Well, don't forget that these are calls made to people who are 30 days down, 60 days down, so it is not—you know, we make collection calls, and so we remind people that they have, you know, payments that are due, and so not all of the calls: (a) relate to people who are, you know, in distress; and (b) not all of them are answered. And so we oftentimes have to make multiple calls before we contact the borrower.

Ms. RICHARDSON. Well, according to your testimony, you made 18 million calls, and I think you reached 2.2 million, which is approximately a little more than 10 percent. I wouldn't call that good. I wouldn't rate that as being good, 10 percent.

Mr. SAMUELS. Well, I mean, we can only do as well as the person on the other end of the line.

Ms. RICHARDSON. Well, no, that is if you are only relying upon phone calls.

Mr. SAMUELS. Well, no, we are not.

Ms. RICHARDSON. Or DVDs.

Mr. SAMUELS. We are not only relying on that. We are also relying on the mail, etc.

Ms. RICHARDSON. Okay. You are kind enough to actually share your information, so I want to make sure that we are not, you know, overly on your end. So I would like to hear a little more from Ms. Albon and Mr. Blackwell. My concern is—and the chairwoman also alluded to this as well—what are you doing beyond the phone calls and beyond the mail?

I have talked to constituents who, when they are in this particular situation, they are not only receiving mail from you, they are receiving mail from a hundred other people who are suggesting that they consider working with them to resolve their funding problem. So beyond the mail, and beyond the phone calls, what specifically are you doing to help your borrowers?

Ms. ALBON. Well—

Ms. RICHARDSON. Besides processing a default.

Ms. ALBON. We understand. We are very active with HOPE NOW, Neighborhood Housing Works, other—even ACORN in some areas, trying to work with them to help reach a lot of these customers. We have funded some of—as I believe Countrywide and Wells have—funded some of the national advertising of the Hope foreclosure prevention effort. And we are finding that to be very successful.

Ms. RICHARDSON. Okay. With all due respect, you know, you have talked about HOPE NOW and Neighborhood Services, and on and on and on. There are over 10 million people alone in Los Angeles, over 10 million, and so to expect that those three or four organizations that you are referring to—ACORN, and so on—are reaching the millions and millions of people who are out there is just not adequate. It is not sufficient.

So what we are looking for is a greater commitment, an additional commitment, exploring other things, whether it is going to a person's home. These are things that might be a little expensive, but as we have all talked about the expenses are bearing upon ev-

eryone—you as a provider and also the borrower as well. So are you doing visits?

Ms. ALBON. Yes.

Ms. RICHARDSON. Have you invested—for example, as the Congresswoman said, it is quite clear that there are specific pockets of areas that are having a higher incidence than others. So are you doing ads? Just like you are advertising for people to utilize your loans, are you doing ads in those particular areas to reach out to those particular borrowers and say, "Hey, if you happen to be reading such and such paper, or on such and such television, or cable," or, etc., what other aggressive things are you prepared to do to reach out to the borrowers?

Ms. ALBON. We are actually using—contracting with servicers to go out to the borrowers' homes, knocking at the door, leaving flyers if they are not available. We are really using all of those different types of efforts.

Ms. RICHARDSON. So would you say out of your borrowers who are in this particular position, 100 percent will receive contact by a visit?

Ms. ALBON. Probably not 100 percent, and we are still having trouble reaching more than 50 percent in terms of actually getting them to engage with us.

Ms. RICHARDSON. So if you are only reaching 50 percent, and yet you can reach them to get payments, or at least prior to this situation, what other steps do you plan on taking to increase that amount?

Ms. ALBON. That is constantly under consideration, and I can go back and get more detail on that. But we are constantly looking at new ways to do a better job of reaching our customers.

Ms. RICHARDSON. Okay. Well, what I heard from this subcommittee, the chairwoman requested that you consider looking at some of your advertising dollars that you are spending in terms of reaching out for people, that you consider using those advertising dollars in more creative ways specific to these communities, not advertising dollars to the world, to the United States, but to these specific communities.

We are also asking that you consider visits, etc., so you explore those. There were also a few other recommendations that were given that we would like the three of you to consider, and I would like to hear the possibility of you accepting them. One would be extending the time notices of defaults from 90 days to 150 days. The second would be extend time periods for notice of trustee sales from 30 days to 60 days.

And then, something Ms. Thomas mentioned that I have heard quite a few constituents talk about, and that is is that there is an unwillingness to accept partial payments. So let us say you get on the phone with someone, and you begin to talk to them about doing a workout or whatever.

Unless they are prepared to pay the $20,000, and until a final workout or loan modification is done, there is an unwillingness to accept partial payments. So that would be also a consideration for you to review with your appropriate companies—

Ms. ALBON. Okay.

Ms. RICHARDSON. —of allowing partial payments while you are going through this modification period, so that instead of someone being $20,000 behind at the end, maybe they are only $10,000 behind. So then we don't have this instance where they are having to spread $20,000 over the next 3 months, which they cannot afford.

The other point would be, if I understood the gentleman from Countrywide, you are not using outside agencies, creditors, to collect, is that correct?

Mr. SAMUELS. I am sorry. What was that?

Ms. RICHARDSON. Are you using—are any of you, your three companies, utilizing outside agencies to collect these funds?

Mr. SAMUELS. No, we have our own—we have our own collection groups.

Ms. RICHARDSON. Mr. Blackwell?

Mr. BLACKWELL. Yes, the same. We do all our collecting ourselves.

Ms. ALBON. I will get that information. I am not 100 percent sure that in every pocket of the country, it is on staff, but I will check on that.

Ms. RICHARDSON. Okay. So if it is on staff, some of the things we are hearing from constituents is that in addition to the amount that they are owed, the back payments of their previous months, additional fees are also being accumulated that they are being told that they have to pay in order to participate in these loan modifications. Does that apply if it is internal within your own organization?

Mr. BLACKWELL. The only fees that we charge are fees that we incur through the process, and so I am not—I guess we would have to get into specifics, and I am not sure I am familiar with all of them.

Ms. RICHARDSON. Do you know how much those fees come to on average?

Mr. SAMUELS. No, I don't.

Ms. RICHARDSON. Okay. Because—

Mr. SAMUELS. But they are not loan modification fees. I mean, we don't charge for a loan modification, if that is what you are referring to. I mean, it could be that if someone is going through foreclosure, there are fees that you have to pay to newspapers, you know, for advertising or to attorneys in some States, you know, things like that. But there is not a fee for a loan—you know, to engage in a loan modification, there is not a fee.

Ms. RICHARDSON. Okay. So even if a person has defaulted to the extent of 5 or 6 months, or whatever, you are not requiring additional fees, is that correct?

Mr. SAMUELS. As I said, we are not requiring—if we are doing a workout with them, yes, that is correct.

Ms. RICHARDSON. Okay. All right. My last and final question has to do with we really are looking for a commitment. Some of the solutions when I heard Mr. Leonard speak, it sounded very similar to what I hear in my district, and that is a lot of the solutions that you are proposing are just simply other alternatives to pay, whether it is spreading out of 5 months or 6 months, but very few are situations of—where I read in some of your testimonies of offering

forgiveness of debt, extending the amount that is owed over a longer period of time—for example, more than 6 months.

So our constituents, oftentimes we are going to need other creative means to be expressed, and I don't feel to the satisfaction that you are exploring all of those to the extent that you could. So I would be looking for further action beyond what has happened to this date.

Chairwoman WATERS. Okay.

Ms. RICHARDSON. And you will get back to the chairwoman about the other request? Thank you very much.

Chairwoman WATERS. Thank you very much.

This panel is now dismissed. Let me say to the homeowners who were here today, thank you for spending the time. I understand that you really needed to leave a little bit earlier. I wasn't aware until recently, the last few moments, that you were staying past the time that you need to leave in order to go to work.

I am interested in my staff following up with you, Ms. Thomas, even though it appears that you got some help. I am interested in the $5,000 fee that you paid, and I don't know where that came from, who it is that—doing a modification or a workout for you. So I am going to ask my staff to follow up with you, because I would like to see what is being done.

I thank all of you for being present here today. Mr. Deutsch, we are going to spend a lot of time on servicers. We think you can do a lot more. So I would hope that your Forum would provide the leadership to help us understand how to do a lot more, and I wish you would embrace Chairman Bair's proposal without reservation, because it seems to me we could get a lot done that way. But we thank you for being here.

I think we are going to extend an invitation to you to come to Congress, perhaps not only in a hearing setting but maybe in a caucus setting, where we can delve more into what you do. We are going to review service agreements. We are going to understand a lot more about them, so that we can get a better feeling of what you can and what you cannot do, and this whole liability question.

But I want you to leave here knowing that I think my colleagues will agree with me we are interested in resets with the initial amount of the mortgage continuing through the life of that loan. We are really interested in that. Okay?

Thank you all very much.

Without objection, your written statements will be made a part of the record.

We will now move on to panel number three. Some of our members may have additional questions for this panel, which they may wish to submit in writing. So without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses, and to place their responses in the record.

Panel three, if you will come forward, I will begin the introductions. Again, your written statements will be made a part of the record, and you will be recognized for a 5-minute summary of your testimony.

Mr. William Heedly, homeowner, Carson, California; Ms. Hee Suk Cho, homeowner, Camarillo, California; Mr. Ed Smith, Jr., vice president, California Association of Mortgage Brokers; Mr.

LeFrancis Arnold, vice chair, Affordable Housing Committee, California Association of Realtors; Ms. Yolanda Clark, president-elect, Multicultural Real Estate Alliance for Urban Change; Ms. Tara Twomey, of counsel, National Consumer Law Center. Is that "Twomey?"

Ms. TWOMEY. "Twomey."

Chairwoman WATERS. All right. Thank you. Ms. Margaret Frisbee, specific district director, NeighborWorks America; and Ms. Evalyn Burnie, leader, Los Angeles ACORN. So we have a big panel here on this fourth panel.

We want to thank all of you for coming, and we are going to start with Mr. Heedly. Is that the correct pronunciation? He is not here yet. Okay. He is here. There he is. How are you doing?

Mr. HEEDLY. I am doing fine.

Chairwoman WATERS. We are going to start with you.

Mr. HEEDLY. Okay.

Chairwoman WATERS. Thank you very much. Would you pull the microphone right up and share your testimony with us?

**STATEMENT OF WILLIAM HEEDLY, HOMEOWNER, CARSON, CALIFORNIA**

Mr. HEEDLY. First of all, I would like to thank you, Chairwoman Waters, and this subcommittee for inviting me, you know, to tell my story.

Chairwoman WATERS. Yes.

Mr. HEEDLY. In March of this year, I was put into a loan. I was tricked into a loan by a guy that I know who I thought was a Realtor, because he had done two loans for me before. I thought I was in a fixed loan, but come to find out, I was in an ARM loan. And after we signed the papers and the deal went through, it wasn't like the original deal, because he called me and told me, "Hey, this is not a friendship call. This is a business call. It is time to refinance." I said, "Well, okay, if we can—if you can get my payments down, if you can pay my car off, then we can go, we can go with it." Okay. So about 2 weeks down—2 or 3 weeks, he had gave me a call and said that he had paid my car off, but he probably couldn't get the loan down—I mean, get the mortgage down, that it would probably go up $100 or $200.

So me and my wife, we talked about it, and we agreed to go along with it, because, you know, like we had dealt with him before, and we trusted him. I know him. You know, I know him, and I didn't think he would do something like this.

Okay. So when the notary came out, he called me and told me that he wouldn't be able to be there for the notary and to just go on and sign the papers. Everything is, you know, like how we had discussed. Okay. So it was my fault that I signed the papers without him being there. I admit to that.

But after we got the coupons, you know, the mortgage and things, come to find out I have a second—a first and a second. Then, I have three choices to pay—the max, minimum, or the—I mean, the max, median, or the minimum. All I am able to pay is the minimum, which makes my interest goes up. So I went to him and I talked with him, and I asked him what could he do, you know, so he said, "Well, let me look at the paperwork."

I said, "Well, look, man, you know, I am trying to find out what the deal is he put me in, and I was in an ARM." And the—I mean, the prepayment penalty is $13,000. "Why don't you pay the $13,000, and then I can get somebody else to refinance." He didn't want to do that. So, you know, I was listening—the way I got some help, I was listening to Front Page.

And they were talking about a meeting that they were having at Homeless Church, and I went to the seminar and I don't—I filed a complaint against this guy with the State Department of Real Estate Complaints, and I found out he doesn't even have a license. Operation Hope had called me, and I talked with Anne Marie, and she really was trying to help me, and she referred me to Dorothy Herrera, and here I am now.

So, I am not in foreclosure, you know, but I want to try to do something about it before I get to foreclosure. And my mortgage is double, is upside down, and I feel so hopeless. You know, I need some help.

Chairwoman WATERS. Thank you very much, and I am glad you came today. And we will see to it that you get some assistance.

Mr. HEEDLY. Okay.

Chairwoman WATERS. And I will move on to our next presenter, Mrs. Hee Suk Cho, and she has a translator with her. Thank you.

**STATEMENT OF HEE SUK CHO, HOMEOWNER, CAMARILLO, CALIFORNIA, ACCOMPANIED BY JOSHUA BYUNG AN, KOREAN CHURCHES FOR COMMUNITY DEVELOPMENT, SERVING AS A TRANSLATOR**

Mr. AN. Hi. This is Mrs. Cho, and I am going to be her translator. I am from KCCD, and I represent Korean Churches for Community Development, and we work for the Korean community to resolve these housing issues.

As of now, the problem has not been resolved, and she is actually considering many options, including bankruptcy. She came to testify as to how she got into this. Back in August of 2005, she purchased a townhouse for $518,000 with a 10 percent downpayment. Because of her language barrier, she went to a Korean-speaking licensed broker.

The agreement was that she would make a total payment of $1,500 a month. That loan included no penalty and $100 increments once a year for the next 5 years. Then, the broker told her that she could refinance within 2 years. So she was making a $1,500 a month mortgage payment.

She was making payments to WMC Mortgage Company, and then in January 2006, a bill came from Countrywide. The bill included four options. First, to make a payment, and one of the options had $1,451 that is going to be added to the principal. So she contacted the original—the Korean broker, and then the broker told her to just make the option three payment, which now is the minimum payment and don't worry about it.

So the payment used to be $1,500. Now the minimum payment is $2,736, and that is—she didn't know it at that time, but now she knows that it is a negative amortization, and $1,400 is being added to principal every month. So she continued to make that minimum payment of $2,700 for about a year. Meanwhile, because her pay-

ment jumped so high she was having very difficult time making a payment, so she looked for different sources to refinance but was not able to find anyone to refinance her loan.

One thing that she found out through, you know, other sources is that she has been refinanced, and that included 3 years of prepayment penalty. So she was very confused at the time, so she went back to the Countrywide office and confirmed that the loan had been refinanced without her knowledge.

She confirmed that the signature had been forged without her knowledge, and she couldn't really do anything, because of penalties and because of high payments. She looked for help from the lawyer, but—and the lawyer told her that it is likely a fraudulent case and she could win the case, but she was very reluctant to hire a lawyer because of high cost, and the time that it takes for them to process and make the case.

In the midst of all these troubles, there was another loan agency that approached her and claimed that if she signed the paperwork to give up her rights for the house to them, they would let her live in the house with her children and make a rent payment to them. She signed it.

At the time, she thought she was making the right choice, because she wanted to save the house and live in that place with her children. But, still, she was very confused and not sure what was going on, so she found an ad in the local newspaper about KCCD. That is how she came to KCCD and asked for help.

Through KCCD, she learned that the loan agency that approached her was fraudulent, so she actually canceled that contract with them. And we are still now trying to solve the problem. She is at a point where she is going to make decisions for bankruptcy or foreclosure for anything.

I would like to say after this hearing, we are going to actually go meet with the Countrywide personnel to help her situation, to talk about it. And she is really desperate right now. She wants to get an answer today. If not, she is going to just go crazy.

Thank you.

Chairwoman WATERS. Thank you very much. And let me just say to you, Ms. Hee Suk Cho, that we certainly sympathize with you, and we are very sorry that you have been placed into this kind of a situation. And I wish that the Countrywide representative was still here. Are you here? Okay, fine. You have this case? You hear what she is saying? We need you to move on this very aggressively right away.

My staff will follow up with you to make sure that we do everything that we can to help this consumer who has obviously been defrauded. All right? Thank you very much.

Mr. AN. Thank you.

Chairwoman WATERS. Staff, will you follow up with this? Thank you.

Ms. CHO. Thank you.

Chairwoman WATERS. We have that information.

All right. We are going to move over to Mr. Ed Smith. And I should wait until the time for questions, but I have been hearing so much about these options that people are being given. Do you want to pay a little? Do you want to pay a lot? Or do you want

to pay the minimum amount? I never heard of that before. So if you in your testimony could help us understand that, I would appreciate it very much.

**STATEMENT OF ED SMITH, JR., VICE PRESIDENT, CALIFORNIA ASSOCIATION OF MORTGAGE BROKERS**

Mr. SMITH. Absolutely. Thank you so much for giving us the opportunity to speak before this panel and yourself. You have been a very good supporter of our organization, and we hope we bring value to that relationship.

Like I said, my name is Ed Smith, and I am the vice president of government affairs for the California Association of Mortgage Brokers. We represent the top 15 percent of licensed originators in California. We have criminal background checks, we have DOJ checks, we have pre-education, post-, and continuing education requirements. We are licensed originators in the State of California. We represent approximately 4,800 members.

Today is one of the days that we really are happy to be able to bring value to our relationship in the process of explaining and working with homeowners such as Mrs. Cho here. From what she just articulated, it sounds like she also needs to talk to the California Department of Real Estate, because it sounds like some criminal—

Ms. PETERS. I just gave her my card.

Mr. SMITH. Okay. Oh, I didn't know. I didn't know Heather was back there. Because it sounds like some criminal activity has occurred. I wanted to bring just a few statistics to the table before I talk about our preserving homeownership initiative, but I also—and I will also explain to you what that option ARM, negative amortization loan is, if you give me the time.

At the end of the fiscal year of June of 2007, the California Department of Real Estate initiated 9,103 investigations which resulted in 1,382 licensed denials. Those are individuals who are trying to get in our business but were denied at the point of application. Of those investigations, 507 resulted in license suspensions and revocations for individuals in our business who have done things such as enumerated here with Ms. Cho.

So I just want to applaud the California Department of Real Estate, BT&H, Ms. Peters, for being very aggressive in following up on these complaints.

To give you a little bit of background about negative amortizing loans, which is—you will hear some of the time called K-option ARMs. This is the typical type loan that has been utilized in the last couple of years as a financing technique, as a direct result of the high cost of homeownership.

What that negative amortization really means is that there are four payment options, which gives an option of the minimal payment which is due on the loan, which in many cases, in all cases, is not the minimum amount due just for the interest on that loan that month. So each month when an individual makes payment option number one, which is called the negative amortizing payment, there is an arrearage. There is a shortfall of interest that is not being paid on the balance of the loan. This is being added to the

balance of the loan on a monthly basis. So, effectively, you are losing every month. You are adding on to your principal every month.

Typically, payment option number two is an interest only payment, which is if you make that payment your balance will remain the same, you will not grow, but you will not also do any principal reduction. That is the interest only feature of payment option number two.

Number three is typically a 30-year amortized payment, and the number four in certain cases is a 15-year amortized payment. What we are seeing here in the last couple of years is this product has been a very predominant product used in the marketplace, because it got people into homes that they really couldn't afford. Many of those products were utilized with stated income and also using 100 percent financing with no downpayment, no downpayment whatsoever.

So when the market came down, values are declining, your balances on your loans are rising, and when those interest rates hit a certain percentage that is prescribed in your loan documents, usually 115 percent of the original loan balance, that loan recasts to a fully amortized payment at whatever the rate is at that time. This is what we call payment shock. This is what is killing consumers in this country, and especially in California, because we are such a high cost area here.

This kind of dovetails into the high cost issue. Many of us realize that in California you cannot buy a property for under $417,000. This is one of the reasons why these products have been so prevalent with interest only, negative amortization, and some of the other exotic products that are out in the marketplace.

We would encourage you to look at raising California and have it—raising California's loan amounts and loan limits to be in a high cost area, Southern California as a high cost designated area, to put liquidity back into the marketplace so we can have sustainable, long-term loans. This is a critical, critical cog of the wheel to this problem.

If we kind of move into what we are doing, Congressman Green mentioned a little earlier, what are we doing about going back and reaching back? Many people don't go back to the same people that they had problems with. I am proud to say that our association is built of small businesses. We are mortgage brokers who live, work, worship, and work with the communities that we live in.

We create long-term relationships to sustain our businesses, and we are actually, through our preserving homeownership program, are going right back into those communities that we serve, that we did business with, and actually explaining and working and trying to come up with workable solutions to keep people in their homes as a result of a reset or as a result of a loan product that is no longer palatable for that individual for whatever reason it is.

We are the first organization that are loan originators that actually have created that program. We work with the Department of Consumer Affairs. We actually go out and do town hall meetings, and we work in those communities where people are losing their homes right now. We go back and we deal with these individuals, and we don't run away from them after we do business with them.

This program has been a success throughout the State of California. We have 19 chapters, approximately 4,800 members, we have meetings throughout the State on an ongoing basis, and we partner with other nonprofit organizations and ourselves and other legislators to reach back into those constituents' neighborhoods and work with those legislators to try to bring some type of relief back to the communities to keep people in their homes.

We have heard a whole lot of talk today about the results of the inactivity or not being able to have—consumers not being able to have regress once they call their loan servicers. I don't want to beat that up. We already know that there is a problem when people reach out to their loan servicers.

I am very proud today to see that the major loan servicers in this State are actually reaching back and proactively saying what they say they are going to do, and let us wait and see if they are going to do it. We are actually doing it. We are experiencing the same problems as those consumers do when they reach the telephone.

[The prepared statement of Mr. Smith can be found on page 157 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. LeFrancis Arnold, it is good to see you.

**STATEMENT OF LeFRANCIS ARNOLD, VICE CHAIR, AFFORDABLE HOUSING COMMITTEE, CALIFORNIA ASSOCIATION OF REALTORS**

Mr. ARNOLD. It is very nice to be here, and I want to thank you, Congresswoman Waters, and members of the Housing and Community Opportunity Subcommittee for inviting me today to speak on behalf of the California Association of Realtors on the issue of foreclosure prevention and intervention.

My name is LeFrancis Arnold, and I am the owner and broker of LeFrancis Arnold Consulting, a Lynwood, California, firm specializing in all aspects of real estate, including FHA loans. I have been a member of the California Association of Realtors and the National Association of Realtors for over 30 years. I have been privileged to serve on a number of policy committees at both organizations.

The California Association of Realtors is the largest State trade association in the country, with over 200,000 members. CAR's members are the front line of California's real estate market and have witnessed firsthand the devastating effects that mounting foreclosures could have on families and a community. Over the last 2 years, the California housing market has experienced a significant correction, from a peak level of sales for both 2004 and 2005 of 625,000 existing home sales have declined to an expected 350,000 this year.

At the same time, the rate of foreclosures in the State has gone from historic lows to return of the high experienced in the mid-1990's. Personally, I have seen more than a 40 percent decline in my business while peers in other parts of the State has experienced even greater declines. Many people have asked me, what is the cause of this downturn?

With more than 30 years in the business, I can tell you no one single factor is to blame, and, therefore, no one single solution will

help ease the current market downturn. Instead, a broad-based approach must be taken where all players in the real estate industry do their part, including Realtors.

Now, more than ever, Realtors are working to keep families in their homes and maintaining strong communities. As a first point of contact for home buyers, often it is the Realtors that homeowners turn to for help when in trouble. However, every situation is unique, and, unfortunately, foreclosure is sometimes unavoidable.

As the market began its current downturn in 2006, CAR began taking aggressive steps to provide the best tools to our members, including large pools of recently licensed Realtors in California who have never been through a market like this. Many of these agents have never performed a short sale, communicated with lenders on behalf of troubled homeowners to work out a loan on a REO, or sold a foreclosure property.

As such, now CAR offers both short sale and foreclosure classes to members and non-members. CAR sponsors and applauds Governor Schwarzenegger's lenders and servicers who have recently worked out an agreement for the fast loan modification, subprime mortgages as such. Proactive efforts such as these are an example of what is needed to stem the tide of foreclosure and ease the current turn down.

Let me share this with you, in my experience of 30 years, we have been through this. We have been through similar situations like this when the interest rates went up in the 1980's. Lenders must change their policies so that borrowers are not required to be delinquent on their mortgage payment before a troubled loan can be worked out.

Many of my fellow Realtors have described frustration when contacting lenders on behalf of homeowners who realized that they would not be able to make their mortgage payment when their loans reset. The homeowner must be in delinquency before loan workout can be discussed. Additionally, lenders must address the current staff shortage in loss mitigation departments which are presently overwhelmed.

For the government's part, the Senate needs to pass, and the President must sign legislation to reform government housing programs intended to keep America's housing market stable. That includes FHA and GSE reform. Increased FHA and GSE loan limits in high cost areas, better homeowner opportunities for the American veterans, mortgage debt cancellation relief, and subprime mortgage reform that balances strong consumer protection with the need to maintain a flow of capital to the housing market.

In closing—

Chairwoman WATERS. Okay.

Mr. ARNOLD. —I would like to tell the subcommittee a story about a family of four who lost their home. This family was working with their agent and their lender's loss mitigation department to get a short sale approved by the investment firm who purchased the loan.

When the short sale was finally approved, it turned out that the investment firm's foreclosure department had also approved the foreclosure sale. This is a simple example. They ended up losing

their home. Lack of communication between the Mitigation Department and the Foreclosure Department. These are ongoing problems. That family lost their home.

These are issues that we have to deal with, and we need to deal with them now. I want to thank you, Congresswoman Waters, for having this hearing here in Los Angeles, because California at this point is the foreclosure capital of the country.

Thank you.

Chairwoman WATERS. Thank you very much.

Now we will hear from Ms. Yolanda Clark, president-elect, Multicultural Real Estate Alliance for Urban Change.

**STATEMENT OF YOLANDA CLARK, PRESIDENT-ELECT, MULTICULTURAL REAL ESTATE ALLIANCE FOR URBAN CHANGE**

Ms. CLARK. Thank you, Chairwoman Waters, and members of the Subcommittee on Housing and Community Opportunity for allowing me to testify at this hearing on foreclosure prevention and intervention.

My name is Yolanda Clark, and I am president and broker of Golden Path Real Estate and Home Loans. I am also president-elect of the Multicultural Real Estate Alliance for Urban Change, and have been president or vice president of several other organizations.

There are four points that I wish to convey to this subcommittee today. The rippling effects of foreclosure are far more devastating than just to the homeowners or the lender; it affects the entire community. A large sector of the economy is hurting. Foreclosures are affecting both the consumer and the real estate community. What problems are perpetuating the situation? And what should be done to resolve the problem?

The foreclosure crisis is not just a borrower and lender problem. Closed escrows in California were down 38.9 percent in September, and 40.2 percent in October. Brokers and lenders are being forced to reduce their staff, overhead, and some are going out of business. It has produced a trickle-down effect impacting all real estate affiliate businesses. Escrow, title, appraisals, termite companies, home warranty, home inspection, construction workers and developers are but a few of these businesses, not to mention the loss of revenue and fees generated to governmental agencies by closed transactions.

Foreclosures have affected the local market by loss of equity. August to September was both the largest month-to-month percentage decline on record and the first year-to-year decline in more than 10 years. The impact of foreclosure affects all tiers of the property—of the market, I am sorry—including the high end. Well-qualified borrowers were affected by the lack of funds available for jumbo loans.

Problems or obstacles have been encountered in trying to assist homeowners in foreclosure prevention, which was discussed earlier today. Difficulties in getting a lender on the phone and the loss mitigation department, lenders are further devaluating properties by cutting appraised values established by certified appraisers.

I understand that the lenders must protect themselves in this market, but they are producing two negative results: One, clients

and neighborhoods are being robbed of hard-earned equity; and, two, lenders are cutting appraised values more in lower income and minority neighborhoods.

This affects seniors trying to get reverse mortgages, property owners trying to refinance, and the home buyer stability—desirability to purchase in devaluated neighborhoods. In other words, who wants to buy a home in a neighborhood that is going to be worth less than what you paid for it? Lenders have outsourced loss mitigation services as well as other related real estate services to foreign countries, further perpetuating job losses and the situation.

What tools or resources do we need in order to overcome these obstacles? Education is one of the most important things that need to be accomplished. Education of the public should be provided by counselors that are licensed real estate professionals who understand the ramifications of what they are teaching or what they are saying to the client, and who are able to give a more complete picture of the total real estate process from understanding the types of loans available to foreclosure proceedings to evaluating the property.

Although there are some really good licensed homebuyer counselors who have never purchased, listed, or sold, the licensed practicing real estate professional has more of a first-hand, in-depth experience and fully understands the mechanics of home-buying. Misinformation can hurt the consumer rather than help them.

Financial and programmatic resources are needed to provide education and counseling to prevent foreclosure. Incentives are needed to assist lenders in working out pre-foreclosure solutions, thereby taking a positive, proactive approach to preventing foreclosures. All persons originating mortgages should be licensed, not just the companies. All legislation should be binding on all originators, regardless of the governing department.

Originators for non-licensing entities can simply go to another institution and start the same thing over again. There is no accountability.

Correct terminology should be used. There is a difference between a notice of default and a foreclosure proceeding, because there are sometimes workout programs available and they don't always result in a foreclosure.

Public service announcements should be made. Legislation should be done as well. Legislation intervention is necessary.

In conclusion, I just wanted to say that buyers and sellers cycle have always been a part of this business, but right now it is more crucial than it has been in all of my 20 years of real estate, and that is because there are so many simultaneous things—factors affecting the market, not just non-prime loans but unemployment, outsourcing. There are a lot of factors that are affecting this.

Chairwoman WATERS. Thank you very much.

Ms. CLARK. Thank you very much. I appreciate it.

Chairwoman WATERS. You are certainly welcome.

Ms. Twomey?

**STATEMENT OF TARA TWOMEY, OF COUNSEL, NATIONAL CONSUMER LAW CENTER**

Ms. TWOMEY. Good afternoon, Chairwoman Waters, and members of the subcommittee. Thank you for inviting me to testify. My name is Tara Twomey, and I am an attorney, currently of counsel, with the National Consumer Law Center, and a lecturer at Stanford Law School.

Before moving to California about 3 years ago, I was clinical instructor at the Legal Services Center of Harvard Law School where my practice focused primarily on foreclosure prevention and predatory lending litigation. I testify here today on behalf of the National Consumer Law Center as well as the low-income clients that we assist and represent.

As you already know, we have a foreclosure crisis in this country that is real, it is big, and it is growing. Its magnitude currently dwarfs the response from the financial services industry. Loan modifications, which are one of several loss mitigation tools, have been identified as one of the preferred strategies for addressing the rising tide of foreclosures, but in practice they do not appear to be happening in any significant numbers.

The recent measures, which will freeze interest rates for certain California homeowners, are a significant step in the right direction. However, the length of time for the proposed freeze is unspecified. Clearly, the agreement did not contemplate permanent modifications to those loans, and instead we believe is merely a "kick the can" approach to solving the foreclosure crisis. To be sure, it will provide some immediate relief to some people, but it is not a long-term solution.

It is well known that creating a long-term solution will require overcoming some structural barriers inherent in today's mortgage market. Some of these barriers we have already talked about today—constraints in the pooling and servicing agreements, mismatched interest of borrowers, servicers, and holders, and the tranche warfare which pits investors against other investors and servicers.

But from the homeowner's perspective, the first hurdle to loss mitigation is getting a live person on the phone—getting a live person on the phone that can provide reliable information and who can make a decision about the homeowner's loan. You have heard from the servicers today that contact with the consumer is key.

Well, that is important, but if borrowers are caught up in a maze of voicemail and bounced around from one department to another, and receive contradictory information, as was just spoken about a few minutes ago, from servicer representatives, that is not helpful to borrowers. And borrowers deserve something better. They deserve—loan servicers need to find a way to provide timely, consistent, and competent information to borrowers about their own loans.

Today, I would also like to urge the subcommittee and other Members of Congress to look beyond the rate reset problem. While rate resets pose a substantial hurdle for many borrowers, there is another group of distressed borrowers who has received much less attention. These homeowners have not been subject to payment

shocks or adverse life events, but, rather, have been saddled with unaffordable loans from the moment the loan was originated.

These families are defaulting on their mortgages not because of the teaser rate, because in these cases the—it is because the teaser rate in these loans are 9 or 10 percent, or sometimes even higher, the teaser rate. These families are defaulting on their mortgage loans because their monthly payments for principal, interest, taxes, and insurance exceeds 60 percent of their gross—or even 70 percent of their gross income.

A successful loan modification strategy for these borrowers will take more than temporary or even permanent freezes of their adjustable rates. These homeowners will need interest rate reductions. They will need principal reductions or some combination of the two in order to realize the goal of affordable and sustainable homeownership.

NCLC supports an approach that would combine the automatic loan modifications for certain classes of loans as well as—in addition to case-by-case measures to reach those for whom automatic measures are either insufficient or for those who are not eligible for the automatic modifications.

In addition to requiring servicers to implement reasonable loss mitigation measures, it is important to nip in the bud abusive practices in the loan modification process. For some time now, homeowners and consumer advocates have struggled with servicers who have no interest in helping families stay in their homes. Rather, in the interest of maximizing profits, servicers have engaged in a laundry list of bad behavior that has exacerbated foreclosure rates.

The nature of the loss mitigation process makes the disparities in bargaining power between the homeowner and the servicer even greater than the disparities in the origination context. This provides fertile ground for abuse. Currently, one of the most pernicious practices is to include a broad waiver of claims provision in the loan modification agreement. Upon execution of the agreement, the borrower waives all claims that they have, or may ever have, related to the loan.

In a forbearance agreement that I recently reviewed, the waiver language also required borrowers to specifically waive their rights under California Civil Code Section 1542. That section was enacted to protect parties from waiving unknown and unforeseen claims in general release provisions. That kind of broad release language is simply inappropriate in the context of a loan modification. The practice should not be allowed to flourish.

In conclusion, loan modification is a strategy that can be used to limit the devastating consequences of skyrocketing foreclosure rates. There are challenges to implementing this strategy at a scale commensurate with the foreclosure problem. These challenges are significant, but not insurmountable.

We hope that the subcommittee and Congress will act to make sustainable loan modifications a viable option for millions of homeowners who will face foreclosure in the coming years.

Thank you very much.

[The prepared statement of Ms. Twomey can be found on page 165 of the appendix.]

Chairwoman WATERS. Thank you.

Ms. Margaret Frisbee, Pacific district director, NeighborWorks America.

**STATEMENT OF MARGARET FRISBEE, PACIFIC DISTRICT DIRECTOR, NEIGHBORWORKS AMERICA**

Ms. FRISBEE. Thank you, Chairwoman Waters, and Congresswoman Richardson. My name is Margaret Frisbee, and I serve as district director, Pacific District, for NeighborWorks America. I appreciate the opportunity to appear before you today to talk about the efforts we and our partners are making to help stem the tide of foreclosures, especially in California, and most particularly L.A.

By way of background, NeighborWorks America was established by Congress in 1978 as the Neighborhood Reinvestment Corporation. The Corporation receives Federal appropriated funding out of the Transportation, HUD, and related agencies' appropriations subcommittee. The Corporation's board of directors is made up of the heads of the Federal financial regulatory agencies and the Secretary of HUD.

The primary mission of NeighborWorks America is to expand affordable housing opportunities and to strengthen distressed communities across America, working through a national network of local, community-based organizations known collectively as the NeighborWorks Network. Our network includes about 249 nonprofits serving close to 4,500 communities in all 50 States. They operate in our Nation's largest cities and in some of its smallest rural communities.

Here in California, there are 18 NeighborWorks organizations, including the LANHS, which as we speak is working in the next room, along with other partners, providing counseling to people who have been coming in all day looking for help with their mortgage problems. I know we are talking about trying to get to a large answer, but right now all we have is one-to-one counseling. That is the only thing we can do, and it is very time-consuming.

Local NeighborWorks organizations provide a wide variety of services that reflect the needs of their neighborhoods and communities. They have provided homeownership counseling to more than 500,000 families, assisted nearly 150,000 families of modest means to become homeowners, and just in this past year generated about $4 billion in direct investment in distressed communities.

But today I would just like to highlight a few things that we are trying to do in response to the precipitous rise in foreclosures. NeighborWorks America has a 30-year history of facilitating lending to non-conventional borrowers. From our experience, we know that the best defense against mortgage delinquency and foreclosure is education and counseling before the borrower begins shopping for a home and selecting a mortgage product.

We also know that homeowners' odds of success are increased even further when they have access to post-purchase counseling and homeowner education. We have been closely tracking the loan performance of the many low-income families assisted by these organizations over the years, and we can report that they are 10 times less likely to go into foreclosure than subprime borrowers, and even 4 times less likely to go into foreclosure than FHA borrowers. So counseling is the key.

Our commitment to quality homeownership extends far beyond our network. We have our NeighborWorks Center for Home Ownership Education and Counseling, and the NeighborWorks Training Institute, and we have become the Nation's largest trainer of housing counseling professionals.

We saw the problem of foreclosures coming over 4 years ago, not just in California but in other parts of the country. With the strong support of our Board, we created the NeighborWorks Center for Foreclosure Solutions. It is an unprecedented partnership between nonprofit financial mortgage and insurance sectors, and you have heard that name today—the Hope Hotline. Well, that is the hotline that we are now working with with the Homeownership Preservation Foundation.

We are trying to get the word out about this Hope Hotline, and it is—we are working with the Ad Council, and we would like it if everybody knew about it, but unfortunately they don't. The service is available 24/7 to provide callers with high quality, telephone-based assistance in English and in Spanish, but individuals needing more intensive service are then referred out to a NeighborWorks organization or another HUD-approved housing counseling agency.

Our basic message through the Hope Hotline is that nothing is worse than doing nothing. In addition to the Hope Hotline, many of our local NeighborWorks organizations are also counseling delinquent homeowners every day. These organizations have stretched their budgets, redeployed staff, and worked hundreds of extra hours, all to address the real very threat that pending foreclosure is causing in communities across the country.

We are actively training hundreds of counselors on foreclosure intervention at our national training institutes, but now we are trying to bring them out regionally. We have one scheduled here in L.A. in January, and we expect to have many more in the coming year. We know we have to get more counselors on the ground.

I am going to skip all of the statistics. We just simply know that it is really bad out here, and so what we have are 14 local NeighborWorks organizations in California offering aggressive homeownership preservation services. Eleven of them are using the Hope Hotline. They have generated—17,800 calls have come in from California in the past year, making it by far the largest number of calls of anywhere in the country.

[The prepared statement of Ms. Frisbee can be found on page 113 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. FRISBEE. You are welcome.

Chairwoman WATERS. Next we will have Ms. Evalyn Burnie, leader, Los Angeles ACORN. Thank you for being here.

## STATEMENT OF EVALYN BURNIE, LEADER, LOS ANGELES ACORN, ACCOMPANIED BY MR. RICHARD CASTRO, NEIGHBORWORKS AMERICA

Ms. BURNIE. Good afternoon, and thank you for this opportunity to testify about the importance of effective loss mitigation strategies in keeping families in their homes.

I, Evalyn Burnie, am a member of ACORN. I am a member of the California State Chapter, and ACORN stands for Association of Community Organizations for Reform Now, the national largest grass-roots community organization of low- and moderate-income families consisting of 350,000 members organized in 850 neighborhoods, in cities—more than 100 different cities across the United States.

Thirty-seven thousand of these members live in California. I am an example of someone who almost got caught up in the current wave of foreclosures, in a large part because I was a victim of a predatory mortgage broker. But I am here today to discuss what ACORN is doing about the current foreclosure crisis.

Community-based housing counselor agencies, such as our sister organization ACORN Housing Corporation, have begun to be more aggressively—to more aggressively provide specialized post-purchase assistance to distressed borrowers, including delinquency counseling and foreclosure prevention. The effect of the delinquency counseling depends on the willingness of the servicer to engage in reasonable loss mitigation, often including loan modification that typically involves changing a loan from an adjustable rate to a fixed rate, or changing other terms to enhance affordability.

This is essential. This is the first step in keeping families in their homes. We believe that some lenders may be willing to announce some major initiatives to assist delinquent borrowers such as contacting borrowers several months before their rate adjusts, or, more importantly, offering a fixed rate alternative using a good affordability standard to modify unaffordable loans.

We have also held foreclosure prevention workshops, fairs across the country, which individual lenders and servicers have agreed to attend and worked with at-risk customers and loan—on loan modifications. Here in L.A., hundreds of people have attended these workshops and received assistance to avoid.

In conclusion, ACORN is committed to ensuring that low- to moderate-income residents are protected from the dangers of predatory lending. Based on our experience, we would like to make the following policy recommendations. One is city, county, and States should identify neighbors at great risk from growing numbers of foreclosures and the vacant properties that also often result and should implement emergency action to help prevent the decline of these neighborhoods.

Congress should pass legislation to protect families against predatory mortgage lending and foreclosure rescue scams. Congress should also pass legislation that would reform the Bankruptcy Code to allow judges to modify mortgage loans on primary residence for borrowers applying for bankruptcy.

Last, Congress should approve funding for HUD-certified housing counseling organizations such as ACORN Housing Corporation that provide foreclosure prevention services to borrowers. And that is really important. Lenders, servicers, and investors should aggressively modify unaffordable loans to prevent foreclosures.

Thank you for giving me this opportunity to testify, and I will be happy to answer any questions that you have.

Chairwoman WATERS. Thank you very much.

Thank you very much. We will take the next few minutes, Ms. Richardson and I, and ask a few questions of you. We thank you for having been here.

Some of the recommendations that you made are recommendations that we are pursuing in Congress already—the increase of the loan limits for sure, and some other things that you have said to us.

Let me just raise a few questions. First, Mr. Heedly, we need to assign someone from our office to get together with you, so we can unravel what has taken place and where you are and see what we can do to give you some assistance. And we will do that. I hope that we have taken that information.

Let me return—well, also, we have already said that we are going to assist you with Countrywide and do everything that we can to get you out of what looks like a very complicated and difficult situation, Ms. Hee Suk Cho.

Mr. Smith, you have heard some of the statements that have been made about who initiated some loans, and the mortgage brokers have to take some responsibility in the initiation of some of these exotic products. But you have also said that your organization only deals with licensed brokers, that you do not have unlicensed brokers in your organization. Is that correct?

Mr. SMITH. That is correct. We have approximately 20 members who were grandfathered in that were registered and licensed under the Department of Corporations, and our executive board of directors, which I am part of, are reviewing that now to determine if in fact those members will still be allowed to be a member. They are not voting members.

Chairwoman WATERS. So could you tell me, if you know, how many unlicensed brokers do we have in California?

Mr. SMITH. That is the $64,000 question. There are three regulatory—

Chairwoman WATERS. Describe them to us. Who are they?

Mr. SMITH. There are three regulatory regimes within California, us being licensed by the Department of Real Estate, the Department of Corporations has lenders that are—the companies are licensed, but the individuals that work there are not licensed. For example, Countrywide is licensed by the Department of Corporations. In many instances, individuals that work for these companies may have part-time jobs. I am not saying that they are not competent, but they don't go through the rigorous tests and have the fiduciary responsibility that we do as licensed brokers in California.

There is an interdepartmental task force now that has been created as a result of Senate Bill 385 that is working through the process to identify the number of employees that work for these companies that are only licensed as companies but not individual licensees.

Chairwoman WATERS. What was the third? Did you—

Mr. SMITH. And the third one is the Department of Financial Institutions in California, which handles the State-chartered banks and credit unions, which I believe there are approximately 127 in California.

Chairwoman WATERS. So you are saying they have unlicensed—

Mr. SMITH. They are not required to have a license either.

Chairwoman WATERS. Repeat who is not required to have a license again.

Mr. SMITH. The Department of Financial Institutions, which are your State-chartered banks and credit union employees. Those are the individuals that sit in front of a customer, do loans, but they are not required to have a license such as us under the regime of the California Department of Real Estate, in addition to the Department of Corporations, such as your Countrywide. Those are your consumer finance lenders.

Chairwoman WATERS. Do you support legislation that would require all brokers to be licensed?

Mr. SMITH. We wholeheartedly support that legislation, which is in H.R. 3915. We believe, from the California Association of Mortgage Brokers, that every individual who sits in front of a customer in this State, and the United States, should have a registration and a license and be competent in handling the biggest financial transaction of most people's lives.

Chairwoman WATERS. And we agree with that.

We heard from you some of the actions that you are taking to help us deal with this crisis. Do you support Chairman Bair's recommendation that we continue for the life of the loan the initial rate that the consumer, the borrower, was given?

Mr. SMITH. In concept, I agree. This is personally. This is not from the California Association of Mortgage Brokers. We don't have an official position. But personally, as a 24-year veteran of doing residential home loans in San Diego County, I believe that creating sustainable, long-term products that help create generational wealth for families is the way to go.

Chairwoman WATERS. So basically, what you are saying is that the recommendation by Chairman Bair could help solve this problem.

Mr. SMITH. It could be the first step to creating long-term stability for a family who has the ability and demonstrated willingness to make a payment to be able to count on what they have to pay every month to budget for their family.

Chairwoman WATERS. There is one other aspect of that I would like to focus on, and that is this. It was said, I think today by one of our presenters here, that some people should have the ability to get in this program for this long-term sustained loan, but others should not. Why don't we just do it for everybody?

Mr. SMITH. I think that everyone should have the opportunity to have a home. I think that is the American dream. The reality of it is that some individuals are not financially prepared for the responsibility of owning a home. But I disagree with the fundamental construct that you don't have an opportunity to try.

I think if we legislate product, we are going to lock out people and stymie growth and reduce homeownership rates in California and the United States. I believe that everyone should have the opportunity to own a home. And given that—with that—

Chairwoman WATERS. If you got into this loan with a teaser rate, and you go for a workout, and say the teaser rate was one that would reset in—I guess they reset any time—6 months, a year. Do you believe that a person could have damaged their credit so bad, even though they have paid the teaser rate, but now they cannot

afford the rate that will reset, that they should be denied a continuation of the teaser rate because somehow their credit has gone bad?

If they can afford the teaser rate, they can pay the teaser rate, we are talking about the workout that would allow them to continue to do that, should they be allowed to have that opportunity? If they can't do the teaser rate, then perhaps they should be foreclosed on. But what is it in this 6-month period, or this 1-year period, about their credit that would cause one to say, "Sorry, you can't maintain the teaser rate"?

Mr. SMITH. I have a fundamental disagreement with that construct. Currently, under the FHA and VA rapid refinance or streamlined refinance process, there is no credit requirement if you can demonstrate that you had successful payments the previous 12 months. So that is an argument right there that a person may have credit problems, but they have demonstrated an ability to make a payment and they are awarded a loan.

Chairwoman WATERS. You heard what was said by the Forum here today relative to that, and taking a look at the credit background that may not qualify one to continue with the teaser rate. That is something that we want to try and get at based on what I have heard here today.

Mr. SMITH. I think we could get a deeper dive on that. Quite frankly, any loan is better than no loan. A teaser rate is better than no rate, as the Congressman said earlier.

Chairwoman WATERS. Yes. All right.

Mr. SMITH. I firmly agree with that.

Chairwoman WATERS. Okay.

Mr. SMITH. And we have that in process already under the VA and FHA regime currently.

Chairwoman WATERS. All right. Thank you very much.

Ms. Clark, you told us something that I didn't know. You said they are outsourcing loss mitigation activities. To where, offshore? And what do they do? What do they do when India calls your home? I mean—

Ms. CLARK. You can't get them on the phone.

Chairwoman WATERS. How do they do this?

Ms. CLARK. They have been doing this for a while. Even title is outsourced to foreign countries. That is why you can't reach a lot of the lenders, because they are not available. They are not here.

Chairwoman WATERS. Okay. I hear what you are saying. So we have this outsourcing. But I am a homeowner, and I am about to be delinquent, or I have become delinquent, and you have loss mitigation that will help me to understand that I have a problem, and some way that I can work this out, so that I can get caught up, or what have you. How does this outsource entity from someplace else help me to do that?

Ms. CLARK. That is the problem. When you try to reach these people, you can't. And that is what is perpetuating the situation.

Chairwoman WATERS. Ms. Twomey?

Ms. CLARK. But they all—

Chairwoman WATERS. Go ahead. I am sorry.

Ms. CLARK. But from my understanding, they set up shell companies that are here in the United States, but the actual people who are answering the phones are not here.

Chairwoman WATERS. Okay.

Ms. CLARK. They are in foreign countries.

Chairwoman WATERS. Do you know anything about this, Ms. Twomey?

Ms. TWOMEY. Yes. I think what has been represented is accurate. As a matter of fact, oftentimes when loans go into default, the servicing rights are transferred to a default servicer, so there is actually another entity that comes into play when loans go in default. So, the number of different entities that borrowers have to deal with in the process can be fairly overwhelming.

And as was already mentioned, actually getting a live body on the phone is one thing. I think the other thing that happens is there are two different departments usually. There is collections, and there is loss mitigation, and usually people start at collections.

And the goal of the collections department is to collect money, not to do a loan workout, and so getting—working your way up the chain to get to the loss mit department, and then to find someone in the loss mit department who can actually make a decision about your loan is a real hurdle, I think, for a lot of borrowers.

Chairwoman WATERS. So let me just ask about a concept that may be applicable to what we are talking about here. I can recall for years they have created in cities one-stop shops. And these one-stop shops were basically for businesses, what is good for business. We should have a one-stop shop to keep them from having to run all over city government for licensing and this, that, and the other. We should be talking about a one-stop shop for this situation of doing workouts.

Ms. TWOMEY. I think that is an excellent idea, and especially if there is a third party at the one-stop shop that can help the borrower figure out—one of the things I mentioned was the bargaining disparity that we have when you have a distressed homeowner trying to save their home and a servicer that makes all of the decisions. And a third party being involved in that would be helpful in helping the borrower to navigate that process. That, of course, requires more funding to be able to do that.

Chairwoman WATERS. Do you have a contract with any of these financial institutions?

Ms. TWOMEY. No, we don't do specific—

Chairwoman WATERS. Mr. Leonard, do you have a contract?

Mr. LEONARD. No, we do not.

Chairwoman WATERS. You do, Ms. Frisbee.

Ms. FRISBEE. We don't have a contract—

Chairwoman WATERS. No.

Ms. FRISBEE. —with financial institutions. We—

Chairwoman WATERS. Your money is directly from the Federal Government to do this kind of work. So the contracts that have been worked out with some nonprofits, as was mentioned today, does not include any of you in the room today. Did they ask you? Does anybody come to you and say, "We would like to do a contract with you"? No?

Ms. TWOMEY. Not that I am aware of.

Chairwoman WATERS. ACORN, do you have a contract?

Ms. BURNIE. I don't believe so, no.

Chairwoman WATERS. ACORN may be working on some of them?

Mr. CASTRO. Richard Castro, NeighborWorks America.

Chairwoman WATERS. Please state your name and who you represent.

Mr. CASTRO. NeighborWorks America.

Chairwoman WATERS. So NeighborWorks has a contract?

Mr. CASTRO. With one of our organizations. They are all autonomous. NeighborWorks organization in Sacramento is NeighborWorks Home Ownership Center Sacramento, and they are working on a contract with HomeEq.

Chairwoman WATERS. Okay. Thank you very much.

I am going to turn the questioning over to Ms. Richardson.

Ms. RICHARDSON. Thank you, Madam Chairwoman.

Mr. Smith.

Mr. SMITH. I hope you feel better.

Ms. RICHARDSON. Thank you. Your mortgage brokers that are part of your association, have they received information about some of the products that are available, modifications, workout scenarios, things like that, so if they have people that they have worked with to get these loans come to them, do they have this information readily available of what some of the options—maybe they could recommend that they followup with these various providers?

Mr. SMITH. Yes, we do. Our advisors—and what—and our Preserving Home Ownership Initiative Program, the individuals are licensed brokers, and they have gone through training. Ms. Mary Harmon is our consumer—is our community services chair, who is the director of that program.

Myself and her and several other members of our association have been trained by Freddie Mac through the Credit Smart Program, and we are abreast of all of the different loss mitigation techniques and programs that are available. So when we sit down with a customer, we can effectively advise them in the right direction to go based on current practices and programs that are available.

Ms. RICHARDSON. Not a specific department, but are all of your brokers aware of those options?

Mr. SMITH. I am sorry. Say that again.

Ms. RICHARDSON. All of your individual members, are they aware?

Mr. SMITH. I couldn't say that all of them would, but I can tell you that information is readily disseminated on a regular basis from our State organization, and that they have access to that information via the web and by telephone from our State organization.

Ms. RICHARDSON. And with the licensing that takes place, how much of it is spent actually talking about foreclosures?

Mr. SMITH. Well, we say licensing—that is two different regimes. I think I misunderstand your question.

Ms. RICHARDSON. When your members take a test to have a license, of that test component, how much of it would you say covers actual foreclosures?

Mr. SMITH. I haven't renewed my license in the last couple of years, but the continuing education requirements by the Department of Consumer Affairs is changing. There is a 40-hour, I believe, consumer protection piece that has different modules, and consumer protection is one of the items that this would come under.

Ms. RICHARDSON. Madam Chairwoman, that might be something we want to consider. I did something similar with this with the Department of Motor Vehicles. It was looking at the various licensing departments and requiring that a larger portion be spent in terms of actual counseling and understanding the foreclosure side, what the termination options are, etc., that that be a part of the licensing program itself, because they have to increase the amount that they provide.

Mr. Arnold, your real estate agents who are members of the California Real Estate Association, would you—how many of them do you think know about specific options that some of these providers have?

Mr. ARNOLD. Well, not a lot of them. In fact, so many of them are new licensees, and so CAR has—we are teaching foreclosure prevention as well as counseling. We have added two classes to that this year because of the fact that so many people are foreclosing. So we have to educate our members.

And, really, one of the problems that we see is the fact that these members have never experienced a market like this. Most of the Realtors have come in over the last 5 or 6 years. We have doubled the amount of licensees that we have had, and so not—not like myself that has experience in loss mitigation, foreclosures, and short sales.

They don't know it. But CAR, because we are a trade organization, we want to educate our membership, so we do have—currently have classes and we have had it at—I believe at NAR, we had it at our CAR meeting, so we are consistently talking about this, so we can educate our membership.

Ms. RICHARDSON. Okay. Mr. Smith?

Mr. SMITH. I would like to dovetail off his answer. I have some information that may be able to give a little bit more global perspective of it. As of fiscal year June of 2007, there are currently 537,038 licensees in the State of California; 147,171 are brokers, 389,867 are sales persons that are licensed persons like myself. Approximately 31,000 of those brokers are engaged in mortgage activities in the State of California.

Ms. RICHARDSON. Okay. And then, Ms. Clark, Ms. Twomey, Ms. Frisbee, and Ms. Burnie, we are fortunate enough—I want to say thank you, that some of the earlier panelists actually stayed to hear the continuing testimony, so we appreciate that. Do you have any suggestions that you could provide to these providers themselves, the financial institutions? And I see the Governor's office is also still here as well. Any suggestions you could give to them of how we could better outreach to the direct consumer themselves?

When I hear things like making 18 million calls and we have reached 2.2, that is 10 percent, that is not great. So of the people that you are interacting with, what would you recommend that they consider in terms of their outreach to increase that number?

Ms. TWOMEY. I am happy to respond, Congresswoman. I think one of the problems is that there is this outreach that is going on, but, as I said before, when the consumer calls back, they can't get anywhere. And so I am not sure where the disconnect is, but it seems to me what we are hearing is, "I called my servicer, and I ended up in voice mail. And I called them," you know, however many times, or "I couldn't get someone to give me information." And so I think the outreach is good if the back end of the piece is there, which is when the person actually responds to the outreach there is someone there that can answer the questions that the borrower has.

Ms. RICHARDSON. And how do people know how to reach you, your organization?

Ms. TWOMEY. Our organization works primarily with legal services organizations, government agencies, and private attorneys who are representing low-income homeowners. And we have published a series of books on consumer issues.

Ms. RICHARDSON. Anyone else want to respond?

Ms. FRISBEE. Yes. We just feel that the lenders have to be more flexible. They have to really tailor their work to the individual situation. We are finding that people are calling a little bit earlier, but usually, you know, they are already 60 days behind and they are just told, "There is nothing we can do." So this has to change.

Ms. BURNIE. I am happy with the testimony that was brought out today, but I just think that we need more funding and more ways to bring the information to the community.

Ms. TWOMEY. I want to add one more thing, which is I think this week the OTS recently announced that it was going to offer financial incentives for servicers to do workout arrangements, and that would potentially deal with some of the problems that we heard earlier about the costs that servicers incur in trying to do workouts, and then sometimes passing those costs along to the borrowers. And so maybe a proposal like that would help incentivize servicers to actually contact those borrowers and then do loan workouts with them.

Ms. RICHARDSON. Madam Chairwoman, I just want to say—I think this is our last panel, so I wanted to take this opportunity to thank you again for having this hearing here. I think there is no better place than California to get a sense of what is happening in the wave across the United States. We applaud your efforts and look forward to working with you to resolve this issue.

Thank you.

Chairwoman WATERS. Well, thank you very much.

I would like to thank all of our members who participated today, and, Ms. Richardson, I would like to thank you for staying through our last panel here. I would like to thank all of our panelists. I would like to thank our citizens who came to learn more about this and find out what we can all do collectively.

I would just like to say to our panelists and to our homeowners that I am attempting to approach this in a thoughtful manner. I am attempting to try and determine what we can do working with the financial institutions and the loan initiators. I must say that I am not happy with what I am hearing as of today has been the response.

I am not happy with the pace of the response. I am not happy with our Federal regulators. And I do not think that you are going to see a lot of money coming from the government to encourage servicers to do the right thing.

One of the things I do not wish to do is to get in a running battle with the financial institutions, with the servicers, nor do I wish to be in the additional position of not only doing my legislative work, but doing organizing. The financial institutions, these loan initiators better step up to the plate or we are going to put a lot of heat from the street on them.

As I have come to understand about the banking community in particular is one thing they don't want is a crowd outside the door demanding anything. But if we have to do that, we are going to have to do that. This crisis is overwhelming and scary, and it really should not be happening. We all have responsibility in this, and I accept my responsibility as a Member of Congress.

As a Member of Congress, we should demand more of our regulators. They should see this stuff coming down the pipe. There is no way that we are spending the amount of money that we are spending on all of these agencies that are supposed to be doing oversight and auditing, and all of this, and they didn't know that these exotic products had hit the street.

So the Federal Government, Members of Congress, loan initiators at every level, no matter where you are, should have seen this. This stuff enriched a lot of people on the front end. A lot of people made money, and the investors are sitting back there just waiting to rake it all in. And so everybody has to take responsibility on this, and we may have to step outside the box to make it happen.

I thank you for participating. I thank you for all that we have learned today from you, and we have some additional legislative possibilities here based on the information that we have received. Let me just say that I will note that some members may have additional questions for this panel, which they may wish to submit in writing. And without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses, and to place their responses in the record.

Let me also say that the following organizations and individuals have submitted written statements which shall be included in the record: the NAACP and our distinguished colleague, Mr. Lantos, who was unable to join us today. These statements, without objection, will be made a part of the record.

I am reminded that we have assistance that is available in the next room. Some people who have come today have already sat with some of our nonprofit organizations that are taking the information. Ms. Frisbee, you had mentioned that. They are still available as we close down this panel today, and we would encourage anybody who is in the audience who would like to have some assistance to please avail yourself of the opportunity that is being offered.

Also, we would like you to help us get the word out. They can call our office. They can call the office of any of our members who are participating. We will have information about the nonprofits that have some arrangements. Those who don't have arrangements

that just do this work, we will make that information available to everyone.

I want to thank you, and this hearing is concluded. Thank you very much.

[Whereupon, at 3:25 p.m., the hearing was adjourned.]

# A P P E N D I X

November 30, 2007

TOM LANTOS
CALIFORNIA

WASHINGTON OFFICE:
2413 RAYBURN BUILDING
WASHINGTON, D.C. 20515
(202) 225-3531

DISTRICT OFFICE:
400 S. EL CAMINO REAL
SUITE 410
SAN MATEO, CA 94402
(650) 342-0300
IN SAN FRANCISCO:
(415) 565-5257

HOUSE COMMITTEE ON FOREIGN AFFAIRS
Chairman

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
Subcommittee on Domestic Policy
Subcommittee on National Security and Foreign Affairs

Co-Chair, Congressional
Human Rights Caucus
Member, United States Holocaust Memorial Council

**Congress of the United States**
**House of Representatives**
**Washington, D.C. 20515**

November 30, 2007

Dear Chairwoman Waters:

I first would like to thank you for convening this most important hearing. As Members of Congress it is our duty to address the housing crisis facing our nation, as well as draw attention to the tools and support mechanisms that are available to our constituents. Your leadership and balanced approach will be imperative as we seek to prevent foreclosures, without putting banking systems and the financial services industry at risk.

The statistics coming from communities like Los Angeles and the Bay Area paint a grim picture. As a trained economist, I have seen too many indications that the worst is yet to come. Credit markets, slow wage growth, a dearth of personal savings and the prevalence of adjustable rate mortgages (ARMs) represent a "perfect storm" that threatens to cripple our economy and its institutions.

We must act in a reasonable, coordinated way throughout government, and in concert with the private sector.

I have seen estimates that in my area of California, the foreclosure crisis will cost the economy some $5.4 billion dollars and home values could be depressed by $11.6 billion. This is not a crisis that will be borne on the backs of homeowners alone, every sector that was once buoyed by the red hot housing market earlier this decade will face the prospect of tighter cash flows and lower job creation. Approximately 2 million more ARMs will reset in the next year and many mortgage payments are increasing beyond what too many homeowners are able to pay. While everyone deserves a shot at the American dream, too often, people were put into mortgages that they will not be able to afford.

Congratulations are in order for you, Madame Chairwoman, and for the full Financial Services Committee Chairman Barney Frank. The two of you have done an extraordinary job at focusing this sometimes unwieldy body on the plight of many of our friends and neighbors facing dire financial straits. The House has passed innovative and common sense measures that would stabilize this volatile market, if they were signed into law. While many more families will face mounting mortgage payments, House-passed legislation will provide more money to non-profit financial counseling agencies and allow people in high cost areas – like those throughout this great state – to qualify for federally chartered guaranteed home loans. These aren't gimmicks that will only help those who face foreclosure down the road, measures that you have worked to pass, Madame Chair, will help people today.

Printed on Recycled Paper

I also would like to applaud the work that some of the mortgage companies have done since realizing that nobody comes out ahead when a home is in foreclosure. While it would have been prudent to cater less to those who could not afford some of these loans in the first place, stopgap measures that will allow some homeowners who have ARMs to stay at their lower mortgage payment are admirable.

I am looking forward to getting a full report from this hearing and I truly believe that with your strong leadership, Chairwoman Waters, Congress will greatly benefit from this hearing.

Most Cordially,

TOM LANTOS
Member of Congress

**Testimony of**

**Michaela Albon**

**On Behalf of**

**Washington Mutual**

**Before the**

**Subcommittee on Housing and Community Opportunity**

**House Committee on Financial Services**

**Los Angeles, CA**

**November 30, 2007**

Testimony of

Michaela Albon, Senior Vice President, General Counsel, Home Loans Division

Washington Mutual

Before the Subcommittee on Housing and Community Opportunity

November 30, 2007

Madame Chair and members of the Subcommittee, my name is Michaela Albon, and I am Senior Vice President and General Counsel of the Home Loans Division at WaMu. I am pleased to be here today on behalf of WaMu to discuss our efforts in helping our borrowers find alternatives to foreclosure and ways they can overcome financial obstacles to keep their home. WaMu, through its subsidiaries, is one of the nation's leading consumer and small business banks. The company has a history dating back to 1889 and its subsidiary banks currently operate approximately 2,700 consumer and small business banking stores throughout the nation. WaMu also is one of the nation's largest originators of single family mortgage loans.

Clearly, the housing market is currently experiencing a sharp downturn. These events are painful for homeowners, lenders, investors, and for our communities alike. Housing inventories are rising, demand is falling, and home prices are thus declining. This is especially true in markets such as California, which are coming off an extended period of rapid home price appreciation. Moreover, delinquencies and foreclosures are increasing as fewer borrowers are able to refinance or quick sale their way out of financial trouble.

It is imperative that we all continue to work together to help stabilize the housing market, and WaMu is absolutely committed to doing its part. That's why we led the industry with the $2 billion commitment we announced in April to help subprime borrowers work through reset periods, and why we are extending reset periods on both prime and subprime loans. It is also why we are diligently working with the HOPE NOW Alliance, our legislators and regulators and community groups throughout the nation to find creative solutions to the housing crisis.

Simply put, we view foreclosure as a last resort and work very hard to keep our customers in their homes and keep them as customers. We fully recognize that no party wins when a lender is forced to foreclose on a borrower, and we encourage our customers to contact us as soon as they anticipate difficulty in making payments on their mortgage so that we can discuss their various options.

**Early Intervention**

Our firm belief is that early intervention combined with expanded options is instrumental to helping our customers avoid foreclosure. To that end, we are applying particular emphasis on reaching out to our adjustable rate mortgage customers at least six months prior to a rate reset through direct mail, dialing campaigns and statement messaging. Overall, we have sent almost 5 million pieces of outreach mail year-to-date and will continue to work with our borrowers requesting assistance up until their reset date and beyond.

Under our $2 billion assistance program, we are focused on helping our subprime customers who are current in their payments, but are feeling the effects of this challenging environment. We are reaching out to our customers and encouraging them to contact us if they are concerned about making their new mortgage payment as a result of a payment adjustment on an adjustable rate mortgage. And, if we do not hear back from a customer as a result of our initial outreach efforts, we will continue to attempt to contact them approximately every 30 days thereafter. Our offers of assistance include refinancing or modifying their mortgage into a fixed rate loan at a discounted rate.

We're pleased to say that this program, which is just one component of our broader assistance efforts, has been well received. To date, we have refinanced or modified approximately $720 million in loans and will increase that number in the coming months.

For those borrowers who have already become delinquent and are in need of assistance, we are offering expanded forbearance and loan restructuring plans, including permanent reductions in rate, extended terms and even partial forgiveness of debt. To the latter end, WaMu has publicly supported the initiative to reduce or eliminate the tax on the forgiven debt.

To increase consumer awareness of their options, WaMu has developed DVDs and CDs for borrowers who are in foreclosure, explaining various workout options and what they mean to the borrowers. We also have dedicated WaMu employees who participate in monthly Homeownership Preservation Workshops in major metropolitan areas that are experiencing high rates of foreclosures to assist distressed borrowers and to complete workouts on location.

WaMu maximizes the opportunities to meet with our customers by reaching out to them via mail and phone and personally inviting them to attend the events, which are held in the homeowners' communities so borrowers can meet face-to-face with a WaMu employee to work out a solution to keep them in their home. We have even offered $100 gift cards to customers if they will attend and speak to us about their loans. WaMu recently participated in events held in Anaheim and Ventura, both of which were considered very successful. Borrowers are telling us that they enjoy the personalized touch and the friendly manner that our employees bring to these difficult discussions, and we look forward to expanding our efforts in the coming months.

With regard to the percentage of WaMu loans currently in foreclosure, we do not publicly disclose this information. However, we give borrowers every consideration as we work to assist them while making prudent lending decisions and adhering to investor requirements and restrictions.

Despite the best efforts of lenders and servicers to help borrowers avoid foreclosure, the industry does face challenges. For example, the terms and conditions of applicable pooling and servicing or other servicing agreements, as well as tax law and accounting rules, determine the requirements regarding the loans we service on behalf of securitizations and third-party investors. These factors significantly define the parameters of our servicing and loss mitigation activities with respect to those loans. Declining home values (lack of equity), subordination of junior liens and securitized seconds also affect our ability to assist borrowers. Perhaps our biggest challenge, however, is simply reaching the borrowers who are most in need. If we can't reach them directly or indirectly such as through community organizations, we cannot help them.

**Local, Regional and National Partnerships**

In addition to WaMu's own efforts as a lender and servicer, we partner with local, regional, and national nonprofits to combat rising rates of borrower delinquency and default. These include an expanding number of local networks made up of nonprofits, industry and public partners.

For example, WaMu is partnering with the Homeownership Preservation Foundation to link homeowners in danger of foreclosure to the 1-888-995-HOPE hotline and local NeighborWorks® organizations to receive free counseling from HUD-approved agencies.

WaMu also supports a national foreclosure prevention advertising campaign with the National Ad Council, which seeks to decrease foreclosures by directing struggling borrowers to call the hotline. This partnership supports industry research to identify foreclosure trends and effective practices and builds capacity for local nonprofit organizations through grants and high quality training and standards.

Additionally, WaMu is a member of the recently-announced private sector initiative called the HOPE NOW Alliance, which brings together the nation's leading mortgage counselors, mortgage servicers, lenders, investors, and other industry experts to explore their ideas on how to reach and help homeowners. We recently participated in the HOPE NOW outreach efforts and our employees are active participants in all of the working groups, including the groups responsible for expanding the counseling initiatives.

**WaMu Mortgage Broker Standards**

The final area I would like to cover today is our industry leading measures we have taken to help borrowers through the loan origination process. In late September, WaMu co-sponsored a national conference on consumer education. In October, we introduced a requirement in our wholesale channel that we hope will soon become standard industry practice.

All brokers who submit loans to WaMu must also provide the borrowers with a simple and clear disclosure of their relationship with the borrower and lender, the amount of their compensation and how it is being paid and key loans terms, including whether the interest rate on the loan may increase and whether the loan carries a prepayment penalty. In addition, we now reach out to every wholesale borrower before the loan closes to review their loan terms.

This effort has received great acceptance from customers, community groups and key legislators and regulators, and we believe these industry-leading standards for mortgage brokers should serve as guidance for the industry as a whole.

Another industry leading measure we adopted was new standards around our subprime lending. WaMu was among the first to eliminate 2/28 and 3/27 subprime products. We also now require tax and insurance escrows on all subprime loans.

**Conclusion**

In closing, I'd like to reiterate that while we expect the housing environment will continue to prove challenging, it is imperative that we continue to focus on the future and on renewing consumer confidence in the housing market. Housing is key to the financial well being of many Americans, since it is most often their largest financial asset. It is also the basis of financial health for local and state governments who rely on real estate taxes for schools and other important services. And, housing helps drive local economic development.

We look forward to our continued partnership with public policy makers, nonprofits and industry and public partners, and with other lenders and servicers to bring positive, meaningful change to the mortgage industry.

Thank you for your time today. I'm more than happy to answer any questions you have.

**STATEMENT OF JOSEPH C. BATES**

Director, Santa Ana Homeownership Center
U.S. Department of Housing and Urban Development

Field Hearing before the Subcommittee on
Housing and Community Opportunity

United States House of Representatives

"Foreclosure Prevention and Intervention: The Importance of Loss
Mitigation Strategies in Keeping Families in Their Homes"

November 30, 2007

Los Angeles, California

Chairwoman Waters, Ranking Member Capito, and distinguished Members of the Subcommittee, thank you for the opportunity to testify today on the efforts made by the Department of Housing and Urban Development (HUD) in the areas of foreclosure prevention and intervention.

On October 10, HUD Secretary Alphonso Jackson and Treasury Secretary Hank Paulson announced an unprecedented alliance of the nation's largest mortgage servicers, housing counselors and real estate investors all committed to one common goal – to help as many homeowners as possible avoid foreclosure and retain homeownership.

Homeownership and, more importantly, homeownership retention have long been a priority for FHA. We believe borrowers with FHA-insured mortgages have unparalleled access to loss mitigation alternatives that help them weather personal financial crises and reinstate delinquent loans. In Fiscal Year 2007, FHA provided loss mitigation support to 91,000 borrowers, 86,500 of whom were able to keep their homes.

While not every one of these borrowers will be successful in the long term, historically 89 percent of all borrowers who benefit from loss mitigation still have active loans two years after the assistance. This success is responsible in part for a reduction in both the number and percentage of FHA foreclosures from a high of 1.74 percent in FY 2004 to 1.45 percent in FY 2007.

Throughout this year, HUD staff and senior officials nationwide have sponsored or participated in more than 125 separate homeownership retention events including fairs, targeted mailings, and joint task forces that reached a combined audience of 25,000. For example, on November 15, Secretary Jackson and HUD's Philadelphia Homeownership Center hosted a Homeownership Clinic in Detroit with the assistance of the Detroit HOPE Coalition (a coalition of most of the same lenders that are part of the HOPE NOW Alliance), Fannie Mae, Freddie Mac, and nonprofits such as the Mission of Peace. At this clinic, we had workshops for:

1) Delinquent borrowers trying to save their homes;
2) Borrowers of high cost loans seeking refinancing; and
3) First-time homebuyers hoping to avoid the mistakes of some of their predecessors.

The Santa Ana Homeownership Center, in cooperation with our southern California Congressional representatives and HUD Field Offices, has put together a series of seven Town Hall Foreclosure Summits to spread the word on foreclosure prevention alternatives. Participants besides HUD include Fannie Mae and Freddie Mac, the Federal Reserve Bank of San Francisco, the Internal Revenue Service, the local Congressional representative, and representatives from Wells Fargo and Countrywide, both of whom are major local mortgage providers in California and participants in the FHA Secure refinance program. Attended by over 1,000 participants, these meetings have also featured on-the-spot housing counseling with a HUD-approved counselor from one of our fifteen southern California non-profit agencies employing an estimated 125 certified

counselors. In addition to these Town Hall meetings, the SAHOC has attended several banking and realtor conventions/meetings as part of our outreach effort to help publicize the FHA Secure initiative. The recent National Association of Realtors convention in Las Vegas was attended by an estimated five thousand realtors who lined up at the FHA booth to obtain information on our work to assist families to stay in their homes.

In his remarks at the press conference announcing the HOPE NOW Alliance, Secretary Jackson commented on the dramatic rise in single family foreclosure starts fueled in great part by the proliferation of subprime loan products including hybrid ARMs that often include low teaser rates, interest-only features, stated (rather than documented) income underwriting, and negative amortization. More than two million subprime ARMs are expected to reset to higher interest rates by the end of 2008 and many of those borrowers, unable to afford the higher payments, will be forced into foreclosure unless the industry takes immediate and aggressive action to provide alternatives.

In September, FHA announced one such alternative. FHA*Secure* is one of our refinance options designed specifically for conventional and subprime borrowers who default on their mortgages solely because they can no longer afford the payments on their ARM loan after the interest resets to a higher rate. Though still a very new program, 540 FHA-approved lenders are already using FHA*Secure* to rescue delinquent borrowers from the potential loss of their homes. Since September, more than 70,000 conventional borrowers have applied for FHA*Secure* refinance loans.

Current trends suggest that this year there will be over one million foreclosure starts of all mortgages. If the industry works together, it is possible to reinstate or refinance many of these loans, but only if borrowers respond to offers of assistance. Industry sources report that more than 40 percent of delinquent borrowers fail to respond to any contact from their lender until it is too late. HUD and Treasury, at the direction of the White House, have encouraged companies and organizations that historically do not share information, business practices or resources to join together to create a unified, coordinated plan to reach and support these delinquent homeowners.

The HOPE NOW Alliance currently includes 16 of the largest conventional and subprime mortgage servicers (collectively representing more than 60 percent of all single family mortgage loans), five HUD-approved nationwide housing and credit counseling agencies, Freddie Mac and Fannie Mae, and many industry trade organizations including the Mortgage Bankers Association, the Financial Services Roundtable, and the American Securitization Forum. These Alliance partners are contributing staff resources and millions of dollars toward a number of specific goals that include among other objectives:

- Developing and funding a nationwide advertising campaign to encourage delinquent borrowers to seek help through the 888-995-HOPE network of HUD approved housing counselors.

- Hiring and training hundreds of new housing and credit counselors affiliated with the HOPE NOW network in order to meet the increased demand for services.

- Adopting a standardized servicer-counselor communication model to ensure that borrowers who contact the network get consistent, accurate and timely access to workout strategies regardless of who their lender or investor is.

- Finding a sustainable funding source to pay for both telephone and face-to-face default counseling.

- Encouraging the industry (both lenders and servicers) to adopt systematic protocols for identifying sustainable mortgage products for eligible borrowers.

- Agreeing on a standard set of metrics and reports to quantify both the extent of the default and foreclosure problem and the results achieved through the Alliance.

All of these actions are underway. Some can be implemented quickly, others will take several months. The 888-995-HOPE line is up and operating with 122 experienced counselors nationwide; another 50 are currently being trained and more are being recruited. Just this week, Secretaries Jackson and Paulson, endorsed the first major deliverable of HOPE NOW, a nationwide mailing of HOPE NOW letters to at-risk borrowers. The Alliance's technology group is completing development of a web-based loan work out tool that will provide a common decision platform for both servicers and counselors that will significantly streamline default resolution. This tool will be available for general use early in 2008.

Senior staff from both HUD and Treasury are participating in Alliance working groups and working behind the scenes to broaden participation to include all major lenders and a greater number of qualified housing counseling organizations. This is a multi-year project and we remain committed to ensuring that the HOPE NOW Alliance lives up to the promise of delivering significant and measurable results for families struggling to hold on to their piece of the American dream.

Thank you, I appreciate the opportunity to appear today and discuss these important issues.

**Testimony of:**

**Brad Blackwell**
**Executive Vice President**
**Wells Fargo Home Mortgage**

**Before the:**

**House Financial Services Committee on Housing and Community Opportunity**
**United States House of Representatives**
**Field Hearing**
**Los Angeles, California**

**November 30, 2007**

Chairwoman Waters and Members of the Committee, thank you for the invitation to testify. I am Brad Blackwell, executive vice president and leader of Wells Fargo Home Mortgage's national sales force. As a resident of California and a passionate supporter of fair and responsible lending, I am pleased to be here representing my company today.

We commend you, Chairwoman Waters, for your leadership on housing issues and for hosting this hearing and homeownership preservation workshop. We are proud of the fact that Wells Fargo has been invited to numerous such forums across the nation to speak about our fair and responsible lending practices, as we believe collaboration with you and other Members of Congress is critical. Your constituents are our customers, and like you, we are very concerned about the rising number of foreclosures – particularly in parts of California where the market correction continues to depress housing prices.

Culturally, Wells Fargo always has been and remains committed to lifetime customer relationships. Our vision is to satisfy all our customers' financial needs and help them achieve financial success. This includes ensuring all customers have access to and can sustain homeownership.

In the Los Angeles area, for instance, we work with leading community organizations that help us achieve this vision – Los Angeles Neighborhood Housing Services, Operation HOPE, West Angeles Community Development Corporation and East Los Angeles Community Corporation, to name a few. With these organizations and others, we have introduced a number of innovations to reach and help homeowners. Madame Chair, in your Congressional district alone, Wells Fargo has contributed over $19 million toward low- and moderate-income housing investments. We also have conducted mortgage seminars in which we help current borrowers review loan documents. And, we have trained housing counselors and local lawyers on how to give aid to people facing foreclosure.

We believe that foreclosure prevention requires that good decisions are made from the beginning of the lending decision process. When faced with the tension that can naturally exist between doing what is right for the customer and generating a profit, we believe responsible lenders must do what is right for the customer. For instance, unlike many in our industry, Wells Fargo chose not to offer negative amortization or option ARM products. In 2006 alone, these loans generated close to 40 percent of the industry's revenue.

We also know that living fair and responsible lending practices makes a difference. The subprime loans originated by Wells Fargo Home Mortgage have historically had foreclosures that are half that of loans not originated by our company. Our responsible lending principles – by which we have long chosen to operate our business – include focusing on the customer's ability to repay, providing the customer with

the information needed to make a fully-informed decision, and making only those loans that provide a demonstrable benefit to the customer.

We also have long-practiced responsible mortgage servicing that has consistently received top-tier rankings from Fannie Mae, Freddie Mac, HUD, private investors, and the rating agencies. Our servicing principles include putting customers' needs first; providing clear, simple and timely information; and doing all we can to keep people in their homes. We do this by providing experts, tools, services and information that help customers manage their credit.

While we believe that, as an organization, we have made and continue to make good decisions that align with our responsible lending and servicing practices, we – like most others – did not predict the extreme confluence of market events – sustained housing price depreciation, excess housing capacity, fluctuating interest rates, and continued market illiquidity – currently affecting customers. So, we too have stepped up our efforts to find more ways to help at-risk customers.

The solutions we pursue are done so thoughtfully. Wells Fargo has weathered the current subprime crisis well, relative to competitors, because we respect that what is good for consumers and what is good for investors are inextricably linked. Selling mortgages to the secondary market makes home ownership possible for millions, including minority and low-income consumers, and we are careful to avoid practices that could limit responsible access to funding. To ensure the future health of the housing industry, it is necessary to preserve liquidity and capital from the secondary market. Therefore, a good balance must be struck between upholding the contractual and credit obligations inherent to investor agreements and meeting the needs of consumers.

Since the vast majority of the subprime loans we service are held by investors, an ongoing industry dialogue organized by the American Securitization Forum has been instrumental in helping us to develop solutions that take into account our secondary market contractual obligations. Over the past few weeks, we have been working closely with Treasury Secretary Henry Paulson, the federal banking regulators, and the ASF on more systematic solutions for segments of subprime consumers who share similar credit characteristics.

Another great example of how the industry and government have come together on broad-based, nationwide solutions is the HOPE NOW alliance, which Wells Fargo was instrumental in creating. This alliance harnesses the strengths of mortgage servicers, counselors, the capital markets and the power of the U.S. government to help at-risk consumers get budget guidance that considers all of their debt in order to lessen the severity of mortgage default before it becomes unmanageable. A critical component of the program is encouraging customer contact, since it's the single biggest obstacle servicers face in

helping customers find solutions that work. Through this effort, we are already beginning to prove that when we come together and mobilize to help consumers, we can have great impact.

For Wells Fargo to gather further insights on the best ways to help more of our customers financially distressed by ARM resets, we analyzed our 2007 subprime ARM servicing portfolio, considering the life of the loan and current market trends. About 3% of the 7.9 million real-estate backed loans Wells Fargo Home Mortgage services are subprime ARMs that have or are expected to reset by the end of 2008. At this time, it appears that we can find workable solutions for the vast majority – 80 to 88% – of these loans. These customers pay in full, refinance, manage the higher loan payment or benefit from a workout solution.

We either seek refinancing solutions, or modify all loans for customers who can afford the modification and are willing to manage their mortgage payments. Plus, we constantly refine our modification criteria to improve long-term customer payment success. If at any point, it is determined a repayment or modification will not be successful for the customer, we turn to options that will help them avoid foreclosure and protect their credit standing, such as deeds-in-lieu or short sales. As the leading FHA lender in the nation, we appreciate Congresswoman Waters spearheading the FHA reform in the House as this will provide yet another conduit for helping customers.

In addition to these efforts, six months in advance of a reset we send letters and make calls to borrowers. We have a dedicated team of experts with service centers around the country, so that we stay in touch with local developments and can find the best workout options for our customers. We offer many credit management programs such as our successful *Steps to Success*℠ program, and work with national and local non-profit credit management affiliates to provide guidance and counseling.

Today, I've highlighted just a few of the ways that Wells Fargo has and will continue to reach out and help customers. We believe that by working together – our industry, the government, the capital markets, consumer groups and not-for-profit counseling agencies – we can help to keep more people in their homes. Together, we must get all customers who are facing difficulty with mortgage payments to call their servicers or a credit counselor for help. And, together, explore refinancing, modification and workout options. We are there for our customers in good times and bad. We are there to help them, we want to help them, and we continue to seek ways to help them in a manner that is good for them, our investors, our economy and the long-term health of our industry.

Thank you again, Chairwoman Waters and Members of the Committee, for your time today. I will be happy to answer any questions.

---

Wells Fargo Home Mortgage is part of Wells Fargo Bank, N.A. and Wells Fargo & Company, a diversified financial services company with $549 billion in assets. Wells Fargo Bank, N.A. is the only bank in the U.S., and one of only two banks worldwide, to have the highest credit rating from both Moody's Investors Service, "Aaa," and Standard & Poor's Ratings Services, "AAA."

**Statement of Tom Deutsch**
**Deputy Executive Director**
**American Securitization Forum**

**Also Representing the**
**Securities Industry and Financial Markets Association**

**Before the**
**House Financial Services**
**Subcommittee on Housing and Community Opportunity**
**Field Hearing**
**Los Angeles, California**

**November 30, 2007**

Good morning Madame Chair and thank you for the privilege of testifying here today. I am honored to be here representing the American Securitization Forum (ASF) and the Securities Industry and Financial Markets Association (SIFMA[1]) on actions that all mortgage market participants can undertake to help prevent foreclosures and mitigate losses. We commend you for calling this hearing, and look forward to offering our views on these important matters.

**Background**

The American Securitization Forum is a broad-based, not-for-profit professional forum that advocates the common interests of the securitization market and its participants. ASF members include over 375 firms, including issuers, investors, financial intermediaries, trustees, rating agencies, financial guarantors, legal and accounting firms, mortgage insurers, and data analytics vendors, among other firms. ASF's mission and goals can succinctly be summarized as: (1) build consensus on best practices in the market; (2) advocate on behalf of our members; and (3) provide high quality educational events for industry participants and policymakers.

[1] The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers locally and globally through offices in New York, Washington D.C., and London. Its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong. SIFMA's mission is to champion policies and practices that benefit investors and issuers, expand and perfect global capital markets, and foster the development of new products and services. Fundamental to achieving this mission is earning, inspiring and upholding the public's trust in the industry and the markets. (More information about SIFMA is available at http://www.sifma.org.)

Before I address the specifics of the securitization process and the secondary market for mortgage financing, I'd like to open with one fundamental observation—no one benefits from foreclosures. Neither mortgage servicers nor the pension funds, mutual funds and hedge funds who ultimately provide mortgage credit want foreclosures to occur; it is often the costliest outcome for both the borrower as well as the investor.

**Securitization Process**

Generally, the securitization process frees up capital and allows banks to invest more in their local economies, reduces potential lending concentration by allocating risk to both national and international investors, and draws varied sources of capital (e.g., pension funds, insurance companies, and mutual funds) to the mortgage lending market.

At its core, the process of securitization allows originators of consumer and commercial credit to pool hundreds of like obligations into securities, which generate stable and predictable cash flows to investors as borrowers pay their monthly principal and interest payments. As the largest fixed-income market sector, total volume of outstanding mortgage-backed securities has risen to over $6.6 trillion in 2007.

Recent developments in the current subprime residential mortgage market have generated a number of significant concerns that impact securitization transactions and the broader environment for subprime mortgage finance. Some of these developments include: an increase in delinquency, default, and foreclosure rates; a decline in certain regional home prices; a prevalence of loans with reduced introductory rate adjusting to higher rates in the next eighteen months; and reduced availability of subprime and other non-conforming mortgage lending for refinancing purposes.

**Servicers' Foreclosure Prevention and Loss Mitigation Efforts**

Given market conditions, servicers of mortgage loans have redoubled their efforts to both help borrowers avoid foreclosure and minimize losses to securitization investors. As policymakers, regulators, homeowners and industry participants together search common solutions, one point has become evident: early outreach to borrowers with upcoming resets is critical. Regardless of payment history, advance notice, understanding of rate changes, and early discussions can help evaluate a borrower's current ability and willingness to afford payments on his/her loan.

For those coming up on a reset date, have generally been current in their introductory mortgage payments, and have built up some equity in their home, refinancing options, either private industry products or FHA products, continue to be accessible to borrowers with these characteristics.

But for some borrowers with significantly impaired credit or little equity in their home, these refinancing opportunities may not be available. However, if a borrower has been able to stay relatively current in their introductory rate, servicers will employ the full

toolkit of loss mitigation options, including, but not limited to, loan modifications to try to help that borrower stay in his or her home.

While most subprime securitizations permit loan modifications, the applicable provisions in the pooling and servicing agreements and servicing agreements vary substantially. Let me take a few minutes to walk through some of the basic provisions found in common securitization documents.

**Overview of Typical Securitization Document Modification Provisions**

Servicing of subprime residential mortgage loans included in a securitization is generally governed by either a pooling and servicing agreement (PSA) or servicing agreement (SA). Typical PSA and SA provisions require the related servicers to follow accepted servicing practices and procedures as it would employ "in its good faith business judgment" and which are "normal and usual in its general mortgage servicing activities."

Most subprime transactions authorize the servicer to modify loans that are in default or for which default is imminent or reasonably foreseeable. The "reasonably foreseeable" default standard derives from and is permitted by the restrictions imposed by the Real Estate Mortgage Investment Conduit sections of the Internal Revenue Code of 1986 (REMIC) on modifying loans included in a securitization for which a REMIC election is made.

The modification provisions that govern loans that are in default or where default is reasonably foreseeable typically also require that the modifications be in the best interests of the securityholders or not materially adverse to the interests of the securityholders, and that the modifications not result in a violation of the REMIC status of the securitization trust.

In addition to the authority to modify the loan terms, most subprime PSAs and SAs permit other loss mitigation techniques, including forbearance, repayment plans for arrearages and other deferments which do not reduce the total amount owed but may extend the term of payment. In addition, these arrangements typically permit loss mitigation through non-foreclosure alternatives to terminating a loan, such as short sales of deeds-in-lieu.

**Recent Industry Developments**

In an effort to clarify and limit the list of regulatory and interpretive complexities of performing loan modifications, and with the desire to find more efficient and streamlined loss mitigation strategies for borrowers and investors, the ASF finalized in June 2007 a *Statement of Principles, Recommendations and Guidelines for the Modification of Securitized Subprime Residential Mortgage* (attached as Exhibit A). This document concludes that loan modifications, for subprime mortgage loans that are in default or for which default is reasonably foreseeable, are an important servicing tool that can often help borrowers avoid foreclosure as well as minimize

losses to securitization investors. Higher than normal rates of foreclosure may harm borrowers and their communities, and may adversely affect housing values and therefore collateral values on both performing and non-performing loans. Accordingly, the ASF recommended the use of loan modifications under appropriate circumstances and also provided guidance for servicers of securitized subprime residential mortgage loans. Below are a few of the ASF's key principles for loan modifications:

1. For subprime mortgages that are in default or where default is reasonably foreseeable, loan modifications are an important loss mitigation tool to be used when appropriate;
2. Establishing early contact with borrowers is critical;
3. Loan modifications should be considered and made on a loan-by-loan basis;
4. Loan modifications, where appropriate, are preferable to foreclosure where the servicer concludes the net present value of the payments on the loan as modified is likely to be greater than the anticipated net recovery from foreclosure; and
5. Servicers should consider whether to make the interest rate reductions temporary or permanent based on the anticipated period of borrower need.

Development of the Statement was a first and important step towards industry collaboration and coordinated solutions. Since, ASF and SIFMA have been pleased to be involved in the HOPE NOW Alliance that was formed on October 9, 2007 through the leadership of Treasury Secretary Paulson and HUD Secretary Jackson. HOPE NOW, a collaborations of counselors, servicers, investors, and other mortgage market participants, seeks to maximize outreach efforts to homeowners in distress to help them remain in their homes.

On that same day in October, ASF also released a statement that borrower counseling expenses may be viewed as servicing advances, and where consistent with operative securitization documents, can be reimbursed from securitization trust cashflows. We believe that the engagement of borrower counseling services and reimbursement of related expenses can serve as an important complement to servicers' existing obligations to service loans, mitigate losses and maximize recoveries in securitization transactions.

Finally, we continue to work with policymakers including the FDIC, FASB, Federal Reserve, Treasury Department and others to identify loss mitigation obstacles and promote best servicer practices throughout the industry. Currently, we are striving to develop streamlined methods of segmenting borrowers with various characteristics. We believe that streamlining the process of evaluating borrower characteristics and matching them up efficiently with the appropriate loss mitigation options will ultimately help servicers manage their responsibilities in a changing market, while appropriately balancing the interests of borrowers and investors. We are pursuing these efforts in earnest and hope to report out progress on these efforts in the near future.

**Conclusion**

Madame Chair and distinguished Members, I thank you for the opportunity to participate in today's hearing. The shared goal of participants gathered here today is to keep families in their homes and we believe that the interests of secondary mortgage market participants continue to be aligned with borrowers, communities and policymakers to help prevent foreclosures. To that end, ASF and SIFMA stand ready to assist, and commend your leadership on these important matters.

Thank you.

**Statement of**
**Margaret Frisbee, Pacific District Director**
**Neighborhood Reinvestment Corporation**
**(now *doing business as* NeighborWorks® America)**

**Before the**
**U.S. House of Representatives**
**Committee on Financial Services**
**Housing and Community Opportunity Subcommittee Field Hearing**

***Foreclosure Prevention and Intervention: The Importance of Loss Mitigation Strategies in Keeping Families in Their Homes***

**Friday, November 30, 2007, 10 AM**

**California Science Center**
**Los Angeles, CA**

Chairwoman Waters and members of the subcommittee, my name is Margaret Frisbee, and I serve as District Director of the Pacific District for NeighborWorks America. I appreciate the opportunity to appear before you today to talk about the efforts we and our partners are making to help stem the tide of foreclosures, especially in California and the Los Angeles area.

**Background on NeighborWorks America:**

By way of background, NeighborWorks America was established by Congress in 1978 as the Neighborhood Reinvestment Corporation. The Corporation receives federal appropriated funding out of the Transportation-HUD and Related Agencies Appropriations Subcommittee. For the fiscal year 2008 President's Budget, we requested $120 million. The corporation's Board of Directors is made up of the heads of the federal financial regulatory agencies (the Federal Reserve; the Federal Deposit Insurance Corporation; The Comptroller of the Currency; the Office of Thrift Supervision; the National Credit Union Administration) and the Secretary of HUD.

The primary mission of NeighborWorks America is to expand affordable housing opportunities (rental and homeownership) and to strengthen distressed urban, suburban and rural communities across America, working through a national network of local community-based organizations, known collectively as the NeighborWorks network.

**The NeighborWorks Network:**

The NeighborWorks network includes about 240 nonprofit organizations, serving more than 4,450 communities across the United States -- in 50 states, the District of Columbia and the Commonwealth of Puerto Rico. NeighborWorks organizations operate in our nation's largest cities and in some of its smallest rural communities.

Here in California, there are 18 NeighborWorks organizations throughout the state, including the Los Angeles Neighborhood Housing Services, which, as we speak, is working along with other partners in this building, providing counseling to people looking for help with their mortgage problems.

**Accomplishments:**

Local NeighborWorks organizations provide a wide variety of services that reflect the needs of their neighborhoods and communities, and over the years, with the generous support of Congress through a direct federal appropriation, NeighborWorks has:

- Provided homeownership counseling to more than 500,000 families; and
- Assisted nearly 150,000 families of modest means to become homeowners.

NeighborWorks organizations also own and manage more than 65,000 units of affordable rental housing. In FY 2007 alone, the NeighborWorks network generated about $4 billion in direct reinvestment in distressed communities across the nation.

Today, however, I'm here to speak about our response to the precipitous rise in foreclosures.

**NeighborWorks America's Experience in Serving Non-Conventional Borrowers:**

NeighborWorks America has a 30-year history of facilitating lending to non-conventional borrowers – including lower income families, borrowers with impaired credit and others who would not normally qualify for a conventional mortgage.

NeighborWorks organizations provide quality pre-purchase homeownership counseling and financial fitness training, and work with borrowers to improve their credit rating, improve their budgeting, and commit to a savings plan (including Individual Development Accounts and other vehicles). Through these efforts, local NeighborWorks organizations are able to prepare foreclosure-resistant borrowers who qualify for reasonably priced traditional mortgage loans and achieve sustainable homeownership.

From our experience, we know that the best defense against mortgage delinquency and foreclosure is objective education and counseling before the borrower begins shopping for a home and selecting a mortgage product – or refinancing their home.

And the best home buyer counseling is provided through objective, well-trained non-profit agencies (including local NeighborWorks organizations and other HUD-approved housing counseling agencies) that put the consumers' and the communities' interest first. We also know that homeowners' odds of success are increased even further when they have access to post-purchase counseling and homeowner education.

**NeighborWorks Loan Performance:**

NeighborWorks America has been closely tracking the loan performance of the many low income families assisted by NeighborWorks organizations over the years. ***These loans continue to perform significantly better than subprime loans***. We have not seen any significant up-tick in defaults or foreclosures among NeighborWorks-assisted families.

In fact, a comparison of the loan performance of a sample of borrowers counseled by NeighborWorks organizations (in the first quarter of 2007) indicates that their loans are:

- 10 times less likely to go into foreclosure than subprime borrowers;
- Nearly 4 times less likely to go into foreclosure than FHA borrowers; and
- Slightly less likely to go into foreclosure than Prime borrowers.

**NeighborWorks America's Service beyond the NeighborWorks Network:**

NeighborWorks America's commitment to quality, objective homeownership education and counseling extends far beyond the NeighborWorks network.

Through our NeighborWorks Center for Homeownership Education and Counseling (NCHEC) and the NeighborWorks Training Institute, NeighborWorks America is the nation's largest trainer of housing counseling professionals. NeighborWorks America convened leaders from counseling intermediaries, lending institutions, community development organizations, realtors association, mortgage insurance companies and the secondary mortgage market to develop National Industry Standards for Homeownership Education and Counseling.

The Industry Standards will strengthen the professional credentials of more than 10,000 homeownership professionals currently working in the industry and help ensure that millions of potential and existing homeowners receive quality and comprehensive housing information and services, enabling them to make informed, responsible choices on the path to homeownership.

From our experience, we know that the best defense against foreclosure is a well educated consumer who understands the responsibilities and consequences of homeownership, the budget implications and the financing options available.

**Quality homeownership counseling delivered in accordance with the Industry Standards and which is well funded through a fee for service model and public-private partnerships is the best tool available to fight foreclosure in the longer term.**

**NeighborWorks Center for Foreclosure Solutions:**

NeighborWorks America saw the problem of foreclosures coming over four years ago and, with the strong support of our Board of Directors created the NeighborWorks Center for Foreclosure Solutions, to preserve homeownership in the face of the rising foreclosure rates. The NeighborWorks Center for Foreclosure Solutions is an unprecedented partnership between faith-based and community organizations, nonprofit organizations, and financial, mortgage, and insurance sectors to preserve homeownership and combat the negative impact of foreclosures on communities across the nation. Local NeighborWorks organizations witnessed the start of what has now grown to be our current foreclosure crisis, as they were increasingly asked for help, not by clients that had been counseled up-front by NeighborWorks organizations, but by others in the community who were facing increased delinquency and foreclosure.

The impact of foreclosures reaches far beyond the individual homeowners who lose their home. Foreclosed homes can threaten entire communities. The value of surrounding homes goes down and other homeowners will have difficulty selling or refinancing their homes, leading to further disinvestment in communities. As a result, property taxes collected will be lower, affecting schools and government services, creating a downward spiral that is detrimental to the entire community. A study by the Woodstock Institute found that a single foreclosure on a given block can directly lower the cumulative property values of surrounding homes by $139,000 (approximately $2,000 per property). Other studies show that one foreclosed property can end up costing a municipality as much as $30,000. And lenders report that each foreclosure can cost them from $30,000 to $50,000.

**The HOPE Hotline (888-995-HOPE)**

NeighborWorks America, in partnership with the Homeownership Preservation Foundation is supporting a national toll-free HOPE Hotline for delinquent borrowers **(888-995-HOPE)** that is available 24/7 to provide callers with high quality telephone-based assistance (in English and in Spanish). Individuals needing more intense service than can be provided over the phone are referred to local NeighborWorks organizations and other HUD-approved housing counseling agencies.

NeighborWorks America has also launched a public service advertising campaign through the Ad Council, to decrease foreclosures by directing struggling borrowers to call the 888-995-HOPE Hotline.

In addition to the HOPE Hotline, many of our local NeighborWorks organizations are also counseling delinquent homeowners every day. These organizations have stretched their budgets, redeployed staff, worked hundreds of extra hours – all to address the very real threat that pending foreclosure is causing for families and communities across the country.

As they are doing here today, these organizations are helping families one at a time, to modify budgets, refinance an unattractive mortgage product, and work with servicers on loan modifications or workouts. And when those solutions are not possible, they are working to help the borrower sell their home or surrender if to the lender, if necessary, and relocate before they face an actual foreclosure.

Some of our NeighborWorks organizations are also originating or brokering responsible refinance mortgage products to ensure homeowners have every opportunity to succeed at sustainable homeownership.

And, NeighborWorks America is actively training hundreds of counselors on foreclosure intervention at our National Training Institutes and other place-based trainings around the nation.

We are working closely with state housing finance agencies and other partners to provide access to these trainings so counselors can have the tools they need to provide quality foreclosure intervention counseling to homeowners.

**Extent of the Foreclosure Problem in California:**
**(Based on statistics as of September, 2007)**

- California has the second largest increase is foreclosures and total delinquencies, second only to Florida
- 64,459 homes in California are in foreclosure (with 27,000 going into foreclosure in the last 3 months alone)
- Another 103,726 home mortgages are seriously delinquent
- 10.96% of all subprime ARMs in California are seriously delinquent
- Subprime loans are foreclosing at a rate almost 18 times greater than prime loans.
- Data indicates that the foreclosure problem is worst in California and Florida and will likely be getting more serious in these two states, with much of the problem due to risky lending products, with "resets" increasing interest rates to unaffordable levels
- California has nine Metropolitan Statistical Areas (MSAs) in the top 50 areas for foreclosure filings. These areas include: Stockton, Riverside/San Bernardino, Sacramento, Bakersfield, Fresno, Oakland, San Diego, Ventura, and Los Angeles/Long Beach
- The top ten U.S. Metropolitan counties at risk of concentrated foreclosure include three in Southern California: Los Angeles, Riverside, and San Bernardino

**Action by NeighborWorks America and affiliated local NeighborWorks organizations in California:**

- 14 local NeighborWorks organizations in California (including Los Angeles Neighborhood Housing Services) are offering aggressive homeownership preservation services, and 11 NeighborWorks organizations are registered with the HOPE Hotline to provide follow up counseling as needed. (Borrowers in California have generated over 17,800 calls to the HOPE Hotline.)
- Eight regional coalitions have been formed that include at least one NeighborWorks organization and other local groups, to work together to assist families prevent foreclosure of their homes. These coalitions cover all the "hot spots" identified by recent data, including: San Diego, Orange County, Los Angeles, Inland Empire, San Joaquin Valley, Ventura/Santa Barbara Counties, Sacramento/Stockton, and the Bay Area.
- To date in 2007, 12 Foreclosure Prevention Workshops have been organized in California and staffed with assistance from NeighborWorks America and local NeighborWorks organizations as part of the work of the coalitions. Hundreds of consumers are turning out at each location seeking assistance. Three more Foreclosure Prevention Workshops are scheduled before end of 2007, including a workshop in Stockton tomorrow (December 1.)
- Foreclosure counseling training and certification programs are planned at seven locations within California, with a goal to train and certify 500 counselors by June 2008.
- NeighborWorks America is working with State of California officials to expand resources available to certified counseling agencies.

**The HOPE NOW Alliance:**

Because NeighborWorks America has been active in foreclosure prevention over the last three years through our Center for Foreclosure Solutions (building alliances, supporting the HOPE Hotline, launching the Ad Council public awareness campaign, training hundreds of counselors specifically on foreclosure, and supporting many local coalitions and communities in the development of their strategies to provide alternatives to foreclosure), we were invited to participate in the HOPE NOW Alliance, recently announced by the Secretaries of the U.S. Department of the Treasury and the U.S. Department of Housing and Urban Development.

While the HOPE NOW Alliance is still very much a "work-in-progress" we are excited by its potential and pleased that Secretaries Jackson and Paulson are using the influence of their positions to encourage a coordinated approach that brings mortgage servicers and mortgage investors together in an effort to identify struggling borrowers, connect them to a mortgage counselor and find a sustainable mortgage solution.

NeighborWorks America received $1,970,440 in HUD grants for Housing Counseling Services, Home Ownership Programs and Community organizations to provide education and assistance so more Americans can own homes, find affordable housing, and avoid predatory lending.

One of the key efforts of NeighborWorks foreclosure activities is to improve outreach to borrowers. Many members of the HOPE NOW Alliance and other servicers have contributed actively to support our Ad Council Campaign, additional outreach efforts and the critical work of the NeighborWorks Center for Foreclosure Solutions. This private sector support has been essential in the outreach efforts and success of the Center for Foreclosure Solutions to date.

While we are appreciative of that support, we continue to stress that servicers and investors have a critical role in the funding of direct counseling.

We are also pleased that mortgage market participants who are part of the HOPE NOW Alliance have committed to adopting some of the best practices that can make a real difference in helping nonprofit counselors assist families in avoiding foreclosure, such as dedicated teams of loss mitigation professionals to work directly with counselors.

And we're pleased that nearly all major mortgage servicers have committed to provide a dedicated loss mitigation "communication bridge" for 888-995-HOPE counselors' use.

This information has the potential to improve contact rates; communication between servicer, counselor and homeowner; and understanding of each party's role.

However, in a recent speech, Secretary Paulson stated: "We have an immediate need to see more loan modifications and refinancing and other flexibility. For many families, this will be the only viable solution. The current process is not working well."

We couldn't agree more. Thus far, many counselors continue to experience a significant level of inflexibility by lenders and servicers in regard to loan modifications and refinancings. It appears that modifications and workouts are all being considered in a unique, "one-off" manner. We strongly encourage the investors and servicers to develop more standardized approaches and rules to loan modifications and to share those with the counseling community so that we can all aggressively increase the volume of successful loan modifications and workouts.

We also strongly encourage the investors to aggressively address the Adjustable Rate Mortgage (ARM) resets and to not wait until families become delinquent, before finding solutions for families who have clear budget and income constraints that will prevent them from successfully making their mortgage payments.

The HOPE NOW Alliance has also identified the need for us to all work together to develop a sustainable funding model for quality phone and face-to-face counseling -- and proposed that servicers pay a fee for any of their clients referred to a service like the HOPE Hotline. Our understanding from the Housing Policy Council is that the servicers are close to finalizing agreements to pay for the counseling of their customers who use the HOPE Hotline.

We hope that similar agreements can be made with servicers to compensate housing counseling agencies for quality face-to-face counseling of their borrowers. NeighborWorks is committed to working closely with the HOPE NOW Alliance, the Housing Policy Council and other HUD-approved housing counseling intermediaries over the next sixty days to finalize this sustainable business model.

It is imperative to develop this fee for service model with the servicers for on-the-ground foreclosure counselors who are meeting standards and working with thousands of borrowers to find successful solutions. Thus far that service is almost exclusively supported by public funds and charitable grants. And additional resources will be needed to continue this important service.

**Closing**

In conclusion, while the foreclosure problem has not abated, we are hopeful about the potential for the HOPE NOW Alliance.

We know that the best way to create foreclosure-resistant homeowners is through quality prepurchase housing counseling.

And, there is a larger need than ever for a reasonably-priced mortgage refinance product, to assist families currently trapped in high-cost mortgages.

I trust this testimony gives you a sense of NeighborWorks America's response to families facing foreclosure, and some of the challenges we are facing in that effort. Before closing, I want to thank you and your colleagues in the Congress for your strong bi-partisan support of NeighborWorks America; especially the federal funding that has played a key role in our work.

I stand ready to answer any questions you may have.

Testimony of

# Pastor Herrera, Jr., Director

Los Angeles County
Department of Consumer Affairs

before the

## Subcommittee on Housing and Community Opportunity
## Committee on Financial Services
## U.S. House of Representatives

"Foreclosure Prevention and Intervention:
The Importance of Loss Mitigation Strategies in Keeping Families in Their Homes"

Friday, November 30, 2007

DCA

**I. Introduction:**

Good Morning, my name is Pastor Herrera, Jr., Director of the County of Los Angeles Department of Consumer Affairs. We appreciate the opportunity to share the Department's experiences in the subject area of today's hearing.

Since April, 1976, the County of Los Angeles Dept of Consumer Affairs (DCA) has provided consumer protection, counseling, complaint investigation and mediation services to Consumers and Businesses in Los Angeles County through advocacy, empowerment and education. The department conducts special investigations that are presented to prosecuting agencies for civil and criminal prosecution. The Department also operates other programs, such as a Small Claims Court Advisor, Mediation, Elder Fraud Investigation and Prevention, a Volunteer and College Internship Program and a Public Outreach section that educates consumers and businesses through print publications, Internet resources, and community events.

DCA serves as the central reporting agency for real estate fraud and works closely with private industry groups, government agencies, and law enforcement agencies to detect and investigate real estate fraud. The Department counsels consumers in areas, such as: foreclosure prevention, recorded documents, buying a home, reviewing loan documents, and assistance for first-time homebuyers through the Los Angeles County Community Development Commission. DCA also accepts complaints and conducts investigations in the areas of: foreclosure consultants, predatory lending, fraudulent recorded documents, and refinance transactions.

The current staffing of the Real Estate Fraud Prevention unit includes 1 Supervising Investigator and 4 investigators. Last fiscal year, the unit assisted over 29,000 consumers with real estate issues. Approximately 650 of those consumers needed assistance with a foreclosure issue.

**II. Prevention**

The Department's work in the area of foreclosure prevention for Los Angeles County includes speaking engagements and community forums. The Department has presented material to over 700 members of the public in the past 5 months at speaking engagements in the County of Los Angeles.

Our website dca.lacounty.gov contains articles and information on "Foreclosure", "Predatory Lending", and "Evictions" in addition to allowing a homeowner to "Ask a Question" directly to our staff via email. Real estate email inquiries have gone up 85% in the past 4 months compared to last year, and approximately 32% of the emails relate to foreclosures.

Recorded information is available 24 hours a day that answers most real estate related questions. Homeowners can speak with a counselor during normal business hours by calling 800-973-3370, or by visiting our offices.

Our department assisted over 100 homeowners in the last fiscal year through immediate intervention by attempting to stay, delay, or cancel a property from being sold in a foreclosure sale. The Department was successful in approximately 65% of the cases to achieve a positive outcome for the person facing foreclosure.

The Department also receives numerous calls on a weekly basis from homeowners that have received Notice of Defaults requesting assistance. Last year, 600 people called the department with foreclosure related issues and the rate of calls concerning foreclosures have increased by approximately 33% this year according to recent analysis.

In L.A. County during October 2007, over 5,500 Notices of Defaults were recorded, which is the first step in the foreclosure process. This represents a 102% increase over last year. RealtyTrak reported that Notice of Default recordings statewide in California increased almost 200% in October.

**III. Challenges and Recommendations**

The greatest obstacle and challenge our Department has encountered in our efforts to prevent foreclosure is funding for counselors and investigators to deal with the volume of calls and walk-ins that are impacted by the foreclosure issue. The time that it takes to attempt to save a home weighs heavily on the limited resources of our Department.

The tools or resources the Department needs to overcome this obstacle include:

a. Development of a consistent funding source that would provide necessary financial resources to help consumers and provide staffing for issue-specific task forces as problems arise. Additional staff could provide increased and enhanced services to people that face foreclosure.
b. Increasing coordination between various task forces that assist consumers with Real Estate and foreclosure related problems. Sharing resources and expertise would benefit all groups and improve efficiency by reducing the duplication of similar services.
c. Each financial institution identifying a single point of contact in their organization that consumers and agencies can contact to resolve issues of foreclosure and negotiate new terms that may prevent the homeowner from losing their home. This would save time for consumers and agency representatives and improve the responsiveness of financial institutions to their customers.

Foreclosure prevention barriers that can be addressed by Congress:

a. Many *Pooling and Servicing Agreements* (PSA) limit a servicer's ability to engage in loss mitigation strategies. Such as, lowering the interest rate,

converting from 30-year to 40-year mortgages, or forbearance agreement. This limits the number of loans that may be modified.

Our recommendation:
Require that servicing agencies be given authority to modify loans in foreclosure.

b. Failure to disclose the investor/beneficiary makes it difficult or impossible to locate the owner of the loan and engage in the loss mitigation process.

Our recommendation:
Develop guidelines that increase the transparency of servicing agencies such as requiring services agencies to identify the investor/beneficiary and provide contact information to homeowners and/or their representatives. Developing additional safeguards that protect consumers would help servicing agencies provide responsive service to the consumers and could decrease the number of homeowners that lose their homes.

**EMBARGOED UNTIL DELIVERY**

**STATEMENT OF**

**MICHAEL H. KRIMMINGER**
**SPECIAL ADVISOR FOR POLICY**
**OFFICE OF THE CHAIRMAN**
**FEDERAL DEPOSIT INSURANCE CORPORATION**

**on**

# FORECLOSURE PREVENTION AND INTERVENTION: THE IMPORTANCE OF LOSS MITIGATION STRATEGIES FOR KEEPING FAMILIES IN THEIR HOMES

**before the**

**SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY**

**of the**

**FINANCIAL SERVICES COMMITTEE**
**U.S. HOUSE OF REPRESENTATIVES**

**November 30, 2007**
**California Science Center**
**700 State Drive, Los Angeles, California**

Chairman Waters and members of the Committee, thank you for the opportunity to testify on behalf of the Federal Deposit Insurance Corporation regarding foreclosure prevention. This is a subject of tremendous concern to FDIC Chairman Sheila Bair. My testimony will discuss the impact of recent problems in the subprime mortgage market on homeowners and the economy, as well as steps that can be taken to prevent unnecessary foreclosures.

The U.S. housing boom of the first half of this decade ended abruptly in 2006. Housing starts, which peaked at over 2 million units in 2005, have plummeted to just over half of that level, with no recovery yet in sight. Home prices, which were growing at double-digit rates nationally in 2004 and 2005, are now falling in many metropolitan areas and for the nation as a whole. With declining home prices, there are large increases in problem mortgages, particularly in subprime and Alt-A portfolios.[1] The deterioration in credit performance began in the industrial Midwest, where economic conditions have been the weakest, but has now spread to the former boom markets of Florida, California and other western states.

The current problem in subprime mortgage lending arose with the rapid growth of 2- and 3-year adjustable rate subprime hybrid loans after 2003. Between year-end 2003 and mid-2007, some 5 million of these loans were originated. Of these, slightly over 2.5 million loans with outstanding balances of $526 billion remain outstanding.

---

[1] Alt-A loans are those made under expanded underwriting guidelines to borrowers with marginal to very good credit. Alt-A loans are riskier than prime loans due to the underwriting standards of the loans, not necessarily the credit quality of the borrowers.

The typical structure of these loans is to provide for a starter rate (typically between 7 and 9 percent), followed in 24 or 36 months by a series of steep increases in the interest rate (often totaling 5 percent or more) and a commensurate rise in the monthly payment. Almost three quarters of subprime mortgages securitized in 2004 and 2005 were structured in this manner, as were over half the subprime loans made in 2006. Most of these loans also imposed a prepayment penalty if the loan was repaid while the starter rate was still in effect.

These resets of these subprime loans will have a tangible impact on the overall economy. Subprime resets in the U.S. between September 2007 and December 2008 are predicted to total more than $330 billion. California's share is slightly over $102 billion, or 31 percent -- with more than 288,000 first-lien, nonprime loans expected to reset during this period.[2]

**The Effect on California**

Exposure to subprime mortgages is particularly significant in California, Combined with large numbers of so-called Alt-A mortgages, the significant numbers of subprime hybrid ARM loans with approaching resets in California have introduced additional uncertainty for California homeowners, lenders, and the public. If the industry fails to take action to respond to the potential defaults and foreclosures that are likely to

[2] Loan Performance Securities Database.

occur when borrowers cannot make the reset payments, the economic consequences for California will be significant.

California's subprime mortgage problems already have spread to the broader housing sector and related industries, as is evidenced in declining employment levels. Construction employment throughout the state as of the third-quarter of 2007 was down 16 percent from a year-earlier -- and the non-depository finance and services sector also experienced a decline of 3 percent from a year ago.

The slumping housing market led to thousands of job losses throughout California. In October alone, the state lost over 15,800 jobs. Of the 11 major industries, construction job losses were the greatest at 4,200. The job losses are accelerating, leading the Anderson Center for Economic Research at Chapman University in Orange, California, to expect that the worst of the fallout lies ahead. Job losses have intensified and will probably continue well into 2008. The weakness in construction and real estate has spread to retail businesses as well, with losses of 1,700 workers in October and 900 of those layoffs occurring at building-material and garden-equipment stores.[3]

Problems in subprime lending affect California's fiscal condition as well. State sources predict that curtailed tax revenues associated with the housing market decline will contribute to an expected budget shortfall of nearly $10 billion over the next two years. Tax revenue shortfalls are largely attributable to the laid-off construction workers

[3] Calbreath, Dean, "Economists Employ 'R' Word on Jobs Data," The San Diego Union-Tribune, November 17, 2007.

and mortgage lenders who are no longer paying income taxes. Additionally, slumping home sales are associated with declines in tax-generating purchases of items such as dryers and refrigerators. Similarly, declines in home equity loans are associated with dropoffs in big ticket purchases such as cars.[4]

Finally, foreclosure rates in California have been rising as many borrowers are unable to afford their higher mortgage payments following the reset of their interest rate. Over 72,000 Notices of Default were filed on California residences during the third quarter of 2007, exceeding the prior peak of 61,000 reached in 1996. This represents an increase of over 166 percent from levels seen during the third-quarter of 2006. Most of the defaulting loans were originated between July 2005 and September 2006.[5] By volume, notices of default were the highest in Los Angeles with over 13,000 filings during the third-quarter of 2007, followed by Riverside with over 9,000 filings during the same period. The increasing numbers of defaults and foreclosures demonstrate the need for creative approaches to keep people in their homes by restructuring their loans on a long-term and sustainable basis.

**A Proposal for Loan Modification**

It appears that subprime loan portfolios can be split into three basic groups: the small subset of loans that can be expected to perform after reset without modification,

[4] Aaron C. Davis, "California's Deficit Balloons to $10 Billion Amid Slowing Economy," The Mercury News, November 14, 2007, http://mercurynews.com/breakingnews/ci_7460596 (accessed November 20, 2007).
[5] DataQuick Real Estate News & Custom Data, "Record California Foreclosure Activity," October 26, 2007, DQnews.com, http://www.dqnews.com/RRFor1007.shtm, (accessed November 19, 2007).

loans that became past due under the starter rate and probably cannot repay even if they are modified, and loans that have remained current prior to reset, but will likely not remain so after reset without modification.

Based on the limited data, it is difficult to estimate exactly how large each group might be. It is important to emphasize, however, that underwriting standards on these products were extremely low and their structure inherently necessitated frequent refinancing, an option no longer readily available to borrowers. The FDIC's calculations, based on nonprime mortgages included in private mortgage-backed securitizations (MBS), indicate that more than 1.5 million hybrid loans worth $330 billion are scheduled to undergo their first reset between September 2007 and December 2008.[6] Today, the vast majority of these loans remain current. Fewer than 350,000 loans are 60 days or more past due or in some stage of foreclosure prior to reset. For loans that remain current or less than 60 days delinquent, only 3.3 percent show both a loan-to-value ratio below 80 percent at origination and a debt service-to-income ratio below 30 percent -- attributes that might indicate a high probability of remaining current even after reset. Based on these criteria, our numbers suggest that the group of loans scheduled to reset that are current but may not remain so after reset are on the order of at least 1.1 million loans.

With regard to that small subset of borrowers who have the ability to repay without modification, these loans should continue according to their contractual terms. As for loans that are already past due and cannot reasonably be expected to repay, even

[6] FDIC estimates are based on the Loan Performance Securities database, reflecting loans included in private MBS issues. While this source is thought to include a high proportion of all outstanding subprime hybrid mortgages, totals based on this source must be regarded as lower-bound estimates.

with restructuring, there may be no alternative except for foreclosure. The same is true for loans that were made under fraudulent circumstances or to speculators.

A key issue is how to address the mortgage loans for owner occupied properties where the borrowers are current on their payments but will not be able to maintain the payments following reset. If servicers do nothing and allow all of these loans to reset to the full contract rate, the result will be the eventual default and foreclosure on hundreds of thousands of additional loans.

For this group of borrowers, Chairman Bair has recommended that servicers take a systematic and streamlined approach to restructuring these loans into fixed rate loans at the starter rate -- which is already above market rates for prime loans. These loans should be evaluated to determine the borrowers' ability to make the payment following reset and the net present value (NPV) of the loan modification should exceed the NPV of allowing the loan to go into foreclosure. Loans that are current after two years have clearly demonstrated a record by the borrower of a consistent willingness and ability to repay at the starter rate, which bodes well for their ability to repay at that rate over the long run.

There are several advantages to this approach. A streamlined approach can be undertaken much more rapidly than a loan-by-loan restructuring process. Also, this approach does not involve a bailout involving the federal government. Finally, this policy does not involve government action that would affect the contractual rights of

mortgage investors, because it is based on voluntary action by servicers and existing legal rights and responsibilities. This approach makes economic sense and is an appropriate, proactive response to rapidly changing market conditions. Modifying loans before reset will avoid negative credit consequences for borrowers, permit borrowers to keep their homes while making payments they can afford, and at the same time provide investors with a return that exceeds any return they would receive from foreclosures. Under today's conditions, we believe that the NPV analysis itself can be streamlined for many markets because declining housing prices and experience have demonstrated substantial losses through foreclosure compared to the income stream that can be achieved by sustainable, long-term loan modifications.

**Correcting Misconceptions about Mortgage Restructuring**

Let me turn now to a number of misconceptions about the impact of Chairman Bair's this loan modification proposal and explain how the proposal would work.

*Misconception: Restructuring Will Create a Windfall for Subprime Borrowers*

Some have expressed concern that restructuring subprime loans to a fixed rate of interest at the starter rate will result in a windfall for subprime borrowers. This misconception is based on the belief that the starter rates for these loans are similar to the low 1 to 2 percent "teaser" rates that were aggressively advertised for prime borrowers. In fact, of subprime hybrid mortgages originated in the first quarter of 2006, the average

starter rate was 8.28 percent, which exceeded the average rate on subprime fixed rate loans made in that same quarter (7.93 percent), and was well above rates paid on prime fixed rate loans. These subprime borrowers will continue to pay higher subprime rates even after restructuring.

*Misconception: Restructuring Will Deny Investors Their Expected Return*

Another popular misconception is that restructuring will deny investors a large stream of interest payments that would rightfully accrue to them after the loans reset to the full contract rate. The reality is that very few hybrid borrowers actually remain in the pools after reset and pay the full contract rate. Among such loans made and securitized in 2003, only one in 30 continues to pay at the full contract rate after four years.

Clearly, these loans generally were never designed or underwritten to perform at the full contract rate after reset. Among subprime hybrid loans made in 2006, nearly half had loan-to-value ratios above 90 percent, and more than half had monthly debt service-to-income ratios above 40 percent. Given that, on average, the full contract rate on these loans is five full percentage points above the starter rate, it is clear that they are not designed for long-term repayment.

*Misconception: Restructuring is Unnecessary Based on Past Levels of Credit Losses*

Some have argued that standardized and widespread restructuring is unnecessary based on past levels of credit losses. However, previous experience with losses of subprime hybrid ARMs provides very poor guidance regarding how these loans will perform going forward. For example, through August 2007 the cumulative default rate (CDR) for subprime hybrid loans originated in 2004 has been 10 percent; that is, of 1.6 million such loans originated that year, 162,000 have defaulted according to the latest data. However, with the benefit of rapidly rising home prices in many areas of the country, the vast majority of 2004 borrowers were able to repay their loans through refinancing or even the sale of the property.

By contrast, loans resetting today are doing so at a time when home prices are declining in many areas of the country and lenders are making very few subprime loans. Of hybrid loans originated in 2006, the CDR is already 10.5 percent -- before any of these loans have reset. Under today's market conditions, interest rate resets are likely to drive the CDR much higher than levels experienced on previous vintages. This means that the benefits of restructuring cannot be measured against what credit losses were in previous years, but rather must be viewed in the context of how many borrowers can actually afford to pay at the full contract rate where refinancing options are extremely limited and the value of the property has decreased or not increased as anticipated.

*Misconception: Standardized Loan Restructuring Cannot Be Accomplished on a Broad Basis*

Critics of the proposal to restructure loans to the starter rate as described above argue that such an approach is untested and cannot be implemented on a broad basis. However, the FDIC is aware of servicers that have already begun to use a similar approach with borrowers. Those servicers are reporting that the approach is feasible and significantly reduces the cost of restructuring and its complexity.

Some loan servicers and investors have said that the approach cannot be applied consistent with pooling and servicing agreements (PSAs) because the duty to maximize NPV requires servicers to review loan by loan to set a new payment between the starter and reset rate. As explained below, this argument fails to consider that a loan-by-loan approach, given the current and anticipated rate of resets, will prevent maximization of NPV for the pool as a whole due to inherently limited servicer resources.

First, the volume of resetting loans means that, in practical terms, the choice is between foreclosures on the one hand and systematic loan modifications for eligible borrowers on the other. A loan-by-loan calibration of what each borrower can pay will take too much time and too many resources. This increases the likelihood that a loan-by-loan approach will mean more foreclosures and loss of value to borrowers and investors. In contrast, following a streamlined modifications approach for eligible borrowers, as we have suggested, will free up resources to address the historic levels of resets that will occur in the coming 18 months and the more difficult loans and borrowers, such as those

already delinquent and those with loans, such as Alt-A, that have risk layering characteristics.

Also, applying a modification that increases the rate by 100 or 200 basis points more than the starter rate, though not completely to the reset rate, will increase the potential delinquency rate without significantly increasing the actual cash flow into the trust. "Squeezing" the maximum increase out of a current borrower clearly increases the likelihood of delinquency compared to proven payments at the starter rate.

Finally, brief extensions of the starter rate will not provide stability to the borrower, investors, or the market. Brief extensions simply increase the resource stress on servicers and decrease the ability of the market to determine market prices for mortgage assets.

**Current Loan Modification Efforts**

Last week, Governor Schwarzenegger announced a particularly encouraging agreement with four major subprime lenders. Countrywide, GMAC, Litton and HomeEq -- which collectively service more than one quarter of subprime loans -- agreed to work with homeowners unable to afford escalating mortgage payments. The servicers agreed to maintain the initial, lower interest rate for some subprime borrowers whose loans are scheduled to reset to a significantly higher interest rate. To qualify, borrowers must occupy their homes, have made their payments on time and prove they cannot afford

payments with the higher interest rate. We believe that this is a very positive step because it is a public commitment to support stream-lined loan modifications by the governor of our most populous state and to implement that commitment by loan servicers who service loans throughout the country. We hope that this action will encourage other servicers to adopt this approach to speed up the pace of loan modifications.

Also, earlier this year, the FDIC, along with the other federal banking agencies, issued a statement to banks encouraging them to find more affordable, sustainable products for borrowers who are currently struggling with hybrid adjustable rate mortgages. In the statement, we emphasized that lenders do not face regulatory penalties if they pursue reasonable workout arrangements, and we noted that institutions may receive favorable Community Reinvestment Act consideration for programs that transition borrowers from higher to lower cost loans. The statement also reminded institutions that existing regulatory guidance and accounting standards do not require immediate foreclosure on homes when borrowers fall behind on payments and that institutions should consider working with reputable consumer-based organizations to help financially stressed borrowers avoid predatory foreclosure rescue scams.

In recent months, that some financial institutions are proactively contacting borrowers facing rate resets and seeking to modify the problem loan terms. Borrowers who anticipate having difficulty making payments should take the initiative and seek assistance even if they have not been contacted. They should contact their servicer, the

entity that receives their monthly payment, as soon as possible. The contact information for the servicer can be found on the monthly billing statement.

A number of lenders and servicers have initiated programs to help ameliorate the impact on borrowers. Some lenders say they are taking steps to contact troubled borrowers and work with them. Also, the U.S. Treasury-led alliance of mortgage servicers, lenders, investors and counselors called Hope Now began sending out 300,000 letters in mid-November to offer assistance to struggling homeowners who may be in a position to move into a more affordable mortgage.

Another initiative that should be mentioned is the FDIC's Alliance for Economic Inclusion. The Alliance is the FDIC's national initiative to form a network of local coalitions around the country charged with helping underserved populations in nine particular markets across the United States. As part of this effort, the Alliance for Economic Inclusion has partnered with NeighborWorks® America's Center for Foreclosure Solutions to promote foreclosure-prevention strategies for consumers at risk of foreclosure. Within each of the nine markets, the partnership will conduct outreach to identify and help homeowners at risk of foreclosure; work to increase lenders' support for foreclosure intervention; and promote best intervention practices in mortgage servicing programs for consumers at risk of foreclosure who could qualify for alternate financing.

**Efforts to Address Questionable Lending Practices**

In addition to addressing the problems of current borrowers, the FDIC and other federal banking agencies have issued guidance to address many of the practices that contributed to the current situation. On June 29th, the federal banking agencies issued supervisory guidance to address the underwriting and marketing of subprime adjustable mortgages. The guidance focuses on two fundamental consumer protection principles. First, a loan should be approved based on a borrower's ability to repay according to its terms (not just at the initial rate, for example). Second, borrowers should be provided the information necessary to understand a transaction at a time that will help them decide if the loan is appropriate for their needs. The FDIC and the federal and state banking agencies feel strongly that clear, common sense standards regarding the underwriting and marketing of subprime adjustable mortgages are necessary to protect consumers and reinforce market discipline, while preserving a flow of capital to fund responsible lending.

As outlined in the guidance, we expect institutions to follow standards that: qualify borrowers at the fully indexed rate, assuming a fully amortized repayment schedule; limit risk-layering features; and permit stated income and reduced documentation only in specific, limited circumstances. The guidance also emphasizes that loan product disclosures must be clear and balanced, and that any prepayment penalties must allow for reasonable time for the borrower to refinance without penalty prior to the expiration of the initial interest rate.

**Conclusion**

In conclusion, as Chairman Bair has testified before Congress, we recognize the importance of subprime lending when properly underwritten and when borrowers are provided with complete and understandable disclosures. However, recent practices have resulted in many borrowers being placed in products that create financial hardship rather than building wealth. The FDIC is committed to help find solutions for borrowers already trapped in mortgages they cannot afford. That concludes my statement and I will be happy to answer any questions.

**Testimony of Karen Lee**

My name is Karen Lee and my husband Herman and I purchased our home in the Hyde Park area of Los Angeles in 1984. I have been on disability after a knee injury and other health related issues made it impossible for me to continue working, and my husband is recently retired from the US Postal Service. With two fixed incomes, it became increasingly obvious that something needed to change in our financial world if we wanted to keep our home. Having a variable rate mortgage combined with the normal occurrences of life such as car repairs and home maintenance expenses, created too much uncertainty for us to enjoy our retirement.

We reached out to LA NHS for advice and were provided with information on the various options that were available. We decided on using a reverse mortgage because it allowed us to keep our home without the worry of fluctuating interest rates. Also, because we no longer have a monthly mortgage payment, our retirement income allows us to comfortably meet our other financial obligations.

With the support and advice of LA NHS we were able to avoid foreclosure, keep our home and remain in the neighborhood that we've cared about for 23 years.

TESTIMONY OF

SANDOR SAMUELS OF

COUNTRYWIDE FINANCIAL CORPORATION

Before the

HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE

of the

HOUSE FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

November 30, 2007

Chairwoman Waters and Members of the House Financial Services Subcommittee on Housing and Community Opportunity, my name is Sandy Samuels, Executive Managing Director of Countrywide Financial Corporation ("Countrywide"). Countrywide appreciates having this opportunity to update the subcommittee on our efforts to prevent foreclosures and preserve homeownership for borrowers facing financial difficulties in today's housing and mortgage markets. Our company has been a consistent and longstanding leader in developing innovative approaches to homeownership preservation. That history is reflected in a series of syndicated newspaper articles from the summer of 2000 that are attached as part of this testimony. Those early efforts have evolved into an entire "Home Retention" division dedicated to finding affordable, long-term solutions for families facing foreclosure. This perspective serves as a testament to the experience and commitment that Countrywide brings to bear in addressing the current issues facing borrowers and servicers.

Experience tells us that successful efforts to avoid foreclosure are the result of partnerships. One of the most essential partnerships is between the borrower and the servicer. A commonly referenced analysis by Freddie Mac indicated that as many as 50% of borrowers that lose a home to foreclosure never responded to lender efforts to contact them. That statistic suggests that one of our most important objectives in addressing current market conditions is to reduce this "No Contact" percentage. Industry and government are working together – through home preservation summits around the country, individual lender/nonprofit partnerships, and industry initiatives like the HOPE NOW alliance – to get the message out to "call your lender" or "call a non-profit counseling agency." Last week, here in California, we joined with Governor Schwarzenegger to endorse a series of principles, consistent with those set forth by FDIC Chair Sheila Bair, designed to ensure that mortgage servicers can implement scalable home retention solutions that work for subprime hybrid ARM borrowers struggling to meet their mortgage obligations. As part of this effort, the Governor also intends to launch an outreach campaign that would include public service announcements designed to motivate borrowers to contact their lenders and servicers. To the extent that third party counselors can often facilitate that contact, we also support building the capacity of nonprofit counseling agencies and improving the interaction – the "handoff" – between the nonprofit counselors and the servicers.

If we are successful, borrowers that call either their lender or a counseling agency will find that servicers today have more tools than ever before to assist borrowers experiencing hardships. We encourage our borrowers to call us the very first time they anticipate problems with sending in the mortgage payment and to provide us a good sense

of their ongoing financial capabilities. With this type of information, we can work with the borrower and offer real solutions that are good for families in need, our communities, and the investors who supply the critically important liquidity to our mortgage market.

**Countrywide's Comprehensive Home Preservation Efforts**

**Dimensions of the Challenge**

As of September 30, 2007, Countrywide's servicing portfolio contained almost 9 million loans with roughly 8.7% of those being subprime loans. Of those 9 million loans, only 0.89 % had entered foreclosure proceedings.[1] California loans that have entered foreclosure proceedings represent 0.15% of the total portfolio.

Not every borrower that enters into foreclosure proceedings actually loses his or her home through foreclosure. In fact, our experience has been that approximately two-thirds of all borrowers who enter the foreclosure process do not end up losing their homes to foreclosure.[2] With all of the tools now available to servicers and counselors, this figure could go even higher in the future.

As of September 2007, approximately 3% of Countrywide's total servicing portfolio or 289,090 loans were hybrid adjustable rate mortgages[3] that are scheduled for reset between October 2007 through December 2008 (for California, approximately 0.6% of the total portfolio or 52,385 hybrid ARMs will reset during this period). Historical experience has been that a significant proportion of these loans are paid in full prior to or

[1] Data as of October 31, 2007.
[2] This is based on all loans in Countrywide's servicing portfolio that were active on and after January 1, 2005 and that ever had entered into foreclosure proceedings before or after that date. Approximately 34% of that total went onto a foreclosure sale, meaning 66% did not.
[3] Hybrid adjustable rate mortgages are those loans that have a fixed introductory period and then become adjustable at the end of that period. Included here are prime/conventional and nonprime loans that were active as of September 2007 and have 2, 3, 5, 7, and 10-year fixed introductory periods that are scheduled to reset between October 2007 through December 2008.

just after the reset. Our experience has also been that most borrowers that keep these loans after the reset remain current.

**Working to Reach Borrowers**

Countrywide recognizes that it takes more than encouragement to forge a partnership with borrowers, particularly when times are tough for them. In October, we announced a dramatic expansion of our foreclosure prevention efforts – a $16 billion home preservation program to assist as many as 82,000 Countrywide hybrid ARM customers with affordable refinance and loan modification options. Countrywide analyzed its servicing portfolio using criteria such as estimates of loan-to-current-value ratio, debt-to-income ratio after a reset, and current credit history information to create broad categories of borrowers for whom certain home retention solutions are likely to provide long term affordability. This categorization process is consistent with what the Governor, regulators, Treasury and consumers groups have been advocating. Countrywide will deploy dedicated teams to contact customers who are approaching or have had a rate reset to determine the customers' financial circumstances and inform them about refinance and other home preservation options. In essence, the program targets three categories of borrowers:

- For those borrowers currently in a subprime loan with a strong payment history, good FICO scores and low CLTVs, Countrywide will work to refinance them into prime or FHA loans. We have a strong record of successfully transitioning borrowers from subprime products to prime loans and estimate refinancing approximately $10 billion in mortgage loans through this part of the program.

- Countrywide also will identify and contact subprime hybrid ARM borrowers who are current in their payments but unable to qualify for a refinance (due to credit issues and/or declining property valuations), and may have difficulty affording an upcoming reset. With this new program, Countrywide will personally attempt to contact these borrowers at least 90 days before the reset to determine their financial circumstances and develop a long-term, affordable home retention plan. We anticipate modifying another $4 billion in loans through the end of 2008 through this part of the program.
- The third and final part of the home preservation program seeks to help subprime borrowers who are delinquent and experiencing financial difficulties as a result of a recent reset. It is anticipated that these borrowers would obtain modifications on loans totaling $2.2 billion by year-end 2007.

Of course, this work will have benefits in California, as well as nationally. As we noted in prior testimony to the full House Financial Services Committee and again with Governor Schwarzenegger, Countrywide is committed to (1) appropriately scaling its home preservation efforts so that there is proactive outreach to borrowers before their rates reset, (2) a streamlined process through which we can determine whether a borrower reasonably can be expected to make the reset payment, and (3) for those who are in their homes making timely payments, but cannot make the reset payment, a loan modification that keeps them at an affordable interest rate for a sustainable period of time.

These efforts do not operate in isolation. In fact, they are part of our ongoing efforts to identify, improve and extend existing home preservation programs and investments in borrower outreach to assist our customers. Taken together with the efforts described

below, Countrywide creates channels for the necessary dialogue between borrowers and servicers to occur:

- **Capacity:** Countrywide has expanded its capacity to contact and be contacted by borrowers. During 2007, we have increased the number of employees in our Home Retention Division from 2,000 to 3,000 dedicated professionals focused on all aspects of homeownership preservation. As part of this effort, we deploy a team of specialists that not only operate within Countrywide, but also travel to our local financial centers around the country to meet personally with borrowers who need help. Looking forward, total operational spending in the home retention function is expected to grow by more than 45% between 2006 and 2008. This growth will provide additional capacity to meet anticipated challenges in 2008.
- **Communication:** We include helpful information in borrowers' monthly statements and repeatedly attempt to reach our borrowers by phone and by mail. In addition to the statutorily required 45-day ARM payment change notice, Countrywide provides notices 180-days and 90-days prior to the reset reminding borrowers of an upcoming rate and payment adjustment. The notice provides an estimate of the rate and payment changes, based on current interest rates, and encourages them to call Countrywide or a nonprofit counseling agency if they anticipate difficulty affording the payment increase. In addition, in September and October, our Home Retention Division:
    - made almost 18 million call attempts to reach delinquent borrowers;

- had approximately 2.2 million phone conversations with borrowers about their payment difficulties; and
- mailed almost 1.6 million personal letters and cards to borrowers offering them the choice to contact Countrywide or a HUD-approved nonprofit housing organization.

For those borrowers who are not responsive to our outreach by mail and phone, we try additional methods such as providing them with a DVD that they can view in the privacy of their own homes that explains possible repayment options. Countrywide also sends brochures (available in English and Spanish) entitled "Keeping the dream of homeownership: Solutions for the times when hardship makes it difficult to meet a monthly home loan payment". Those brochures include a toll-free number for borrowers (1-800-661-9917) to initiate contact with our HOPE specialists, as well as the toll free Homeownership Preservation Foundation number.

- **Outreach**: Countrywide also reaches borrowers by hosting homeownership preservation seminars in local communities. These seminars are designed to bring together lenders and housing counselors to inform our borrowers and the general public on the options available to avoid foreclosure. Countrywide has also hosted numerous "train-the-trainer" sessions to help improve the ability of nonprofit agencies to connect and communicate with loan servicers. We have held these borrower seminars and training sessions in California and other cities across the country (a complete listing is attached), and we plan to expand these efforts in 2008.

- **Education**: Countrywide also can help borrowers preserve their homes and avoid foreclosure by helping them to become better informed about the process. That is one reason why Countrywide launched its Home Ownership Mortgage Education (H.O.M.E.) web site at www.HomeByCountrywide.com . On this site, current and potential borrowers can obtain important information to enhance their financial literacy and capacity to make solid choices for themselves and their families.

**Partnering with Others to Help Borrowers**

Partnerships with nonprofit organizations are critically important to our efforts to assist borrowers facing foreclosure. Despite our best efforts to reach borrowers, many avoid initial contact or fail to follow-up with our home retention specialists. For these situations, partnerships with non-profit counseling agencies are a critical bridge to reach hard-to-contact customers to explain foreclosure avoidance options.

Recently, Countrywide entered into a groundbreaking partnership with the Neighborhood Assistance Corporation of America ("NACA"). The NACA/Countrywide partnership leverages Countrywide's market leading home retention programs and NACA's unique model for counseling borrowers. Importantly, NACA has a national reach, with more than 30 offices around the country, including two in California—one in Los Angeles and one in Oakland.

NACA employs a comprehensive and methodical Home Save approach to counseling and budgeting that has produced immediate results for borrowers and their families. Homeowners will have a "waterfall" of options ranging from payment plans

to modifications to restructurings. We also believe that this partnership can serve as a model for us and others as we seek to serve additional borrowers.

Here in California, Countrywide also has the good fortune to work with a number of committed nonprofit organizations to help borrowers avoid foreclosures. We particularly want to take this opportunity to acknowledge the work of Los Angeles Neighborhood Housing Services ("LA NHS"). Countrywide has been able to work closely with LA NHS by having employees serve on its Foreclosure Solutions Task Force and participate in home preservation fairs like the one earlier this month that Rep. Loretta Sanchez helped to convene in Anaheim. These experiences with LA NHS and NACA, along with your efforts today, to host this hearing and another fair, make it an especially fitting time to take the next step in our relationship with LA NHS. It is our pleasure to announce that Countrywide has an agreement in principle with LA NHS which, when finalized, will engage them in working more closely with Countrywide borrowers to preserve homeownership. Through this anticipated fee-for-service arrangement, we look forward to being able to reach sustainable solutions with even more borrowers across Los Angeles.

While our agreements with nonprofit organizations like NACA and LA NHS are new, the efforts certainly are consistent with other elements of Countrywide's home preservation "investment" strategy, such as:

- Countrywide is a founding sponsor of the Homeownership Preservation Foundation's ("HPF") HOPE initiative, a national foreclosure prevention counseling program that assists borrowers in all markets, every day with its 1-888-895-HOPE hotline. Borrowers are often bombarded with foreclosure

rescue scams and other solicitations directing them to untrained counselors or untrustworthy organizations. The HOPE hotline provides borrowers with qualified and highly trained counselors whose sole mission is to help borrowers avoid foreclosure.

- We provide free access to counseling, including third party counseling from community organizations like Neighborhood Housing Service and National Foundation for Credit Counseling. Countrywide is a founding sponsor and active member of the NeighborWorks Center for Foreclosure Solutions. With over 200 affiliates across the country, NeighborWorks is a leader in developing innovative approaches to home preservation. Among its many virtues, it plays a vital role in disseminating best practices for financial institutions to test and use, developing curriculum and providing certification for housing counselors, and directly serving borrowers through counseling and outreach ranging from large national operations like the Homeownership Preservation Foundation to local, community-based activities. Nationally, Countrywide works with more than 40 different counseling organizations. In California, we recently have participated in home preservation events in Southern California with ACORN in Los Angeles and NeighborWorks in nearby Ventura County.
- Our efforts have included co-branding joint communication letters and advertisements encouraging the borrowers to contact either Countrywide directly or to work with a third party counselor who can assist them through the process. We augment this written outreach with local counselors who make

'face-to-face' contact with the borrowers, inviting them to work with us. To support the efforts of the many local counseling agencies around the country, we have established a dedicated contact system (via phone and email) that allows the counseling agencies working with our borrowers to quickly and directly contact Countrywide's Home Retention Division specialists and identify what we can do to assist our borrowers.

We also have joined with others in the industry to help borrowers avoid foreclosure. Countrywide has joined HOPE NOW, an alliance of mortgage servicers, nonprofit counseling agencies, investors and other mortgage market participants formed with the encouragement of the Department of Treasury and the Department of Housing and Urban Development. The first deliverable of that alliance began this week: a major mailing under the HOPE NOW banner targeting more than 300,000 at-risk borrowers and encouraging them to call their lender or a non-profit counseling agency to seek assistance. Research shows that borrowers have a much higher response rate to a mailing from an "impartial" organization (like the HOPE NOW Alliance) than to one from their creditors. As efforts progress, HOPE NOW also will be a vehicle that will help to establish best practices and improve the processes by which borrowers, counselors, servicers, and investors complete the steps necessary to advance their shared interest in foreclosure avoidance. With a shared understanding of borrower, counselor, servicer and investor needs, standardized practices, and a rules-based approach, the industry will bring additional scale and efficiency to our homeownership preservation efforts.

**Countrywide's Home Retention Track Record**

Countrywide's investments and foreclosure prevention initiatives are producing results that help borrowers avoid foreclosure and preserve their homes. In addition to refinancing into new loans, there are four broad categories of home retention solutions:

- Repayment Plan: An agreement between the borrower and lender outlining how to handle missed payments. Generally, these agreements require higher payments than the regular amount for a short period of time until the loan is brought current.
- Special Forbearance: A specified period of time (usually 3 to 6 months) that allows borrowers to make either lower payments or no payments at all. It is usually the case that later payments will be higher than the original monthly home loan payment until the loan is brought current.
- Loan Modification: Changes to one or more of the key terms of a loan that will bring a defaulted loan current. Modifications might include: reducing the interest rate of the loan and/or changing the loan product (for example from an adjustable rate to a fixed rate), or extending the maturity.

In addition, there are foreclosure avoidance transactions that, unfortunately, result in the loss of a home:

- Short Sale: If the borrower is willing to sell the home in order to avoid foreclosure, it is possible that the sale can be approved even if the home is worth less than what is owed on it.
- Deed-in-Lieu of Foreclosure: This takes place when a borrower voluntarily gives the deed to the property to the lender.

Over the course of recent months, several factors have helped servicers ramp up their efforts to assist borrowers achieve more home retention solutions. Over the summer, clarifications of certain tax and accounting issues allowed servicers to more proactively reach out to borrowers before their situations become dire. In addition, the investor and lending communities, led by the American Securitization Forum and the Mortgage Bankers Association, produced enhanced guidance to servicers to guide loan modification efforts.

These efforts are increasingly being reflected in Countrywide's home retention data. October saw a marked increase in the number of solutions we provided to distressed borrowers. Countrywide completed approximately 11,000 home retention solutions in October, of which 9,000 were loan modifications (permanent changes to note rate, amortization or loan amount). This brought the year to date total to over 55,000 work-out transactions, of which 29,500 were loan modifications. In fact, looking at a month-to-month comparison, the 9,000 modifications in October alone represent 80% of the month's workouts and an almost 275% increase over the number completed the prior month. Finally, in October, Countrywide was working with 100,000 borrowers in some stage of a workout transaction.

With our recent initiatives to reach borrowers even earlier, and our work with groups such as NACA and LA NHS, we expect the pace of workouts and the proportion of loan modifications to continue to grow. In short, borrowers are being helped with concrete, long-term solutions.

**Conclusion**

Countrywide believes that it is taking the right steps to reach the right borrowers at the right time. Countrywide has found ways to direct its resources effectively and efficiently toward those who are facing difficulties in making their mortgage payments. By proactively contacting designated categories of borrowers through its $16 billion home preservation program and being poised to respond efficiently to borrowers, Countrywide is taking comprehensive and concrete steps to help borrowers preserve their homes and to avoid foreclosure whenever possible. We have increased our capacity internally and are using a range of targeted and transparent methods that enable us to appropriately scale our efforts to help borrowers and fulfill our servicing obligations. Countrywide also values the relationships it has with others in the nonprofit sector and in the industry, such as our relationship with LA NHS, NACA, Neighbor Works and the HOPE NOW Alliance, that better enable us to help those borrowers who can be helped. Furthermore, all of these experiences continue to enhance Countrywide's ability to identify and develop even more streamlined and effective ways to conduct the necessary case analyses and complete transactions with our borrowers. Dynamic times ahead may call for additional initiatives as events unfold. If that occurs, Countrywide remains committed to being a leader in developing solutions for sustainable homeownership.

**CFC Sponsored Homeownership Retention Seminars**

Phoenix, AZ
Anaheim, CA
Fresno, CA
Los Angeles, CA
Oakland, CA
Ventura, CA
Dover, DE
Seaford, DE
Atlanta, GA
New Orleans, LA
Minneapolis, MN
St. Paul, MN
Las Vegas, NV
East Orange, NJ
Vineland, NJ
New York, NY
Charlotte, NC
Cincinnati, OH
Cleveland, OH
Columbus, OH
Nelsonville, OH
Toledo, OH
Philadelphia, PA
Memphis, TN
Dallas, TX
DeSoto, TX
Plano, TX

**California Association of Mortgage Brokers**

**Prepared Testimony of**

**Ed Smith, Jr., Chair, Government Affairs Committee**

**Vice President, Board of Directors**

**California Association of Mortgage Brokers**

**On Foreclosure Prevention and Intervention: The Importance of Loss Mitigation Strategies in Keeping Families in Homes**

**Before the**

**House Financial Services Committee, Subcommittee on Housing and Community Opportunity**

**United States House of Representatives**

**November 30, 2007**

Good morning Chairwoman Waters and members of the Subcommittee, I am Ed Smith, Jr., Government Affairs Committee Chair and Vice President of the Board of Directors of the California Association of Mortgage Brokers (CAMB). Thank you for inviting me to testify today before the Subcommittee on Housing and Community Opportunity to discuss ways to help families avoid foreclosure and remain in their homes. In my testimony today, I will share with you: (1) CAMB's efforts to help homeowners avoid foreclosure, (2) the difficulties CAMB has encountered in assisting consumers particularly during the process of loan modification, and (3) CAMB's recommendations to assist families trying to remain in their homes.

Since its inception in 1990, the California Association of Mortgage Brokers has promoted the highest standards of professional and ethical conduct. The Association provides education, legislative and regulatory representation, and public relations for its more than 4,000 members, which include mortgage brokers and affiliated service providers across California. CAMB also serves as a forum for the development of common business interests across the industry. CAMB is dedicated to helping to curb predatory lending practices, standardize the industry from within, and provide the best products available to our customers, including alternative loan products.

As you hear the numerous stories of unscrupulous actors in the mortgage industry, I want you to know that CAMB has led the nation in establishing and promoting industry standards and ethics. All CAMB brokers must adhere to a code of ethics, which sets us apart from other loan originators. CAMB aggressively supports the principle that the first line of protection for consumers is to work with professionals who hold a license, and thus are accountable to regulatory agencies, legislative bodies and the public for their actions. In addition, CAMB members stand for consumer choice in product selection and consumer knowledge and education.

## CAMB Initiatives to Protect Consumers and Preserve Homeownership

As you are well aware, California has been heavily impacted by the mortgage crisis, with many families in our state facing payment resets and even foreclosures. There are many reasons for the dramatic increase in foreclosures and I commend you for your work in Washington, D.C. to identify and, where appropriate, legislate federal intervention to ensure such deficiencies in the mortgage marketplace are not allowed to continue. In addition to correcting these problems for future homebuyers, I am pleased that you are today focusing on ways to help those families who are currently facing the loss of their home.

CAMB is currently engaged in a number of initiatives designed to protect consumers and preserve homeownership. CAMB believes strongly that our Association must lead by example to demonstrate to our consumers, regulators and elected officials that we share a common goal to make sure that every borrower who receives a loan has the means and the understanding to repay the mortgage. CAMB remains focused on assisting consumers during this time through consumer information, self-policing the industry, working with regulators at the federal and state levels to provide solutions, and continuing to fight against fraud in all of its forms.

Preserving Home Ownership Initiative Program (PHOI)

CAMB members have been reaching out to community leaders in an effort to provide assistance to homeowners who are facing foreclosure. CAMB has created the Preserving Home Ownership Initiative Program (PHOI) to provide free, community based forums that allow existing homeowners a one-on-one counseling session with a CAMB member broker that can educate the consumer about the terms, rate, and other important data contained within their mortgage note. Initially piloted in September 2006 in Santa Ana, California, CAMB has hosted six PHOI forums, including four town hall meetings with the California State Department of Consumer Affairs.

PHOI events feature one-on-one sessions with member brokers to educate homeowners on their current loan program. The events take place at community locations and often in partnership with other local organizations and elected officials. This program is designed to enhance the consumers' awareness of the loan process so that they know how to protect themselves. PHOI is an educational event for consumers and is absolutely not a forum for participating member brokers to generate leads or business. With that in mind, rules of conduct for members are strictly enforced. All broker counselors sign an agreement stating that they understand they are providing a free service and that self promotion is prohibited.

Other CAMB Consumer Protection Initiatives

- Helping to design California's strong predatory lending prevention law as well as being the first mortgage broker association in America to provide a clear definition of predatory lending practices as a crucial first step in their elimination.

- Producing the CAMB Best Practices Handbook reflecting the highest standards of professional conduct and consumer protection in the mortgage industry, adopted by a number of other states to guide loan originators in their mortgage broker associations.

- Creating and distributing CAMB's Consumer Education and Protection Worksheet, giving loan originators and borrowers a comprehensive and custom education about loan programs available and the lending process.

- Distributing a statewide broadcast Public Service Announcement on alternative loan products with online and toll-free options for consumers to speak with a CAMB expert in their community to receive one-on-one education about their specific loans.

- Providing consumer friendly resources and consumer protections tips on the CAMB website so that consumers have an additional opportunity to educate themselves on the importance of understanding the mortgage marketplace.

**CAMB's Experience With The Note Modification Process**

I would like to call your attention to a problem that a number of our CAMB brokers have identified in their efforts to assist homeowners in danger of foreclosure. There is great frustration among mortgage professionals that have tried to help consumers navigate the process and communicate with servicers about modifying their loans. Based on the stories I have heard from our members, I can only imagine what the consumer is going through when attempting to address their mortgage situation on their own.

CAMB brokers have experienced difficulty in finding the right person at a loan servicer to help with a loan modification. Customer service agents are turning people away immediately by saying they cannot help or that the homeowner is not qualified for help. In some cases, instead of offering the option of loan modification, customer service representatives have said that the person should just sell the house. CAMB members know this is misinformation by the customer service representatives, but they also know to be persistent and ask to speak to a person who handles loss mitigation or loan modification. Our concern is that consumers will likely not know to do this.

In spite of the misinformation provided by the initial customer service agent, CAMB brokers have found that once they persist and speak to someone with the authority to deal with loan modifications, the workouts can be completed. The problem is navigating the loan servicers' customer service maze to get to someone who can help. Consumers are being turned away before being given a chance to fill out a financial history form to process a modification request. Mortgage brokers can help navigate this process, but even they are having trouble: having their calls forwarded multiple times without anyone willing to help, being placed on hold for enormous amounts of time, leaving numerous messages without a

call back. The bottom line is that loan servicers must improve customer service responsiveness to consumers in trouble, including better education and training of customer service representatives.

CAMB offers the following suggestions for troubled homeowners in order to aid them in requesting a note modification. These tips apply not only to the consumer who is presently in financial difficulty but also to the consumer whose payment may be increasing in the near future. Clearly, servicers could make this process much easier for homeowners facing late payments or foreclosures.

**Prior to Contacting the Lender/Servicer**

- Locate all loan documents.
- Make a list of all monthly expenses, including food, utilities, medication, child care, etc.
- Compile all pay stubs or income documentation for the last 2 months.
- Be prepared to explain the reason for financial difficulty, including the expectation that this financial situation will be short term (i.e. less than 90 days) or long term (i.e. more than 90 days).

**When Contacting the Lender/ Servicer:**

*Immediately ask to be transferred to the Loss Mitigation Department.*
When you contact the lender/servicer, you will most likely be talking to a Customer Service Representative. It is very important to understand that the Customer Service Representative will probably not be able to help. Explain that is very important to be transferred to the Loan Mitigation Department in order to receive the proper assistance with a workout program for your mortgage payment.

If you are behind on your mortgage payments, you may have to first talk to someone in the Collection Department.

The key here is to have patience and not get discouraged. This can be a very frustrating experience and if you are having difficulty getting transferred or not getting the cooperation of the Customer Service Representative, simply ask to talk to their supervisor. Don't take no for an answer.

*Complete Information Request as Soon as Possible.*
Once you have contacted the Loss Mitigation Department and explained your situation, there are a variety of items they will ask you to send in:

- Financial worksheet (this will be mailed to you).
- A letter explaining the financial hardship.
- Copies of complete tax returns for the last two years, including W-2 forms.
- Copies of bank statements (all pages) for previous two to three months.
- Copies of two most recent pay stubs.

*Advocate for Yourself.*
The review process can take from two to four weeks, sometimes longer. Once the review process is over, the lender/servicer will contact you and explain what they propose for the note modification. Do not be afraid to tell them what you feel is the best situation for you. No agreement can be reached without the consent of both parties.

## CAMB's Federal Policy Recommendations to Help Prevent Foreclosure

As the mortgage crisis in California and the nation continues, CAMB is working to address the current needs of homeowners as well as working with policymakers at the state and federal levels to ensure that problems in the mortgage marketplace are corrected.

CAMB supports necessary reforms designed to protect consumers while ensuring access to a wide range of sound financing options for homebuyers and homeowners. As such, CAMB has developed a series of recommendations for Congress as you pursue viable and reasonable solutions to this crisis.

**1.) Make flexible repayment strategies available for borrowers facing default and foreclosure.**
CAMB urges loan servicers and secondary market investors to work with homeowners who are struggling to make their mortgage payments and facing the prospect of loan default and foreclosure. As discussed above, servicers must reform their customer service processes so that homeowners facing financial hardship are provided accurate information about their options.

**2.) Ensure borrowers in California have access to federally backed loans.**
In order for California borrowers to have the same access to sound, low-interest, federally backed loans as other Americans, CAMB strongly supports:

- **Increasing FHA and Conforming Loan Limits.**
  Increasing the FHA and conforming loan limits is critical to any effective effort to ease the mortgage crisis in high cost areas, such as California. Much of the turmoil

we are experiencing in California will continue to get worse unless federal mortgage products are made available for the purchase or refinance of entry level homes in high cost areas. This is because the median home price of $550,000 in California greatly exceeds lending limits for FHA and conforming loan products. Congress must increase the maximum loan amounts for FHA and GSE mortgage products in high cost housing markets, so that people living in high cost areas of the country will be able to refinance their current mortgage with stable, affordable mortgage products.

- **Reforming and updating FHA guidelines to increase access to these federally-insured home financing products**.
  CAMB believes that the lack of FHA program accessibility was a major determinant in the decision by so many Californians to choose sub-prime loans to achieve homeownership. Today, mortgage brokers originate the majority of loans and therefore, provide HUD with the most viable and efficient distribution channel to bring FHA loan products to the marketplace. However, many mortgage brokers are not able to offer FHA products. This is because FHA requires cost-prohibitive and time consuming financial audit and net worth requirements for mortgage brokers in order to originate FHA loans. This effectively bars mortgage brokers from originating FHA loans, leaving sub-prime loan products as the only option offered to many borrowers. Replacing FHA net worth and audit requirements with a surety bond will allow more mortgage brokers to offer FHA products while affording HUD superior protection against loss to the FHA program. Surety bonds will provide the FHA program with more financial protection than audits or net worth requirements, which are snapshots in financial time holding no real value in the event of actual FHA losses. Congress should allow mortgage brokers to purchase a surety bond in order to offer FHA products, so that more borrowers will have the option of an FHA mortgage.

**3.) Encourage Wall Street to work with lenders to develop lending programs and products that will remain attractive for capital investors and remain accessible to borrowers**.

CAMB believes that loan programs must provide borrowers with options to achieve and sustain homeownership. Viable, time-tested loan programs must be restored to the mortgage market.

**4.) Ensure high standards of professionalism throughout the mortgage industry.**

CAMB urges Congress to ensure any new legislative provisions to combat predatory lending, such as licensing requirements and compensation disclosures, apply equally to all

mortgage originators. By doing this, consumers will be able to make informed decisions about the loan products available to them, no matter the distribution channel.

## Conclusion

It is clear that all stakeholders must work together to protect the American dream of homeownership during this period of uncertainty in our nation's mortgage marketplace. CAMB's number one priority has always been, and shall remain, the consumer. As such, this Association will continue to be a champion for industry professionalism and consumer education and will continue to fight to protect homeownership opportunities for all Americans. CAMB members and mortgage professionals who adhere to a strict code of ethics will continue to call upon our colleagues within the industry to join CAMB in providing safe, viable and reliable pathways to homeownership.

On behalf of the California Association of Mortgage Brokers, thank you for this opportunity to share our recommendations and strategies for preserving homeownership in California during this difficult time. I am happy to answer any questions you may have.

# Foreclosure Prevention and Intervention: The Importance of Loss Mitigation Strategies in Keeping Families in Their Homes

Written Testimony
of

Tara Twomey
Of Counsel
National Consumer Law Center

Before the United States House of Representatives Subcommittee on Housing and Community Opportunity

November 30, 2007

Chairwoman Waters and members of the Subcommittee, thank you for inviting me to testify today regarding loss mitigation strategies and foreclosure prevention. My name is Tara Twomey. I am an attorney, currently of counsel to the National Consumer Law Center[1] (NCLC), and a Lecturer at Stanford Law School. I am also a co-investigator, along with Professor Katherine Porter from the University of Iowa, in the Mortgage Project, a national empirical study of mortgage claims in consumer bankruptcy cases.

I testify here today on behalf of the low-income clients of the National Consumer Law Center (NCLC). On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government and private attorneys representing low-income consumers across the country. In addition, NCLC's California Economic Justice Initiative focuses specifically on the needs of California's low-income consumers and provides support to advocates throughout the state who represent low-income California consumers. Currently, our greatest demands for assistance in California are related to the growing foreclosure crisis.

Today, I will talk about loan modification[2] as a strategy to limit the devastating consequences of skyrocketing foreclosure rates. I will highlight some of the challenges to implementing this strategy at a scale commensurate with the foreclosure problem. These challenges are significant, but they are not insurmountable roadblocks. We have not come to a dead end, but Congress needs to act now to make long-term, sustainable loan modifications a viable option for the millions of homeowners that will face foreclosure in the coming years.

Specifically, members of Congress must require servicers to engage in reasonable loss mitigation efforts before initiating a foreclosure. This would have the result of moving loan servicers to scale up their loss mitigation activities, promote home-saving options over home-losing options, and offer affordable, long-term loan modifications. We also support automatic loan modifications to address the large magnitude of the foreclosure crisis. Such automatic loan modifications must be accompanied by case-by-case analysis for borrowers who are not eligible for such automatic treatment or for whom such change is insufficient to provide long-term affordability.

**The Foreclosure Crisis**

For over a decade, abuses in the subprime market have undermined the efforts of hardworking families to acquire and retain the dream of homeownership. For many, it is their only source of wealth accumulation. Since 1980, foreclosures have increased almost 300 percent, but homeownership has increased only five percent.[3] Last year, homeowners suffered over one million foreclosures, more than a 40 percent increase from the previous year.[4] In 2007, foreclosure filings have continued to soar. As of the end of the third quarter of 2007, residential foreclosure filings are nearly double what they were for the same period

in 2006.[5] Nationwide, it is estimated that 2.2 million households with subprime mortgage loans have lost or will lose their home to foreclosure over the next several years.[6]

For California the picture is even bleaker than that of the United States as a whole. The most recent data available shows 148,147 foreclosure filings on 94,772 properties in California for the third quarter of 2007.[7] These figures represent a 36 percent increase from the previous quarter and a 297 percent increase from the previous year. Fourteen of the fifteen markets with the largest increase in projected subprime foreclosure rates are in California and, it is estimated that more than 21% of all California subprime loans originated in 2006 will fail.[8]

**Big Problem, Little Response.**

Loan modification has been identified as one of the preferred strategies for addressing the rising tide of foreclosures.[9] Despite the potential benefits of loan modifications,[10] the magnitude of the foreclosure crisis dwarfs the current response from the financial services industry.

A loan modification is a written agreement between the servicer and the homeowner that *permanently* changes one or more of the original terms of the note in order to help the homeowner bring a defaulted loan current and prevent foreclosure. Loan modifications may reduce the interest rate or principal amount of a mortgage loan, may change the mortgage product (for example, from an adjustable rate to a fixed rate), may extend the term of the loan, or may capitalize delinquent payments. While not a panacea for all that is ailing in the subprime mortgage market, long-term, sustainable loan modifications can provide significant relief to the nation's distressed homeowners.

There have been several efforts to seek mass loan modifications through voluntary measures. Senate Banking Committee Chairman Dodd held a meeting last spring resulting in a set of servicing principles aimed at long-term affordability.[11] More recently, Treasury Secretary Paulson has encouraged voluntary commitments from servicers to contact borrowers and explore new loan modification approaches.[12] In September 2007, the federal and state banking regulators issued a joint statement on loss mitigation strategies, referencing earlier guidance and encouraging usage of loss mitigation authority available under pooling and servicing agreements and the Dodd principles.[13] Unfortunately, to date the commitments from the industry have not resulted in large-scale changes on the ground.

Housing counselors, attorneys and borrowers still report major problems in seeking loan modifications for unaffordable loans. It is clear that the financial services industry, has failed to implement a loan modification strategy on a scale commensurate with the problem. In September 2007, Moody's Investor Services surveyed 16 mortgage servicers that accounted for 80 percent of the market for subprime loans and found that most of those companies had modified only about 1 percent of loans with interest rates that reset in

January, April and July 2007.[14] In October 2007, the California Reinvestment Coalition surveyed 33 percent of the California's mortgage counseling agencies that offer assistance to financially distressed borrowers and found that servicers were not consistently modifying loans for long-term affordability.[15] Instead most borrowers were being pushed into foreclosure or short sales.[16]

In California, where the anticipated payment shock will effect as many as 300,000 homeowners in the next year.[17] Recently, California Governor Armold Schwarzenegger announced an agreement with four large servicers of subprime mortgage loans under which interest rates will be frozen for homeowners who reside in their property, are not delinquent on their payments,[18] and show that they cannot afford a scheduled rate increase. The length of time for the proposed freeze remains unspecified, though it is clear that the agreement did not contemplate permanent loan modifications. This voluntary effort to "fast-track" these temporary loan modifications is a significant step in the right direction. However, the "kick the can" approach to solving the foreclosure crisis does not achieve the goal of affordable and sustainable homeownership for those affected borrowers. Instead, it merely postpones the day of reckoning.

Sheila Bair, Chairman of the FDIC, has called for automatic loan modifications for borrowers with subprime ARMs.[19] A recent report from the Joint Economic Committee also suggested that automatic loan modifications are needed.[20] We applaud Chairman Bair's leadership on this issue. Without large-scale approaches to loan modifications, many homeowners will be left with no recourse except to surrender their homes as a result of abusive loans that they received.

**Getting Over the Hurdles to Loan Modification**

It is well-known that there are several structural barriers to "scaling up" loan modification efforts. These include:

• Finding the Decisionmaker – From the homeowner's perspective one of the biggest obstacle to loan modification is finding a live person who can provide reliable information about the loan account and who has authority to make loan modification decisions. Stories abound of exasperated homeowners attempting to navigate vast voice mail systems, being bounced around from one department to another, and receiving contradictory information from different servicer representatives.[21] Borrowers deserve better and loan servicers need to find a way to provide timely, consistent and competent information to borrowers.

• Pooling and Servicing Agreement Constraints – Once the borrower make contact with someone in the servicer's shop, an appropriate loan modification may remain elusive due to the terms of the pooling and servicing agreement (PSAs), which govern most subprime mortgage securitizations.[22] Some pooling and servicing agreements limit the

servicer's ability to modify loans while others may cap loan modifications by number or percentage of outstanding balance in the loan pool. While the majority of PSAs are not likely to have restrictions on loan modifications, a small minority actually prohibit loan modifications altogether.[23]

• Mismatched Interests – Even where PSAs do not restrict loan modifications, the misaligned interests of the borrowers, servicers and investors create impediments to successful loan modification agreements. While borrowers are struggling to save their homes, servicers are tasked with maximizing returns to investors.[24] In addition, servicers have their own incentives to minimize costs and maximize revenues.[25]

• "Tranche" Warfare – The securitization process can also lead to mismatched interests among the investors in any given loan pool. A typical securitization results in different classes of securities, called tranches.[26] Loan modifications can have different effects on different tranches giving rise to a conflict of interest between investors. As a result, servicers may be reluctant to engage in significant loss mitigation for fear of being sued by disgruntled investors.[27]

To ensure that loan modifications happen on the scale necessary to address the coming waves of foreclosures, Congress should require servicers to engage in reasonable loss mitigation prior to foreclosure. This requirement will push the market to deal with the above inefficiencies so that loss mitigation opportunities are maximized. Such a measure also would address the limited effect of voluntary efforts undertaken to date.

**Beyond Rate Reset Problems**

While rate resets pose a substantial hurdle for many borrowers, another group of distressed borrowers have received much less attention. These homeowners have not been subject to payment shocks or adverse life events, but rather have been saddled with unaffordable loans from the moment of origination.

Much of the loan modification strategy has focused on dealing with upcoming rate resets on the ubiquitous 2/28 and 3/27 ARMs.[28] This mortgage product, which dominated the subprime market from 2004 to 2006, is characterized by a fixed rate for the first two years, followed by an adjustment every 6 months thereafter. Often these loans are structure with an initial "teaser" or discounted rate. After the two-year fixed period for these loans expires, the interest rate, and accordingly the borrower's payments, can increase significantly. The "payment shock" resulting from this adjustment is often cited as a major cause of rising defaults in the subprime market.[29]

However, many other borrowers were unwittingly pushed into unaffordable loans by unscrupulous mortgage brokers or lenders. Such unsustainable loan can quickly drag families into financial trouble, and in some cases into bankruptcy in an effort to save their homes. Ms. Halliburton, a 77-year old, Philadelphia homeowner, is one such borrower.[30]

She was given a 2/28 ARM from Countrywide Home Mortgage in April 2006.[31] As is common with a 2/28 ARM, her initial payment was based on a discounted rate of interest.[32] In Ms. Halliburton's case that "discounted rate" was 9.625%.[33] In March 2007, Ms. Halliburton testified at a Senate congressional hearing about the circumstances surrounding the origination of her mortgage loan and her difficulties in making her mortgage payments.[34] Much of the discussion at that hearing focused on teaser rates, payment shocks and the underwriting standards for 2/28 ARMs. In many respects Ms. Halliburton fit the all-too common portrait of a borrower suffering payment shock, save one important fact. Her loan was not scheduled to adjust until May 2008.[35]

Ms. Halliburton's initial monthly loan payment was $922.24 for principal and interest. This amount did not include approximately $180 a month for taxes and insurance. All totaled Ms. Halliburton's monthly payment for principal, interest, taxes and insurance consumed 62% of her Social Security income, leaving her with only $664 a month for other expenses such as food, medicine, and utilities.

A loan modification strategy that will work for Ms. Halliburton, and those like her, will take more than temporary or even permanent freezes on adjustable rates. Borrowers like her need interest rate reductions and principal reductions in order to restore long-term stability.

A sensible approach would involve a two-step process in which automatic loan modifications are made to certain classes of loans where borrowers are eligible, followed by a variety of case-by-case measures. Automatic loan modifications would include conversion of adjustable rate mortgages to fixed rate loans at the teaser rate, or the fully indexed rate, which is lower; write downs of fixed rate loans to the par rate; and/or principal reductions to present market value. After exhaustion of this tier, case by case assistance would include a stay on foreclosure while the servicer does a good faith review of the borrower's long-term financial situation and offers a repayment plan, forbearance, loan modification or other option to bring the arrears current. Failure to engage in this process, as noted above, should be a defense to foreclosure.

It remains to be seen whether servicers and lenders are willing to take the necessary steps in modifying loans. Given hurdles in even achieving minimal concessions on loan modifications, it is unlikely that servicers and holders will fix the wrongs perpetrated on vulnerable homeowners across the nation without a requirement to do so.

**Loan Modification Should Not Be A New Opportunity for Abuse**

Recent headlines and court decisions around the country have called into question servicer and holder conduct with respect to borrowers in default.[36] For some time now homeowners and consumer advocates have struggled with servicers who have no interest in helping families stay in their homes. Rather, in the interest of maximizing profits servicers

have engaged in a laundry list of bad behavior and exacerbated foreclosure rates.[37] The most common abuses in loan servicing include misapplication of payments, use of suspense accounts, failure to make timely escrow disbursements, and cascading fees imposed upon homeowners in default.[38] These abuses exist because there are market incentives rather than deterrents for this type of behavior.[39]

For the same reasons, large-scale loan modifications present new opportunities for servicer abuse. The information asymmetry often critiqued in the loan origination context is even worse in the loss mitigation process.[40] The disclosure of information is entirely one-sided. The borrower is required to provide much of the same documentation related to their financial status as is required (or should have been required) at the origination stage. The servicer produces nothing except a "take-it-or-leave-it" agreement. Two problems that have already taken root are the charging of unreasonable fees and a requirement that the borrower waive any past or future claims. These practices need to be nipped in the bud and not allowed to flourish.

• Unreasonable or Unearned Fees – Compensating loan servicers for loan modifications may be critical to the success of the loan modification strategy.[41] However, the amounts charged by the servicer, usually to the homeowner, should reflect a reasonable fee and actual costs, must be allowed under the terms of the note and security instrument, and should not violate state law.[42] Additionally, fees assessed to the borrower should be reduced when another party is compensating the servicer for their work.[43] Reduced fees or waiver of the fee should also be available.

• Waiver of Rights – Often loan modification agreements contain a waiver of claims provision that purports to release the servicer and holder from any past or future claims that the borrower may have. For example, in a recently reviewed forbearance agreement the borrower upon execution of the agreement released the "lender" from any claims or damages, including those that were unknown, including "tort claims, demands, actions and causes of action of any nature whatsoever arising under or relating to the Loan Documents or any of the transactions related thereto, prior to the date hereof, and borrowers waive application of California Civil Code Section 1542."[44] This broad release language potentially cuts off all claims the borrower may have related to the origination or servicing of the loan and is simply inappropriate in the context of a loan modification agreement.

**Conclusion**

The foreclosure crisis is real, it is big, and it is growing. To date, the financial industry has failed to voluntarily scale up their loss mitigation activities to address the magnitude of the problem. A right to reasonable loss mitigation prior to foreclosure is needed to promote

home-saving options over home-losing options and encourage affordable, long-term loan modifications. Measures also need to be taken to address general servicing abuses, which otherwise could derail the loan modification process. We look forward to working with Representative Waters and the Committee to address these issues.

---

[1] The National Consumer Law Center, Inc. (NCLC) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. NCLC publishes a series of sixteen practice treatises and annual supplements on consumer credit laws and bankruptcy, including Foreclosures (2d ed. 2007), Consumer Bankruptcy Law and Practice (8th ed. 2006), Truth In Lending, (5th ed. 2003) and Cost of Credit: Regulation, Preemption, and Industry Abuses (3d ed. 2005) as well as bimonthly newsletters on a range of topics related to consumer credit and bankruptcy issues. NCLC attorneys have written and advocated extensively on all aspects of consumer law affecting low income people, conducted training for thousands of legal services and private attorneys on the law and litigation strategies to deal predatory lending and other consumer law problems, and provided extensive oral and written testimony to numerous Congressional committees on these topics. NCLC's attorneys have been closely involved with the enactment of all the federal laws affecting consumer credit since the 1970s, and regularly provide extensive comments to the federal agencies on the regulations under these laws.

[2] Loan modification is one of several loss mitigation alternatives. For those experiencing temporary hardships options such as a repayment plan or forbearance agreement may be the most appropriate option. These generally require homeowners to make up missed payments within a specified period of time. By contrast loan modification is appropriate when short-term relief measures are insufficient. Other loss mitigation alternatives do not result in the borrower remaining the home. A short sale is a sale of property in which the servicer/lender agrees to accept the proceeds of the sale to satisfy the defaulted mortgage, even though this may be less than the amount owed on the mortgage. A deed in lieu of foreclosure is a workout option in which a homeowner voluntarily conveys clear property title to the servicer/lender in exchange for a discharge of the debt.

[3] NCLC analysis based on data through 2005 from Mortgage Bankers Association, National Delinquency Survey; U.S. Census Bureau, Statistical Abstract of the Unites States, U.S. Census Bureau, American Housing Survey and American Community Survey.

[4] RealtyTrac, *More Than 1.2 Million Foreclosure Filings Reported in 2006* (Jan 25, 2007), *available at* http://www.realtytrac.com/ContentManagement/pressrelease.aspx?ChannelID=9&ItemID=1855&accnt=64847.

[5] ReatlyTrac, *Foreclosure Activity Up 30 Percent in Third Quarter* (Nov.1, 2007), *available at* http://www.realtytrac.com/ContentManagement/pressrelease.aspx?ChannelID=9&ItemID=3567&accnt=64847.

[6] Ellen Schlomer, et al, *Losing Ground, Foreclosures in the Subprime Market and Their Cost to Homeowners*, Center for Responsible Lending (December 2006) at 3.

[7] RealtyTrac, *Foreclosure Activity Up*, *supra* note 5.

[8] Schlomer , *supra* note 6 at 20, 47.

[9] *See, e.g.,* Cheyenne Hopkins, *Modification: Tentative Steps Toward a Regulatory Consensus*, American Banker (Nov. 27, 2007); *The Subprime Lending Crisis: The Economic Impact on Wealth, Property Values and Tax Revenues, and How We Got Here*, Report and Recommendations by the Majority Staff of the Joint Economic Committee (October 2007)(one of the key policy recommendations put forth in the report was to direct servicers and lenders to make safe and sustainable loan modifications); Remarks of FDIC Chairman Sheila C. Bair, American Securitization Form (ASF) Annual Meeting (June 6, 2007)("The immediate task is to sustain homeownership by ensuring the servicers have the flexibility they need to make prudent loan modifications").

[10] *See* Remarks of FDIC Chairman Sheila C. Bair, *supra* note 9 (stating that loan modification that provide sustainable mortgage for borrowers are generally the best option for investors and borrowers).

[11] Senator Dodd Unifies Industry Members, Consumer Representatives to Help Preserve the American Dream of Homeownership (May 2, 2007), *available at* http://dodd.senate.gov/index.php?q=node/3863/print

[12] Associated Press, *Paulson to mortgage industry: help curb defaults* (Oct. 31, 2007), *available at* http://money.cnn.com/2007/10/31/real_estate/paulson_housing.ap/.

[13] Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages (September 2007), *available at* http://www.occ.treas.gov/ftp/bulletin/2007-38a.pdf

[14] Michael P. Drucker, et al., *Moody's Subprime Mortgage Servicer Survey on Loan Modifications*, Moody's Investor Services (Sept. 21, 2007), *available at* http://americansecuritization.com/uploadedFiles/Moodys_subprime_loanmod.pdf.

[15] California Reinvestment Coalition, *Survey Results Show Lenders not Helping Borrowers Keep their Homes* (October 10, 2007), *available at* http://www.calreinvest.org/news-room/2007-10-10

[16] *Id.*

[17] *Gov. Schwarzenegger Works with Lenders to Help Homeowners Avoid Foreclosure*, Press Release, Office of the Governor (Nov. 20, 2007), *available at* http://gov.ca.gov/press-release/8147/.

[18] Oddly, the agreement does not appear to provide any relief to borrowers who may be in default as a result of rate resets that have already occurred. Presumably, these borrowers may continue to request loan modifications through the "slow-track" channels.

[19] Remarks of FDIC Chairman Sheila C. Bair, *supra* note 9.

[20] *See, e.g., Subprime Lending Crisis*, *supra* note 9.

[21] *See, e.g.,* Gretchen Morgensen, *Can These Mortgages Be Saved?,* New York Times (Sept. 30, 2007)(describing one homeowner who identified 670 calls relating to her home foreclosure in the previous three months and who received nine different answers about how best to proceed from 14 different people at the company); *Miller v. McCalla*, Raymer, 214 F.3d 872, 875 (7th Cir. 2000)(describing the process of trying to get through to an 800 number as a "vexing and protracted undertaking").

[22] *See* Kurt Eggert, *Comment on Michael A. Stegman et al.'s "Preventive Servicing Is Good Business and Affordable Homeownership Policy": What Prevents Loan Modifications?,* 18 Housing Pol'y Debate 279 (2007).

Pooling and servicing agreements broadly govern the formation of the trust in the securitization process, the servicing of the loans in the trust, and the duties of the various parties to the trust agreement.

[23] This later group of PSAs are particularly troublesome given that, according to the Consumer Mortgage Coalition, in most private label securitizations there is a "lack of an active decision-maker from which the servicer could obtain waivers of the usual requirements, no entity exists with the authority to grant waivers." Sam Garcia, *Group Warns on Large Scale Modifications: Consumer Mortgage Coalition sends letters to the FDIC*, Mortgage Daily News (Oct. 9, 2007).

[24] Pooling and servicing agreements universally require servicers to act in the best interest of the certificate holders. Credit Suisse, *The Day After Tomorrow: Payment Shock and Loan Modifications* (April 5, 2007). To determine whether a purposed loan modification maximizes the recovery to the investors, servicers compare the anticipated recovery under the loan modification to the anticipated recovery through foreclosure on a net present value basis. American Securitization Forum, Statement of Principles, Recommendations and Guidelines for the Modification of Securitized Subprime Residential Mortgage Loans (June 2007), *available at* http://www.americansecuritization.com/uploadedFiles/ASF%20Subprime%20Loan%20Modification%20Principles_060107.pdf.

[25] *See* Eggert, *supra* note 16; Joseph R. Mason, *Mortgage Loan Modification: Promises and Pitfalls* (Oct. 3, 2007), *available from SSRN at* papers.ssrn.com/sol3/papers.cfm?abstract_id=1027470

[26] Eggert, *supra* note 16.

[27] *Id.*

[28] *See, e.g.*, *Subprime Lending Crisis*, *supra* note 9 (identifying the root of the subprime mortgage crisis as the prevalence of 2/28 and 3/27 hybrid loans).

[29] *Id.*

[30] Written Statement of Alan M. White on behalf of Jennie Haliburton, Mortgage Market Turmoil, Causes and Consequences, U.S. Senate Committee on Banking, Housing, and Urban Affairs (Mar. 22, 2007).

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] Mortgage Market Turmoil, Causes and Consequences, U.S. Senate Committee on Banking, Housing, and Urban Affairs (Mar. 22, 2007).

[35] Written Statement of Alan M. White on behalf of Jennie Haliburton, Mortgage Market Turmoil, Causes and Consequences, U.S. Senate Committee on Banking, Housing, and Urban Affairs (Mar. 22, 2007).

[36] *See, e.g.*, Gretchen Morgensen, *Dubious Fees Hit Borrowers in Foreclosures,* New York Times (Nov. 6, 2007); Porter, Katherine M., *Misbehavior and Mistake in Bankruptcy Mortgage Claims* (November 6, 2007). University of Iowa College of Law Legal Studies Research Paper Series Available at SSRN: http://ssrn.com/abstract=1027961 (describing the systematic failure of mortgage servicers to comply with bankruptcy law and fees and charges that are poorly identified and do not appear to be

reasonable); *In re Foreclosure Cases*, 2007 WL 3232430 (October 31, 2007)(dismissing 14 foreclosure cases because purported holder could not demonstrate ownership of the loan at the time the foreclosure action were filed).

[37] *See* National Consumer Law Center, *Foreclosures*, Ch. 6 (2d ed. 2007)(describing the most common mortgage servicing abuses).

[38] *Id.*

[39] *See* Eggert, *supra* note 9

[40] *See* Mason, *supra* note 19, at 9-10 (noting that the modification proposal and acceptance by the consumer are not required to generate any of the records, disclosure, and restrictions placed on loan originations).

[41] *See* Mason, *supra* note 19 at 6-7 (describing the high costs that result from the labor-intensive process of evaluating each borrower's capacity to pay).

[42] The Fannie Mae Single Family 2006 Servicing Guide allows servicers to charge the borrower $500 to cover its administrative processing costs, plus the actual out-of-pocket expenses for a credit report and other documented expenses. *See* Fannie Mae Single Family 2006 Servicing Guide, Part VII, 502.02 (Modifying Conventional Mortgages)(9/30.05), available at http://www.allregs.com/efnma/. There is no limit on modification or workout fees charged by servicers on loans not covered by the Fannie Mae or Freddie Mac Servicing Guides.

[43] For example, the Office of Thrift Supervision is reported to be working on its own loan modification strategy, which will compensate servicers with $500 per modified loan. *See* Alan Zibel, "Proposal would pay to convert loans," *The Sun Herald* (Nov. 21, 2007), available at http://www.sunherald.com/business/story/194064.html.

[44] Section 1542 of California's Civil Code provides that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

# TESTIMONY

# OF

# THE HONORABLE ANTONIO R. VILLARAIGOSA

# MAYOR

# CITY OF LOS ANGELES

## BEFORE THE

## COMMITTEE ON FINANCIAL SERVICES

## SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

## UNITED STATES HOUSE OF REPRESENTATIVES

## THE HONORABLE MAXINE WATERS
## CHAIR

November 30, 2007

**1. How has Los Angeles been affected by the current foreclosure crisis?**

In the City of Los Angeles, we have experienced a dramatic rise in the number of foreclosures as the fall-off of housing prices and the collapse of the sub-prime mortgage sector have progressed. Thus far, 2007 has been the worst year. In the first quarter of 2006, there were 115 foreclosures in the City of Los Angeles. By contrast, in the first quarter of 2007, foreclosures increased six-fold and 716 households lost their homes. Since then, foreclosures have risen steadily, with 850 mortgage foreclosures in the second and 1,177 in the third quarter. Statistics from specific areas of the City, indicate that this upward trend is continuing in the fourth quarter. In the San Fernando Valley, for example, foreclosures jumped by 112 from September to October to reach 414 for the month.

Significantly, the foreclosure crisis has disproportionately affected our City's most economically vulnerable neighborhoods. The ten zip codes with the highest rate of foreclosure activity--i.e., notices of default, notices of foreclosure, foreclosure sales -- were located in the Northeast San Fernando Valley and in South Los Angeles. These zip codes are: 91342, 90043, 90044, 91331, 90003, 90047, 91335, 91343, 90002, and 91344. The vast majority of sub-prime loans, which are the loans with the highest rates of foreclosure, have been made to African-American and Latino households. In other words, Los Angeles has experienced, and will continue to experience, a massive loss of equity and financial destabilization in the

neighborhoods and in the communities that can least afford such circumstances.

Furthermore, there is mounting evidence that the corrosive effects of the mortgage foreclosure crisis are beginning to spread beyond individual households. One of the most pernicious consequences of widespread foreclosures is the increase in neighborhood blight caused by vacant houses. Already in Los Angeles, there is an increase in the number of abandoned building referrals to the Department of Building and Safety, as well as a rise in the number of nuisance-building cases referred to our Abandoned Building Task Force. There is also an increase in anecdotal reports of renters being evicted from apartment buildings on which the mortgages have been foreclosed.

**2. What impact, if any, has the crisis had on the City's property tax base and property tax revenues? Does the City anticipate such an impact? If so, what is the extent of this impact and how will it affect the City's ability to provide services to residents?**

Madame Chair, I want to stress the terrible human cost of the mortgage foreclosure crisis. When families lose their homes, they not only suffer a devastating economic blow, but they also lose their connection to the community and the most basic human need--a stable, secure place to live.

The financial effects of foreclosure extend well beyond the individual household. Lenders, fellow homeowners, and municipalities all face costs from mortgage foreclosures. Consequently, all have a shared interest in

mitigating the financial repercussions of the current crisis. Lenders and investors face losses of between $.20 and $.60 cents on the dollar, and by one estimate, the average cost of a foreclosure to the lender is more than $58,000. Studies of the impact of foreclosures on the value of neighboring homes have found a cumulative negative impact. Each foreclosure in a neighborhood lowered the values of surrounding homes by .9%. In lower-income neighborhoods, the impact was even greater, dropping surrounding home values by 1.44% per foreclosed home.

The costs of the foreclosure crisis to the City include the direct costs associated with the foreclosure process, the loss of property tax revenues and the decrease in the Gross Metropolitan Product, that is, the value of all final good and services produced within the metropolitan area.

The study, "Collateral Damage: the Municipal Impact of Today's Mortgage Foreclosure Boom," indicates that the municipal costs of managing foreclosed properties can be staggering. Cities faced with widespread foreclosures face rising costs for increased policing, building inspections, administration of the foreclosure process, and maintenance and/or demolition of abandoned buildings. "Collateral Damage," which is a case study of Chicago, found that the city faced costs ranging from under $100 to over $30,000 per property.

Regarding the specific impact of the foreclosure crisis on property taxes, the situation is complex, and we do not yet have all of the data we need to make a precise assessment. Distress in the real estate market typically

affects property tax rates several years downstream, although it is typical to see slower growth in receipts even at the beginning of a slowdown as distressed borrowers defer tax payments in order to meet their mortgage payments.

The rise in foreclosures will affect City property tax revenues in two areas: the collection rate and adjusted valuations.

We have anticipated a declining tax collection rate and have made our budget calculations based on this anticipated decline. However, we will not have the first property tax installment data until December. At that time, we may be able to discern if our projections are correct or if the rate is at risk of falling below the reduced budget level.

For the upcoming budget year (FY 2008-09), it is likely the collection rate will fall and if the real estate downturn is prolonged, the collection rate could fall for several years as it did in the early 1990s. This would reduce budgeted revenue until the distressed properties are redeemed.

Declines in property values caused by widespread foreclosures will contribute to downward tax reassessments. Assessed valuations of property are revised downwards when an appeal of the valuation is successful. The successful appeal process requires a refund of the excess taxes already paid by the property owner and distributed to the City and a lower assessment in future years until the property value returns to its former level. Should the price level fall, property owners who are not foreclosed upon may seek a

downward assessment. And in a prolonged downturn, if property changes hands at a price lower than the current assessment, the new price would be the basis for the valuation.

In general, it is still too early to put a precise dollar amount of the current foreclosure crisis and housing downturn on property tax receipts. However, if past slumps are an indication, we expect a significant impact on city finances in the future.

Further, "The Mortgage Crisis: Economic and Fiscal Implications for Metro Areas," which was recently prepared for the United States Conference of Mayors, has examined the effects of foreclosures and falling home prices on the Gross Metropolitan Product in the countries major metropolitan areas, including the Los Angeles-Long Beach-Santa Ana metro area. The report forecasts that the declines in home prices, the accompanying decline in consumer spending, and other elements of economic weakening associated with the foreclosure crisis will significantly impact Los Angeles' gross metropolitan product. The Los Angeles area's GMP is forecast to grow by only 1.7%. This is a full percentage point lower than would be the case without the current housing market woes and represents an $8.3 billion loss of nominal GMP.

The negative fiscal impact of the foreclosure crisis exacerbates the City's budgetary challenges. One of my goals as Mayor has been to improve the City's fiscal discipline while, simultaneously, improving the kind and quality of City services. While the first two years of my administration have been

extremely successful, this fiscal year, we face a much more challenging budget situation. The growth of general fund revenues is forecast to be only a modest 1.3%. Moreover, there is uncertainty regarding the Telephone Users Tax, the loss of which would equal an estimated $270 million. The negative fiscal impact of the foreclosure crisis will only serve to sharpen the City's budgetary challenges.

**3. In your opinion, what has contributed to the city's foreclosure rank (ranked 26th nationally)? In what ways do you anticipate the current crisis to worsen for Los Angeles homeowners?**

The vast majority of foreclosures are taking place in the sub-prime mortgage sector of the market relative to loans that were originated between July 2005 and September 2006. Sub-prime loans default at a much higher rate than prime loans. In the second quarter of 2007, sub-prime loans represented only 15% of the outstanding mortgages in California, but nevertheless accounted for 68% of the state's foreclosure starts. We are also seeing an increase in the rate of delinquency among sub-prime loans. From February to July of this year, the rate of delinquency rose from 11.1% to 19.4%. Los Angeles, like the rest of the state, has a significant number of sub-prime loans.

The significant number of sub-prime loans made to City residents, combined with the high rate of foreclosure in the sub-prime sector, helps to explain the high number of foreclosures in the city.

Unfortunately, we expect that the problem will only worsen. Many sub-prime adjustable-rate mortgage loans are about to reset. The pace of the resets will increase through July 2008. Because these mortgage loans go into foreclosure at a higher rate than prime mortgage loans, we can expect a continued increase in defaults and foreclosures well into then end of 2008.

These are very sobering numbers, but I would caution against focusing too much on statistics and losing our view of the bigger picture.

Many sub-prime adjustable-rate mortgage loans were designed to fail and were not made in the best interest of the borrower. These lenders have now gone out of business and are nowhere to be found. As such, the need for reform of national and state lending laws, including increased consumer protections against predatory lending, is urgent and immediate!

The need is critical for meaningful financial education and for building healthy relationships between low-income residents and responsible banking and lending institutions. In our low-to-moderate income neighborhoods, 30% of residents lack a relationship with a bank. In neighborhoods with more extreme poverty, the percentage is even higher. This situation, combined with the lack of financial education, leaves our most economically vulnerable residents exposed to the predations of irresponsible financial agents.

I am proud to say that the City of Los Angeles has a successful model for encouraging long-term, financial secure homeownership among low- and moderate- income households. The Los Angeles Housing Department

administers three programs that serve first-time home buyers earning between 80% and 150% of AMI. Two key components of these programs stand out, especially in light of the current crisis: 1) program participants much complete extensive financial education and, 2) they must secure traditional, fixed-rate mortgages. As we move forward from mitigating the negative effects of the current crisis, to creating programs to serve low-income residents, I would strongly encourage increased funding for such homeownership programs with a mandatory counseling component. Such programs foster healthy, livable, sustainable neighborhoods and are proven vehicles for family wealth creation.

**4. In your opinion, what is preventing servicers from working with homeowners to prevent foreclosures? How can these obstacles or problems be surmounted?**

Servicers have signaled their desire to work with borrowers, and we believe that many are. However, we also believe that much more can and should be done.

Our goal, at the municipal level, is to foster local lender accountability. As the crisis grows, the need for a streamlined, transparent process for loss mitigation will grow ever more urgent. We need lenders to publicize their loss mitigation programs and the criteria they use to decide how they can help distressed borrowers.

We also need lenders to provide periodic reports of how many borrowers they have helped and where those borrowers live.

We need lenders to identify foreclosure prevention liaisons to work with my office, the City Council, and the relevant city departments.

We need to begin a meaningful discussion with lenders about creating a process to offer foreclosed properties to the City and/or non-profit organizations, so that these properties can be converted into affordable housing. The current foreclosure crisis cannot become an opportunity for speculators to buy up vast numbers of homes and further destabilize neighborhoods with absentee landlords.

The fact of the matter is, however, that municipalities lack the regulatory power to force these types of changes. We only have the bully pulpit and our collective power as advocates to affect these policy and procedural changes.

For this reason, I would like to use this opportunity to ask my fellow California Mayors to join with me to advocate for the necessary state and federal regulatory changes that will streamline the loan workout process. We need objective loan workout criteria that will enable lenders to process loan modifications more quickly and to ensure that borrowers are being treated equitably.

It is my opinion that the recent proposal by FDIC Chairwoman Sheila Bair is a very good starting point for creating such a transparent, streamlined process. Chairwoman Bair has proposed freezing adjustable rate mortgages at the starter rate. This would apply only to ARMs that have not reset and

only for borrowers who occupy their homes and are not delinquent on their loans. Speculators who do not live in their homes would expressly be forbidden from taking advantage of this program. We understand that Chairwoman Bair's proposal was the basis for Governer Schwarzenegger's recent agreement with four major loan servicers in California to streamline the loan modification process. We must work to expand such agreements and also to monitor servicer compliance.

**5. What tools or resources will the City of Los Angeles need in order to be able to assist families either in or at risk of foreclosure? What other solutions are needed to prevent foreclosures?**

Currently, one of the greatest needs in the city is support to build the capacity of foreclosure counseling and legal aid agencies to help homebuyers at risk of foreclosure. Both types of organizations have seen a dramatic increase in the demand for these indispensable services. The City of Los Angeles has committed $100,000 for foreclosure counseling, but much more money is needed to expand these services and help forestall as many mortgage foreclosures as possible. Despite the size of its housing market, and its share of foreclosures, California receives very limited funding to support counseling assistance. Incredibly, these funds were cut to $2 million for the current fiscal year. Moreover, most of the available funds are now being directed at pre-purchase assistance for first-time homebuyers. I believe that our paramount goal, at this point, is to keep as many people in their homes as possible. Responsible foreclosure counseling is one of the most cost-effective means to keep families in their homes. An infusion of federal funds specifically designated for foreclosure counseling and legal

assistance would not only help avert future predatory mortgages, but also help avert foreclosure of mortgages that are currently at risk.

Interestingly, we have also begun to receive reports of an increase in so-called foreclosure consultants who prey on the economic distress of borrowers currently facing foreclosures. Consequently, the City is examining ways to increase the resources dedicated to combating such fraud, and an infusion of federal resources would support our ability to mitigate such fraud at the local level.

Finally, we, at the local level, need an aggressive set of state and federal regulations designed to prevent such a crisis from ever happening again. We support the "Mortgage Reform and Anti-Predatory Lending Act of 2007" and would urge immediate Senate passage of your bill.

THE CITY OF SAN DIEGO
ANTHONY YOUNG
COUNCIL PRESIDENT PRO TEM

**Subcommittee on Housing and Community Opportunity: "Foreclosure Prevention and Intervention: The Importance of Loss Mitigation Strategies in Keeping Families in Their Homes"**
**November 30, 2007**
**Testimony**

On behalf of the City of San Diego and the City/County Reinvestment Task Force, I would like to thank Chairwoman Maxine Waters for her invitation. We appreciate your interest in a topic, which for the City of San Diego, the state and the country is having profound impact on people's lives and our economy. The impact is being felt by all segments of the population including our military. In our combined efforts to effectively address this crisis, I would also like to thank Governor Schwarzenegger for the work of California's Interdepartmental Task Force on Non-Traditional Mortgages focusing on several issues including consumer education and outreach and regulation.

In the first nine months of this year 15,582 homes have received notices of default from their lenders in San Diego County. Forty percent of those end up in foreclosure. Between January of 2007 and September foreclosures increased by 100%. We project this rate to increase and continue unabated for the next two years based on the volume of sub prime loans dumped into the local market. I say dumped because the majority of those loans have come from mortgage brokers no longer in the business with over 70 firms in the region either going bankrupt or selling off over the past two years. We have been victimized by an industry that functions without regulation with minimal supervision that can appear and disappear without penalty and without responsibility for the damage that they inflict on people's lives and to the economy. It troubles me to think that our service men and women who are currently fighting and putting their lives on the line to protect our country are preyed upon and victimized.

Historically, in San Diego, crises in the housing market are caused by a combination of external economic factors. In this case the foreclosure epidemic has been caused by unregulated funds from new state licensed mortgage lenders, most of whom are no longer in business; home mortgage brokers being paid double and triple commissions for sub prime and predatory home loans targeted to low income and ethnic borrowers; lack of state supervision or authority to regulate interest rates and loan terms; absence of supervision over Fannie Mae and Freddie Mac and their policies related to securities purchase of sub prime and predatory home loan products; and lack of national regulations related to securities and leveraged finance obligations for Wall Street investments.

The City/County Reinvestment Task Force has been following this issue for two years. We have filed comment on pending legislation with federal bank regulators, the Banking and Finance Committee of Congress, the state and directly to a number of major regulated financial institutions, many of who serve on this task force.

Seeing little if any action at any level has resulted in our adoption of local strategies to attempt to manage this serious economic problem. For the last year, the City-County Reinvestment Task Force has held hearings in order to define the problem and engage in finding tangible solutions. We have created a list of recommendations that were presented and adopted by the City Council at the City of San Diego. Some of the recommended actions were to direct our City and County lobbyists to aggressively support federal and state legislation which provides increased funding of non profits for foreclosure counseling and that establishes rules and regulations for unregulated mortgage companies and brokers; that The Reinvestment Task Force will work in partnership with local non-profits and state coalitions to negotiate with major lenders for reasonable workout programs and loan products for customers experiencing foreclosure; we recommend that the city, county and state legal authorities develop an enforcement strategy for interdicting, reducing and removing predatory mortgage lending practices in the region including the review of potential securities violations; we also requested that the city and county establish an ordinance regarding inspection and monitoring of foreclosed properties for code violations and on going maintenance; that FNMA and the Veterans Administration modify loan limits to compensate for the cost of housing in the San Diego market; we encourage FNMA and the Veterans Administration to develop specific foreclosure alternative loan products, including refinancing and engage in aggressive marketing efforts.

Many of our communities are now sitting with vacant properties, five to six on a block, depressing the local market and inviting blight and criminal behavior to normally pleasant communities. Following the lead of the City of Chula Vista, which has been particularly hard hit, we have moved ordinances that require banks to maintain these empty, vacant properties under the threat of penalty. We want them off the market before they infect the vitality of communities that have had to struggle over the years to become.

We know that the more foreclosures there are the lower our property values go. As the amount of foreclosed properties increase, our property tax revenue will decrease as the tax collector begins to assess vacant and devalued homes. We need to stop the bleeding by either moving long vacant properties into a trust or by creating home ownership opportunities for new homebuyers.

One of the characteristics of the recent mortgage frenzy was the absence of traditional government guaranteed mortgages. People who had never had an opportunity to own a home got the chance but were hobbled by a mortgage product built on false perception of risk, priced higher and designed to explode in your hands in two, five or ten years.

It is essential that government home lending programs keep people in the homes they now have for the first time. It is vital that government home loan programs be redesigned to fit the Southern California market and to allow new buyers to gain access to home ownership. Loan limits are too low and qualifying can be designed to consider the realities of our economy versus old models where people work for thirty years for one company and have a steady, guaranteed income.

There is a general feeling of uneasiness and uncertainty by individuals just wondering what the reset will do to their homes and their lives. This not only affects individuals and their personal finances, but it has a domino effect on our local, state and national economy. I encourage our lenders to talk with their homeowners and bridge the gap. I support legislation that will encourage this conversation for the benefit of the homeowners and our economy.

# NAACP NEWS

www.naacp.org

Dennis C. Hayes
Interim President & CEO

Julian Bond
Chairman, Board of Directors

**FOR IMMEDIATE RELEASE** **November 30, 2007**

## NAACP COMMENDS CONGRESSWOMAN MAXINE WATERS FOR HER WORK TO HELP AMERICANS FACING FORECLOSURE; PLEDGES TO CONTINUE TO WORK WITH HER

The NAACP today commended and thanked Congresswoman Maxine Waters (CA) for her continued diligence in working to assist the millions of Americans who may face foreclosure on their homes in the next few years. The NAACP is also committed to continue to work with Congresswoman Waters as she persists in her efforts to develop and implement aggressive and innovative approaches to advance homeownership and address the foreclosure crisis.

"Congresswoman Maxine Waters has been a leader on Capitol Hill in efforts to help homeowners who face foreclosure due to unscrupulous lending practices," said Mr. Hilary O. Shelton, the Director of the NAACP Washington Bureau, the federal legislative and public policy arm of the NAACP. "We deeply appreciate the commitment, the intelligence, the innovation and the energy she brings to the debate in an attempt to help home-owners nationwide."

"Studies have shown that subprime, predatory loans are rampant in communities of color," Mr. Shelton continued. "Predatory lenders have for too long targeted African Americans and other racial and ethnic minorities and the results are now becoming painfully clear. Studies have shown that among African Americans, one in five subprime loans which originated in 2005 will end in foreclosure. This means that not only are African Americans disproportionately being

*More...*

denied fair and equal access to the American dream, but entire communities will feel the disparate impact of these foreclosures."

"The NAACP has long enjoyed a close and productive relationship with Congresswoman Waters on a myriad of issues, and we were thrilled to know that she would be spearheading Congressional efforts to help Americans currently facing foreclosure. The energy, commitment and credibility she brings to this issue are admirable, and we look forward to working with her to help all Americans facing the hardest of times."

Founded in 1909, The National Association for the Advancement of Colored People (NAACP) is the nation's oldest and largest civil rights organization. Its half-million adult and youth members throughout the United States and the world are the premier advocates for civil rights in their communities, conducting voter mobilization and monitoring equal opportunity in the public and private sectors.

####

Contact: NAACP Washington Bureau
202-463-2940