

TESTIMONY OF

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Before the

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

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Good morning, Chairman Dodd, Ranking Member Shelby and Members of the Committee. I am Allen Jones, Bank of America's Default Management Policy Executive. Thank you for the opportunity to appear and update you on the efforts of Bank of America to help families avoid foreclosures wherever possible and stay in their homes.

Let me start by making two important points on which I will elaborate later in the testimony.

First, as you will recall Bank of America exited subprime lending nearly nine years ago. Upon acquiring Countrywide, we have taken the steps to ensure our combined company is a leader in traditional mortgage products. Our April launch of the Clarity Commitment -- a clear and simple one page disclosure that accompanies every new and refinanced loan -- is one demonstration of our focus on ensuring customers understand what loan they are getting and the associated costs.

Second, Bank of America has been at the forefront of government and industry efforts to develop loan modification programs as a way of avoiding foreclosures and helping financially distressed customers remain in their homes. We modified 230,000 mortgage loans in 2008, and we are pleased to report that in the first six months of this year, modification offers have been accepted or rate relief has been provided for more than 150,000 customers.

In recent weeks, as the Administration's Making Home Affordable modification program guidelines have been completed and our systems have been converted, Making Home Affordable has become the centerpiece of Bank of America's overall home retention efforts. Already, approximately 80,000 Bank of America customers are in the trial modification period or are responding to modification offers we have extended under Making Home Affordable.

We have achieved this level of success by devoting substantial resources to this effort. Our Home Loans business has more than 7,400 associates dedicated to home retention. This team has nearly doubled since this time one year ago. They respond to an average of 80,000 customer calls a day - and more than 1.8 million calls a month. In addition to personnel, we have devoted substantial systems, training and other resources to our loan modification efforts.

Our country is slowly emerging from the worst economic crisis since the Great Depression, the impacts of which have been felt deeply by consumers because at its center has been the deterioration in value of an asset important to individual wealth and stability - the home. Home values in some areas of the country have depreciated to less than half their value at the market's peak, and unemployment continues to rise - recently hitting a 26 year high.

Against this backdrop, millions of families are struggling. As one of the country's leading mortgage lenders and servicers, Bank of America understands and fully appreciates its role in helping borrowers through these difficult economic times. We want to ensure that any borrower who has sufficient income and the intent to maintain homeownership has the ability to do so using any and all resources we have available.

With that introduction, let me describe more specifically how we are leveraging Making Home Affordable and other programs to help borrowers, and provide some suggestions for improvement.

Support for Administration's Foreclosure Relief Efforts

Bank of America supports the Obama Administration's Making Home Affordable refinance and loan modification programs for their potential to help millions of homeowners who otherwise may have faced certain foreclosure.

The program's focus on affordability of payment in the loan modification and refinance processes is consistent with the approach we have successfully developed for our customers, and we appreciate the opportunity we have had to work with the Administration in developing guidelines for its Making Home Affordable programs.

While our primary focus here today is loan modifications, it's important to recognize the benefits of the Making Home Affordable refinance program and its role in helping more Americans retain their homes.

Bank of America was one of the first lenders to process refinance applications through the Making Home Affordable program. We have taken more than 90,000 Making Home Affordable refinance applications (the majority of which have locked) and funded nearly 40,000 refinances since launching the program.

Responsiveness to borrowers. We understand the importance of responding promptly when our customers call, and providing clear, timely answers to their questions. As noted earlier, our home retention division responds to an average of 80,000 customer calls daily. We seek to

answer calls from customers in 90 seconds or less - and in the second quarter we met that goal more than 80 percent of the time.

Making Home Affordable Modification Process. Our process for evaluating Making Home Affordable modifications generally works as follows: A customer is contacted through solicitation or offer letters or they contact us, and we perform an analysis of their financial situation, focusing primarily on their income and expenses and any hardships they may be suffering. In many cases, particularly where we have delegated authority from our investors to modify their loans, the customer can be pre-qualified for the Making Home Affordable program over the phone.

A pre-qualified customer receives a trial modification plan in the mail to execute and return within 30 days, along with supporting financial documentation and their first trial period payment. During the trial period, the customer's documentation is evaluated to ensure compliance with program guidelines. A customer who meets all program requirements, including timely making of all payments during this three or four month period, will receive a second agreement that must be signed and promptly returned to receive a final modification.

We continually strive to make our processes efficient and customer-friendly. We have established new processes for, among other things, verifying borrower income and expenses, managing trial modification periods, securing the payment of mortgage insurance pre-claims at the time of modification so as to enable more borrowers to qualify for modifications, and working with third party contractors engaged by the GSEs.

Delays in Foreclosure Sales. Bank of America customers will not lose their homes to foreclosure while their loans are being considered for a modification. The Bank places foreclosure sales on hold while it determines a customer's eligibility for its home retention programs.

Bank of America's Home Retention Operations

While the focus of today's hearing is on Making Home Affordable modification implementation, we also want to highlight our early leadership to address avoidable foreclosures. As the largest servicer in the U.S., servicing one in five mortgages, or a total of 14 million loans, we understand our responsibility to help our customers sustain homeownership. Before the government's announcement of Making Home Affordable earlier this year, Bank of America had proactively put in place industry-leading assistance programs for distressed borrowers. We continue to leverage those programs to ensure that we consider every potential solution for our customers.

National Homeownership Retention Program. Shortly after acquiring Countrywide, Bank of America announced the creation of our National Homeownership Retention Program for nearly 400,000 borrowers with discontinued Countrywide subprime and pay option ARM products. Outreach under the program began in December 2008. Like Making Home Affordable, our National Homeownership Retention Program focuses on affordability and sustainability, while providing a streamlined loan modification process.

Hope for Homeowners. Bank of America believes the Hope for Homeowners program provides another useful tool for assisting borrowers. We have not been able to implement the program as we are still awaiting final guidance from the Department of Housing and Urban Development.

The program, as originally rolled out, had a series of unique requirements which were very different from standard FHA programs, and presented serious implementation challenges for lenders. The Helping Families Save Their Homes Act signed into law by President Obama in May of 2009 includes helpful changes to Hope for Homeowners that are designed to make the program more consistent with standard FHA practices. We understand the Department of Housing and Urban Development is hard at work on developing final Hope for Homeowners guidance that will provide lenders with the tools they need to move forward and implement the program. It is important to note that once final guidelines are issued, it will still take lenders several months to implement the program.

Community Outreach and Partnerships. We have also devoted significant resources to community outreach. Since the beginning of this year, we have participated in more than 120 community outreach events in 26 states. We have reached more than 5,000 borrowers through these events, with about 50% of whom we had no prior contact in the last 60 days.

We have partnered with the National Council of La Raza, National Urban League, and the National Coalition for Asian Pacific American Community Development in the creation of the Alliance for Stabilizing Communities, and we provided \$2.5 million in funding to support this national coalition dedicated to assisting individuals facing foreclosure. The Alliance will hold 40 housing rescue fairs over the next two years in 24 communities hardest hit by the foreclosure crisis.

In addition, Bank of America partners with 440 HUD-approved non-profit counseling agencies. Empowering the counselors with knowledge about Bank of America Home Loans and the Making Home Affordable modification program is significant because counselors can educate borrowers and assist in the modification application process. This year, we have trained over 500 counselors in sessions across the United States.

Making Home Affordable Challenges and Improvements

Bank of America appreciates the opportunity we've had to work closely with members of the Administration in developing the Making Home Affordable program. We all understand there is still more work to be done on various aspects of the program to improve its success and the success of those homeowners that rely on it for assistance during these difficult economic times.

We would like to take this opportunity to offer some suggestions for improvement:

Announcement of Program Changes or Guidance. Communications by Treasury to servicers and at-risk homeowners regarding program features and effective dates could be improved.

Advanced notification to loan servicers once new guidelines or program changes are determined (but before they become effective) would enable servicers to establish early necessary systems and practices to better address customer inquiries. The current method of publicly announcing new guidelines or changes concurrently with their effective dates creates immediate demand with insufficient lead time for operational readiness. This can lead to negative customer experience and, ultimately, public backlash against the programs.

We also would suggest that new or revised guidelines not be issued until they have been reviewed with industry representatives and their details have been completed. For example, while we appreciate the spirit in which it was done, the issuance by Treasury of its brief and limited guidelines for the second lien and short sale programs months before their comprehensive rules have been finalized or even drafted has led to a great deal of confusion and delay in the industry and with the public.

Promoting uniform interpretations of program guidelines. Consistency in the creation and interpretation of program guidelines between Treasury and the GSEs, as well as consistent guidelines for Fannie Mae- and Freddie Mac-owned or securitized loans, also would reduce homeowner confusion and simplify servicers' ability to operationalize these programs as they evolve. Similarly, it is important to encourage states to limit modification-related legislation which may complicate participation in federal programs such as MHA. And there also should be consistency among the various federal regulators and agencies as to the options servicers should utilize and the process servicers should follow for implementing Making Home Affordable.

Requirement of complete documentation. One of the benefits of the MHA program is the trial modification period. Servicers can approve trial modifications almost instantly and use the trial period to collect the necessary documentation to complete the modification. One factor that slows down the process during the trial period is that many borrowers initially provide incomplete information. We hope to work with the Administration to address the challenges we are experiencing with some of the required documentation returned by customers by reinforcing through the media and other communications the importance of complete and accurate

documentation. Servicers also should have some flexibility to determine the materiality of the incomplete response, such as whether we can accept an electronically filed tax return without a signature.

No program for the unemployed. As a general matter, we would welcome the opportunity to work with Treasury on a program that would offer short term relief while unemployed borrowers seek re-employment. This is already a significant population, and a growing need.

Customer Impacts

Despite problems in the economy, most of our customers continue to pay their mortgages on time; and less than 375,000 loans, or fewer than 3% of the 14 million loans in our servicing portfolio, face foreclosure. While foreclosures are a relatively small percentage of our portfolio, we recognize that the impact they have on our communities, neighborhoods and customers is significant. That is why we have exhausted and will continue to exhaust every possible avenue to help families stay in their homes.

Despite our best efforts, there are limits to what we can do. With unemployment at a 26 year high, even the most ambitious modification plan will not help when there is no income. Often the largest impediments to completing loan modifications are the changed circumstances of the borrower, such as unemployment, divorce, illness, or dissatisfaction with the property that may make a loan modification unattainable. We can only modify loans where the borrower has the ability and willingness to repay.

Our goal is to keep as many families in their homes as possible. Often we will succeed, but regardless, we believe every customer deserves to be treated with compassion and respect, and we work to provide a dignified process for everyone.

Bank of America Mortgage Lending Update

We strongly believe that long-term recovery in the economy and housing markets relies upon lenders responsibly and effectively providing loans to creditworthy borrowers. To that end, in April we launched Bank of America Home Loans, which is built on a brand promise to always be a responsible lender and help create successful homeowners.

At that time, we introduced several new tools in response to valuable customer feedback. One such tool – the Clarity Commitment – is a one-page summary of a borrower’s loan terms in plain English. We have it in place on 95% of our products, and it has been very well received by our customers and community partners. Since we introduced it, already 400,000 customers have received this document with their loan papers.

We are making new mortgage loans available to eligible customers for buying homes and refinancing their current mortgage loans. On Friday, July 17, Bank of America will report second quarter earnings. In the first quarter of 2009, we generated:

- More than \$85 billion in first mortgage production – representing more than 382,000 customers who purchased homes or saved money on the home they already own.
- More than \$4 billion in home equity and reverse mortgage production, representing almost 23,000 customers.

One in four of these loans were to low- and moderate-income customers.

Conclusion

I want to thank you for the opportunity to describe our ongoing home retention efforts. We recognize there is still much more to be done. The ongoing economic crisis demands expedient, affordable loan modifications that help borrowers within the framework of our contractual obligations to investors.

This is a critically important undertaking that must be done right if we as a country are going to preserve the flow of mortgage credit to support sustainable homeownership and at the same time protect communities and neighborhoods from avoidable foreclosures. We look forward to working with Congress and the Administration to accomplish these goals. I would be happy to answer any questions you might have.