Support & Guidance For Homeowners

Statement of Faith Schwartz

Executive Director, HOPE NOW Alliance

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Introduction

Chairman Johnson, Ranking Member Shelby and Members of the Committee, thank you for the opportunity to testify today. My name is Faith Schwartz. I am the Executive Director of the HOPE NOW Alliance and a co-founder of HOPE Loan Port.[1] I have served in a leadership capacity at HOPE NOW since 2007, during which time I worked closely with members and partners of the Alliance, including mortgage servicers, investors, non-profit housing counseling partners, government agencies and regulators to help homeowners avoid foreclosure. Before my time with HOPE NOW, I served in various capacities in the housing finance industry for 28 years.

The comments I make today are my own and reflect my experience in the mortgage business and in particular, in working with servicers and counselors attempting to help at-risk homeowners. These comments do not necessarily represent the views of all HOPE NOW members. Attached to my testimony is an addendum on HOPE NOW data and supplemental facts from the HOPE NOW Alliance.

The Goal of National Servicing Standards

I am here today to speak to you about the goal of achieving strong National Servicing Standards which will require extraordinary cooperation and communication between the industry, the government and other concerned parties to evaluate the servicing standard initiatives now underway. We all want to improve the customer experience and the establishment of uniform, clear standards would be a strong step in that direction.

The members of HOPE NOW have been focused on assisting homeowners in need for the past four years. The joint efforts of servicers, non-profits and other partners have helped millions avoid foreclosure, but unfortunately there are millions of homeowners who still remain at risk of losing their home. In addition to the estimated 4 plus million homeowners 60 days past due or in foreclosure, there are many customers current with their mortgage, but who struggle to make that payment every month letting other bills slip.

We are all aware that the current economic conditions—unemployment and underemployment in particular—are challenging for customers who are trying to maintain their home. Additionally, homeowners are frustrated by mixed messages from some loan servicers when they ask for help. Improvements have been made, but more needs to be done. These issues are part of the motivation for more uniform servicing standards. At the same time, it is important to recognize that national servicing standards

[1]HOPE NOW is an alliance of counselors, mortgage lenders/servicers, investors, and other mortgage market participants to prevent foreclosures through outreach to delinquent borrowers, counseling, and loan workouts based on the borrower's ability to repay. The goal is to prevent foreclosures by connecting troubled borrowers with counselors and/or their mortgage servicer. HOPE LoanPort® is a web-based tool that streamlines home retention applications on behalf of homeowners at-risk of foreclosure, allowing housing counselors to efficiently transmit completed applications to mortgage companies.

may not change the final outcome for many homeowners at risk of foreclosure because of their economic situation, but customers need a servicing process that gives them timely responses and consistent answers regarding their loans.

Improving the Customer Experience in Mortgage Servicing

Our alliance members recognize the importance of improving the customer experience in mortgage servicing and they have been working hard to achieve that goal. An on-going demonstration of the effort on reaching customers directly is the large number of outreach events that HOPE NOW has helped organize around the country since the crisis hit. Loan servicers and non-profit counselors have worked with HOPE NOW staff to set up events in different cities and around the country, spending two, sometimes three days on the ground in distressed markets providing in person help to at-risk homeowners. HOPE NOW initiated the events in 2008 and when the Making Home Affordable program began, we partnered with Treasury to combine industry and government efforts in joint events to reach more borrowers at risk and offer solutions in a timely manner.

Part of the focus at these events is to make sure that the customer walks away feeling that they have been helped or at the very least put on the right path to get help. Providing access to HUD approved housing counselors at the events has been a very important component of the free services offered to a borrower. If a borrower comes prepared with all the necessary documents and information, they may have the option to be underwritten on site and approved for a loan modification or other workout by their loan servicer, subject to various validations.

Together, we have held 112 outreach events. Just three weeks ago, HOPE NOW members and Making Home Affordable partners were in two cities in Florida and met with more than 2,000 homeowners. The latest totals for all outreach events reached 89,207 borrowers. Our follow up from those events indicates that 43.5% have been assisted by resolving their delinquencies without foreclosure sales. As an addendum to this testimony, there is a list of the communities in which HOPE NOW, partnering with our industry members, the Government Sponsored Enterprises (GSE), the United States Treasury, and non-profit counselors have been to since we started holding outreach events in early 2008. It is also important to note that several of the larger servicers are holding their own company-sponsored events all over the country which directly reach their borrowers at risk in key markets.

Without question, the outreach events have improved the experience of many customers trying to resolve their mortgage difficulties through a face to face meeting with their loan servicer or counseling through a non-profit agency. Our exit surveys reflect over 88% strong borrower satisfaction after they have a chance to meet face to face with their loan servicers. As many as 30% - 40% of those attending had never had contact with their servicer before the meeting. These numbers will vary slightly from market to market, but in every case the majority of homeowners who come to the events are delinquent on their loans and more than satisfied with the service they receive at the outreach event. We truly believe that nothing gives a distressed homeowner more peace of mind and satisfaction than sitting down face to face with someone and being able to discuss the options that are available to them. I have included as part of my addendum exit surveys from recent outreach events to give you a taste of how borrowers feel after coming to an event.

Another on-going effort that was begun in 2006 is the Homeowner's HOPE hotline, the national 1-888-995-HOPE number that servicers and investors support financially, for homeowners to call to speak to a HUD certified counselor. The Homeowner's HOPE Hotline, operated by the Homeownership Preservation Foundation, has become the leading national hotline and has received over 5.2 million calls from borrowers seeking help with their mortgage.

Servicing Has Changed Dramatically

It is important to understand some of the history of mortgage servicing and how the tremendous challenges of the current crisis have impacted the mortgage servicing system.

In the decades before the current crisis, mortgage servicing developed some uniformity in part because of the requirements of GSEs and the Federal Housing Agency (FHA) for servicers on loans purchased by the GSEs or insured by FHA. In both cases these entities established requirements for mortgage servicing as well as requirements for other features of mortgage finance. In particular, the GSEs became the dominant force in setting standards in the industry and could dictate servicing rules and standards because they were the primary investor for the majority of the residential mortgage loans originated and serviced.

When the private label mortgage securities market grew in size in the late 1990s those private label securitization agreements dictated specific servicing terms that had to be followed by the servicers, and when details were missing, the practice was to default to the GSE rules as the industry standards. While the market functioned smoothly and delinquencies were generally low, these differences in servicing requirements were not meaningful.

However, once the dramatic downturn in the market occurred in the mid 2000s, the challenges facing servicers grew tremendously and differences in servicing requirements became more important. Prior to the crisis, servicing had been a fairly simple process of processing payments from current borrowers and forwarding those payments to investors. Servicers were paid a set fee for processing performing loans. Delinquent loans and troubled borrowers were a small segment generally handled by relatively small loss mitigation staffs and solutions often involved repayment plans to get borrowers back on track. The housing crisis completely changed the demands on major mortgage servicers. Servicers are now managing millions of delinquent loans and have had to hire thousands of new employees to work with borrowers to find solutions such as loan modifications which require a re-underwriting and contractual change in the terms of the original loan. This is a much more complicated servicing process that requires many more staff and additional training.

HOPE NOW was formed in great part to assist the industry in its attempts to deal with the new demands on servicing resulting from the housing crisis. It was also created to reach a growing number of borrowers who were going into default and were not contacting their servicer. The Alliance helped industry members to work together to find a process for offering loan modifications and other assistance to borrowers that were consistent with the requirements of investors. The alliance helped build a good working relationship with the non-profit community and government agencies to work together to stem the tide of foreclosures.

<u>Today's Servicing Issues:</u>

The industry strongly supports a uniform approach to servicing standards. Progress is being made in providing better service to troubled homeowners, but there are a variety of initiatives and requirements from federal regulators, the GSEs and others to set standards. These initiatives need to be evaluated and coordinated to determine the best overall standards. For example, let me address two of the main issues that are regularly discussed by industry, government and non profit groups: single point of contact and dual track processing.[2]

Single point of contact

In order to best help a homeowner in difficulty, a homeowner needs to be able to talk with a servicer representative who has the information on the customer's mortgage and the options that are available to assist them. A clear, consistent communication channel with someone in the servicing department will help the homeowner understand their options which may range from a loan modification, a short sale, to the need for unemployment forbearance. It is equally important that customers not be required to repeat the same request to various customer service representatives and that the information they provide about their income and payment situation be consistently available to all decision makers across the company. Finally, the customer needs to know that they have been informed of all options available and that their single point of contact or relationship manager at the company is able to confirm needed information and the status of their case.

All of our members are working to develop a single point of contact or relationship manager program that will meet those goals. Most of them have established or committed to establishing such a program. While different companies may have

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[2] Single point of contact has many definitions, but for this discussion it describes an individual or small team of individuals in a servicer that can communicate directly with a customer and have real time access to all the data in the customer's file in order to discuss the issues with the customer, direct the customer to the specialist in the organization for specific loss mitigation practices (i.e., short sales, modifications, forbearance, etc.). Dual track processing is the practice of both proceeding to move a delinquent borrower toward foreclosure while at the same time trying to resolve with that borrower an alternative to foreclosure.

slightly different definitions of what a single point of contact is and what programs should be used to implement it, most programs include these key features:

> (1) The creation and training of servicing specialists who can serve as a relationship manager.
> (2) The designation of a group of employees to serve in that capacity, and in some cases the establishment of small teams that work together;
> (3) The ability to respond promptly to inquiries from borrowers and to immediately record the discussions with the borrower in the company's data files for that customer;
> (4) A knowledge of all of the mitigation programs that are available to the borrower and the ability to know when to refer that borrower to a specialist with in-depth knowledge of one or more of those programs that might be suitable for that borrower;
> (5) The ability to connect that borrower with the specialist and then to follow that process through to the time that all alternative options have been considered and the borrower is either provided an alternative or the foreclosure sale occurs;
> (6) The ability for the contact person to reach out personally, as needed, to fully explain why an option might have been denied; and
> (7) In all instances to utilize a single point of contact to ensure consistent and appropriate feedback to the homeowner about their status in foreclosure.

Last month I visited a major servicer's shop to get a first-hand view of their effort to develop a single point of contact system. It was an excellent opportunity to actually see how a company is dealing with the growing number of servicing standard requirements. This company was hiring hundreds of people to become single point of contact managers. (Other servicers have reported they may hire up to thousands of additional staff for the single point of contact role.) The company's training programs lasted up to 6 week for these new hires. The long training was for two reasons—they want to make sure they get it right, but they also need time to educate this relationship manager of all the options that are available to at risk homeowners and the program requirements by the government and GSES. For a servicer representative to talk to a homeowner whose loan may be eligible for a Home Affordable Modification Program (HAMP), they had to refer to an eight inch thick black binder filled to the brim with the HAMP requirements for each loan evaluation. There was a large binder for each program and for each investor, to show what would be allowable for a specific loan.

Obviously, the ability to understand and explain the numerous government, GSE, and other loss mitigation programs is daunting. In the web-based world we live in, it is hard to believe that these binders were not online. The answer was that the consistent training, access to internal systems, and an additional system to navigate the numerous programs not housed in any one system remained a challenge.

That said, an impressive manager was charged with training for the new hires. The training emphasized consistent and empathetic ways to work closely with the borrower, and training on how to work with the several departments across the large organization. With this drive to make the system work more effectively for customers, I am confident they will establish a process that improves service to all their customers needing mortgage assistance. Seeing an organization at work in person was a good experience to understand the many factors in play for strengthening servicing performance in assisting borrowers.

Dual track processing

The dual track process is a confusing concept to many customers, and also confusing for our members to attempt to explain what it means and why it is happening to the homeowner. But the dual track process is driven in large part by investor requirements and state laws on foreclosures. For example, in many states once a servicer commences the foreclosure process by sending notice to the borrower, the steps that must be taken and the time frames in which they must be taken are directed in great part through state laws and regulations. Similarly, investors such as Fannie Mae and Freddie Mac have certain guidelines and time lines that require processing foreclosures while the efforts to modify loans continue simultaneously. There are rules that cover and protect homeowners from going to foreclosure if they are eligible for a modification and adhere to timelines for submitting documentation, validating income, and finalizing the modification or alternative solution prior to the foreclosure sale. In any event, the foreclosure process (which now exceeds 600 days in some areas of the country) continues with the exception of a 30 day process for review of eligibility for modifications. If a loan is in the midst of a modification review, the foreclosure sale process will not commence. Once referred to foreclosure, there are various pauses that will occur, and in no case should a foreclosure sale occur while under a review for a modification that falls within the HAMP or investor guidelines. Rules differ among investors as to what timelines are required. The GSEs are the most important investors setting requirements in the dual track process.

It is important to keep in mind that the investors' contracts continue to govern much of the latitude for servicers around foreclosures versus short sales and modifications. The investors and rules include HAMP, Fannie Mae, Freddie Mac, FHA, Veterans Administration (VA) and private securitization trusts. Often the most flexibility exists when a bank/servicer owns the loan in full on their balance sheet. These differences help explain the confusion in understanding the dual track issue.

Our servicer members generally follow a few clear practices on the dual track process:

(1) They notify the borrower that a dual track process exists and how it works with the continuation of the foreclosure proceedings, including the continued delivery of statutorily required notices, but that no foreclosure sale will occur if the borrower is still being considered for a modification or is making payments under a trial modification;

(2) The servicer attempts to come to an agreement with the borrower on a loan modification or other alternative to foreclosure for which the borrower might be eligible while the processes necessary to continue to the foreclosure sale continue;

(3) If a modification is agreed upon and payments have been made to convert the trial modification to a permanent modification no further foreclosure notices will be sent; and

(4) If no agreement for a modification can be reached, and trigger dates arise after which time the foreclosure sale must proceed, the servicer pauses and ensures by a separate review of the loan file that all viable options to foreclosure have been explored before notifying the foreclosure attorney to continue with the sale.

Multiple Efforts on Servicing Standards

In evaluating the need for uniform national servicing standards, it is important to understand the wide variety of rules and initiatives already in progress that servicers are attempting to understand and implement as they develop and utilize a single point of contact and address dual track processing issues. These are some of the current initiatives by federal and state governments and the GSEs to set servicing standards, many of which have or will set single point of contact and dual track processing rules:

- The OCC consent orders of April, 2011 differ from institution to institution but all require specific practices relative to establishing and maintaining a single point of contact and safeguards and disclosure requirements when engaging in a dual track process with a delinquent homeowner.

- The Fannie Mae Servicer Guidelines describe a single point of contact as a Quality Right Party Contact (QRPC). The guidelines say that Fannie Mae will establish benchmarks to measure and monitor effective QRPC, and that it promotes single point of contact which supports those servicers who have or will implement single point of contact processes for the purpose of achieving contact continuity throughout the delinquency process.

- The Fannie Mae Guidelines also cover elements of dual track processing in a number of ways but do not specifically use that term. The guidelines establish uniform disclosure requirements for borrowers, including notices about the evaluation process and timeline, explanation of the foreclosure process, and instances where foreclosure shall not be halted, as well as uniform content and timing requirements for solicitation during the foreclosure process.

- The Freddie Mac Servicer Guidelines also use the term QRPC, and is defined by a contact that occurs when a servicer identifies and discusses with a borrower, co borrower, or trusted advisor such as a housing counselor, the most appropriate options for delinquency resolution, and makes every attempt to achieve quality right party contact by establishing rapport with the borrower, expressing empathy with the borrower and a desire to help, determining the reason for the delinquency and whether it is temporary or permanent, determining whether the borrower has vacated the property or plans to do so, setting payment expectations and educating the borrower on the availability of foreclosure alternative solutions, and obtaining a commitment from the borrower to either resolve the delinquency through traditional methods (paying the total delinquent amount) or engage in a foreclosure alternative solution. It has similar, but not the same, guidance to that of Fannie Mae with respect to benchmarks for measuring effective QRPC and contact continuity.

- Freddie Mac language with respect to dual track is again similar but not identical to that of Fannie Mae.

- Treasury's Home Affordable Modification Program (HAMP)requires that each servicer must develop and implement a policy that identifies experience and training requirements for the relationship manager position and the appropriate caseload levels to ensure that relationship managers can successfully fulfill all specified requirements.

- Various states have servicing requirements which vary considerably from state to state. In the area of mediation, for example, some states may include opt in for mediation, and others may require opt out for mediation and the variations may not be clear on how many meetings are required for servicers send borrowers to meet face to face. Some states are silent on mediation.

- States' Attorneys Generals are in discussions with the top five servicers and while the content of their discussions remains confidential, it is very possible that they will have a broad list of required servicing requirements, including those relating to single point of contact and parallel tracks.

- Individual private investors require different servicing rules for various pools of securities. For servicers signed up with Making Home Affordable, some of that is mitigated but not all.

- The Board of Governors of the Federal Reserve System and other federal banking regulators have called for uniform national servicing standards and many of those regulators are now in discussions to create new standards.

- The Consumer Financial Protection Agency (CFPB) has indicated they will work on servicing standards early on as they begin to stand up the agency.

- The proposed risk retention rule under Dodd Frank Act—specifically the Qualified Residential Mortgage (QRM) definition--includes servicing requirements. While these do not specifically refer to single point of contact, they do require rules in place in the contracts themselves which mandate default mitigation policies without regard to whether foreclosure proceedings are underway, therefore raising questions about dual track processing.

- The Federal Housing Finance Agency (FHFA), Fannie Mae and HUD unveiled an initiative on compensation of servicers, which will address a wide variety of servicing requirements, including different payments for non-current borrowers than the payments for current borrowers, and could conceivably address both dual track processing and single point of contact. This effort is in progress and adds to the changing landscape.

There are other servicing features that also differ from program to program. For example, as recently as July 25th, 2011, Treasury issued a *Supplemental Directive 11-07* that expanded the minimum period of forbearance for unemployed borrowers under HAMP to 12 months from 3 months. That is consistent with the new policy issued by FHA, but is inconsistent with the policy followed by Fannie Mae and Freddie Mac and the VA.

Servicers faced with this daunting list find that they must frequently change the way they do business. That includes, not only changes in systems, but changes in training and educating staff throughout the organization. One solution, to which many servicers are attracted, is the establishment of a single uniform set of servicing standards which all state and federal entities must accept, and which would establish the parameters for the GSEs, FHA and private investors.

We believe that the efforts by various entities currently underway are already moving in the direction of national standards for servicing. We recommend that there be coordination to ensure the definitions and policies set by different regulators, enforcement agencies and investors align with one another. If these efforts are given a certain amount of time to be put in place and reviewed, then major progress toward national standards will be achieved. To ensure that all these initiatives on servicing standards achieve their intended goal, we would suggest that the Administration convene a summit with all necessary partners from the industry, the government, nonprofit agencies and other concerned entities to review the new standards underway, evaluate them and determine what should be included in a uniform national standard.

Uniform national servicing standards can help improve the customer experience as well as give servicers clarity on a single definition of the standards expected.
We appreciate the difficulties in reaching agreement on servicing standards because the servicing process for delinquent loans is complex; there are multiple initiatives at the federal and state levels on standards, and servicers are have programs already underway to improve assistance to customers.

Now is the time to coordinate and align the servicing standard initiative and make them work for all parties. This will help rebuild confidence in our housing finance system and assist in the recovery of the market. The home mortgage is the most important investment in the lives of most consumers, and it is essential that we "get right" the process for communicating to the customer whenever there is a change affecting their ability to meet their loan payment.

What has changed from 2007 to 2011?

Since the housing crisis began in 2007, there have been tremendous changes in the challenges facing homeowners; programs created to address the crisis; and the process for servicing loans. It is important to keep all of these events and factors in mind as we evaluate how to implement uniform servicing standards.

*Subprime Crisis***:** When the crisis began in 2007, most of the early foreclosure prevention efforts focused on repayment plans, and some modifications, which entailed capitalizing missed payments (arrearages) and re-setting the mortgage. The HOPE NOW data indicates that in July 2007, there were 17,000 modifications completed. The primary focus was in the subprime products; the hybrid ARMs and option ARMs which were defaulting in record numbers, many prior to the ARM reset. In 2007, The Treasury Department and the Department of Housing (HUD) reached out to industry and asked them to increase and expand collaboration with non-profits to reach more borrowers and help them avoid foreclosures wherever possible.

Through HOPE NOW, more servicers set up toll-free numbers for housing counselors. HOPE NOW servicers produced servicing guidelines to improve the loss mitigation process, and worked with third parties to reach homeowners who were not responding to contact from servicers. The housing crisis deepened with the recession and we saw more widespread defaults happening across loan portfolios – economic problems spread defaults to borrowers with prime, fixed-rate loans. Servicers continued to be proactive working with housing counselors and third parties, while hiring and expanding activity around foreclosure prevention efforts.

In 2007, there was few government resources focused directly on foreclosure prevention. Mortgage servicers and others worked individually and then pulled together through HOPE NOW to meet the challenge, progress was made but the growth of the housing crisis outweighed the response.

Additionally, since 2008, the Government has taken on a broader role to address the crisis. The government created programs to deal with several problem areas: refinances, unemployment assistance, modification, short sale and deed in lieu, and mediation (at the state level). Some of these programs are more successful than others and it is difficult to measure the full impact of the programs. However, a combination of factors has led to record longer foreclosure timelines as measured in 2010. The average loan in delinquency that went to foreclosure in 2010 exceeded 500 plus days, up from 300 days in 2008, according to a Lender Processing Services (LPS) report in early 2011. The following programs have been implemented by the government to deal with the housing crisis:

1. **FHA HOPE for Homeowners** was an attempt to assist homeowners who might qualify to refinance to an FHA-insured loan with the participation of servicers and investors willing to write-down the existing loan. It also required the homeowner to share possible future appreciation of the property with the government. There

were few loans produced through the program in part because of its complexity. Originators and servicers have not been easy to match up with regard to refinancing higher risk loans and expanding short payoffs.

2. **Home Affordable Refinance Program (HARP) is the refinance portion of the MHA program** offered by the Fannie Mae and Freddie Mac. It is a first lien refinance program targeted to loans at 80% LTV up to 125% LTV. Essentially, it targeted borrowers who were current on their loan, but at-risk to become delinquent. From April 2009 through November 2010, FHFA reports 623,000 homeowners refinanced into this program. This is creative and an opportunity to continue reaching borrowers who could not otherwise refinance and may become future foreclosure candidates.

3. **Making Home Affordable: HAFA –** A short sale and deed in lieu program that focuses on a detailed process for the complicated nature of a "short sale" and deed in lieu product. The effort has key timelines, document and process requirements that need to be followed and extends the timeline for loans for up to 120 days. It includes forgiveness of the deficiency when a borrower sells a property short of value and it offers clarity, accountability and clear expectations of what is required for realtors, servicers, and other stakeholders. Junior lien holders often require more dollars than HAFA supports. Recent adjustments to the program offered by Treasury suggest that this program may be used more in the future because of adjustments made to the requirements to prove hardship or stick to 31% DTI thresholds.

4. **Making Home Affordable: HAMP –** This is the loan modification program that was rolled out in response to the growing stress in the housing market. The crisis was deepening. By intervening with a loan modification that was subsidized by the government, it was a change from the previous attempts to modify loans, and was an important step toward creating market standards.

    - *Standards*: Despite criticism for falling short of projected numbers for permanent modifications, HAMP helped create standards that improved methods and transparency on how to achieve affordable and sustainable loan modifications.

    - *Increasing Homeowner Awareness*: When the United States Government offers a potential solution to the loan modification process, the public listens. The awareness created by the HAMP program helped engage millions of at-risk homeowners in efforts to preserve their home and avoid foreclosure. The existence of the HAMP program helps attract borrowers to seek help. It is still a very valuable way for borrowers to get in the system, even if they do not qualify for a HAMP modification.

    - *First line of defense for homeowners:* The HAMP program structure requires participating servicers to first review the borrower for HAMP eligibility prior to placing them into alternative modifications. Even if they do not ultimately qualify, borrowers are first assessed for eligibility for HAMP and then must be considered for other loan modifications or other workouts.

- *Safe Harbor*: HAMP created an industry "safe harbor" for modifying loans. Due to conflicting investor contracts, prior to HAMP it was difficult to identify a consistent "industry standard". HAMP helped create these standards and common practices The creation of tools to use in an evaluation "waterfall" and use of a Net Present Value test has transcended HAMP and is a model for servicers to use for proprietary modifications. This may transcend HAMP for other modifications as the process and a net present value test provide an "industry standard".

- *Structure created*: Through Making Home Affordable, government HAMP modifications introduced clear guidance for the HAMP waterfall, including guidance for working with unemployed or underemployed borrowers- one of the most difficult situations. The protocols on structuring an affordable payment for borrowers include:

    - Forbearance (3-6 months, recently updated for HAMP and FHA loans to 12 months) for unemployed borrowers);
    - 31% housing DTI split by investors and government dollars from 38%;
    - Use of lower interest rate to 2%, extended terms to 40 years, and principal deferral and/or principal write-down;
    - If ineligible, servicers must review for proprietary solutions (GSE, other), and if ineligible for that option;
    - Servicers must consider HAFA (Home Affordable Foreclosure Alternatives short sale and deed in lieu) or proprietary programs;
    - In many instances, foreclosure prevention will then state mediation requirement to review all solutions outside of foreclosure; and
    - Foreclosure sale as the final option.

- *Confusion and expanded timelines were the result of this early execution:*

Average foreclosure timelines since in 2008, 2009 and 2010 are as follows (according to data from LPS):

- January 2008 – 300 days
- January 2009 – 350 days
- January 2010 – 450 days
- September 2010 – 500 days
- May, 2011—590 days

5. ***Treasury: Hardest Hit Funds***: Treasury has also expanded foreclosure prevention programs by creating a Hardest Hit Fund. The Hardest Hit Fund distributed $7.5 billion dollars to 18 States and the District of Columbia and directed them to set up their own programs to assist unemployed and other at-risk homeowners in the

hardest-hit housing markets. When a borrower is unemployed, it is difficult to qualify for a loan modification due to lack of income. State housing finance agencies develop the waterfall for approving borrowers for various means of assistance, including unemployment assistance, principle write down, and combined funds that may compliment a HAMP modification.

This deployment of dollars should be helpful to assist some homeowners in particularly distressed States where there are few other solutions. However, the states, Treasury, counselors and state housing finance agencies must continue to work with industry to achieve some uniformity to ensure servicers can implement the many variations of programs in the different states. To help share information and increase the ability to execute on these programs, HOPE NOW has played a role in convening the stakeholders to discuss implementation issues. As a reminder, loan servicers need uniform standards and guidelines wherever possible for efficient execution. Each time a program is introduced, the more aligned it is with similar programs in various states with uniform automation, the more successful that new program will be.

6. ***State Mediation Programs:*** HOPE NOW has focused on the mediation issue as a high priority issue and convened States and the Federal Government to find common ground on what constitutes success. Mediation is a powerful tool that may be even more effective with a common definition of success with rules to get there (including early engagement with the borrower). There are now approximately 26 states that offer some kind of opt-in or opt-out mediation for homeowners. The physical presence of a third party is valuable for this final attempt to bring parties together to prevent a foreclosure. When appropriate mediation is a viable option, however, there is not enough data on mediation programs to make a clear judgment around the best mediation process. For instance, an author for the *Sun Sentinel* newspaper recently reported that Broward County, Florida examined 326 cases via mediation in December 2010 and 17% resulted in written settlements that avoided foreclosure. It is important we study mediation efforts going forward and wisely use our limited funds and human capital to make these most effective nationwide, and maximize assistance to qualified homeowners.

   There is a movement among the other 24 states to incorporate mediation as another means to prevent foreclosures. In doing so, we believe certain risk parameters must first be addressed. By nature, mediation hearings delay the foreclosure process. And the intent is to ensure the borrower understands the options available to prevent foreclosure. We know from experience, sometimes borrowers in financial distress do not answer phones, open mail and respond to more formal meeting requests such as State mandated mediation. Our goal over the coming months is to work with the stakeholders on mediation to come up with a set of recommendations that make sense for all parties, most importantly the homeowner at risk of foreclosure.

HOPE NOW stands ready to supports all efforts to bring homeowners into the system to review options to avoid foreclosure. However, we believe that mediation can be streamlined with more effective processes so that all parties participating have aligned expectations.

Conclusion

HOPE NOW member companies and organizations support the improvement of the customer experience in mortgage servicing, and have been actively attempting to make the system work better for customers as they wrestle with an unprecedented number of delinquent loans. To evaluate the multiple servicing initiatives and rules now under way, the Administration should consider gathering all interested parties together to review the current servicing standard initiatives to ensure the definitions and policies agreed to by regulators, enforcement agencies and investors are consistent and to determine if a single uniform set of standards can be identified and established.

Improving customer communication; reducing confusion and conflicting directives for servicers will improve the mortgage servicing system. The home mortgage is the most important investment in the lives of most consumers, and it is essential that we have a sound servicing system in place to get through the current crisis and set the appropriate course for the future. The industry non-profit partners and servicer members are committed to working to improve mortgage servicing for consumers.