TESTIMONY OF

BARBARA DESOER

PRESIDENT

BANK OF AMERICA HOME LOANS

Before the

HOUSE FINANCIAL SERVICES COMMITTEE

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Chairman Frank, Ranking Member Bachus, and Members of the Committee, thank you for the opportunity to discuss Bank of America's loan modification efforts and the status of our current programs. Helping those we serve navigate a difficult and prolonged housing downturn is a complex issue on which all of us are working to provide the aid and solutions customers need. We appreciate the leadership of this Committee and the Administration on this matter.

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

With the acquisition, Bank of America became the nation's largest mortgage servicer and leading originator. As such, we recognize the impact our efforts have to support the national recovery and sustain the many neighborhoods and customers still struggling.

We understand that the Committee is specifically interested in Bank of America's views on the effectiveness of the Home Affordable Modification Program (HAMP), principal reduction, and second liens, which our testimony will address. We will also discuss the need for additional focus on helping customers transition from homeownership to rental or other alternative housing in a way that provides a foundation of support to enable a dignified transition.

First, the following is an update on the status of current loan modification efforts. Our record of helping more than 800,000 customers in the past two years with a home loan modification through Bank of America proprietary programs or trial and permanent modifications under HAMP is a strong foundation. The most recent Treasury report reflecting HAMP servicer activity through February 2010 showed Bank of America accounting for 30 percent of total trial modifications.

We continue to demonstrate momentum executing HAMP. We anticipate the upcoming Treasury report for activity through March will show Bank of America has completed nearly 33,000 permanent modifications, and an additional 35,000 modifications are awaiting customer signature. For several months, we have led all servicers in virtually every category of the report and anticipate that this month we will take the lead with the number of completed permanent modifications as well.

Bank of America also continues to offer proprietary modification solutions for customers that fall outside the scope of HAMP and other government programs. To date, our proprietary programs have helped more than 530,000 customers with first and second loan modifications, and we maintain these efforts at a pace of about 15,000 a month.

In more than 125,000 calls a day, we hear from customers who have questions about their mortgages and are in need of help. Within Bank of America's servicing staff of nearly 25,000, more than 16,000 are dedicated to default management and loan modification efforts - working tirelessly to assist customers through a difficult and emotional process.

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

We're now at a critical point. In the past two years, we've learned a great deal. Programs originally designed to provide an affordable payment solution – such as HAMP – have been helpful in meeting that goal for the customers targeted for assistance.

However, many customers are still struggling to make ends meet due to prolonged unemployment, depressed home values, and other economic realities. We applaud the recent Treasury announcement that will expand HAMP to address some of these conditions.

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

Customer Eligibility for Current Modification Solutions

As the nation's largest servicer, Bank of America manages nearly 14 million first and second mortgage loans. Within that portfolio, 1.4 million first mortgage customers are more than 60 days delinquent on their mortgage payment. Of that number, our data indicates approximately 621,000 customers are potentially eligible for a mortgage modification through HAMP.

We have made trial offers to 392,000 customers as of April 7, 2010. Of those to whom we have extended offers, more than two-thirds – 297,000 customers – started a trial modification. We continue to reach out to those customers who may be eligible and with whom we have yet to make contact or who have not provided the necessary financial information. If, after our considerable outreach efforts have been exhausted, the borrower still does not respond, we have no choice but to proceed to foreclosure.

HAMP was designed to assist customers who:

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

As Bank of America's results demonstrate, HAMP has been largely successful in making offers to this group. However, there has not been adequate success in getting enough customers to accept the offers and complete the documentation and trial period required to obtain a permanent modification.

We believe that recent program changes requiring servicers to obtain and review income documentation before trial periods are commenced should help improve conversions from trial to permanent modifications.

Let me walk you through how we get to the 621,000 customers eligible for HAMP and identify several areas where we believe changes could help more borrowers qualify for a HAMP solution. In addition, I will identify other changes that could create a more compelling offer to help increase the likelihood of a customer choosing and attaining a permanent modification.

We start with Bank of America's 60 day delinquent first mortgage population of 1.4 million customers. From this population, we immediately subtract the major categories of customers for whom the HAMP program was not intended. They are:

- Loans that were originated after January 1, 2009 ; customers who have an FHA , VA or Jumbo mortgage or are in current workout programs – 239,000 customers
- The property is non-owner occupied or vacant – 323,000 customers
- Customers who have a first mortgage debt-to-income ratio of less than 31% - 143,000 customers
- Customers who are unemployed or are so underemployed that they can't afford a payment even on a zero interest rate loan – 63,000 customers

Subtracting these categories results in a HAMP eligible population of approximately 671,000 customers for whom the program was designed. From these numbers, we subtract an additional 50,000 customers from either a lack of delegated authority to modify the loan or a failure of the net present value (NPV) test designed to protect the investor's interests – which reduces the eligible population to 621,000 customers.

These NPV failures could be reduced if HAMP were changed to allow for mortgage terms to be extended up to 40 years on loans that fail the NPV test.

In terms of the categories not covered by HAMP, there are separate programs designed by the FHA and VA to assist delinquent customers with those loans. As for customers with jumbo loans or customers with non owner occupied properties, the government programs to date have not addressed these populations. However, Bank of America has proprietary programs established to assist these customers.

For customers who have a debt-to-income ratio below 31%, Bank of America has advocated for some flexibility within this category to extend modifications to low-to-moderate income customers who fall below the 31% threshold. For example, 13% of Bank of America's less than 31% debt-to-income population consist of low-to-moderate income customers with debt-to-income ratios between 25% and 31%.

Bank of America is working on a program to offer modifications to low-to-moderate income customers down to a debt-to-income ratio of 24%. If the government HAMP incentives applied to this population, the likelihood the modification could pass the net present value test and provide the customer relief would increase.

For the unemployed or severely underemployed, the Treasury's recent announcement to provide temporary forbearance of three to six months should provide some much needed aid. Regulatory restrictions may prevent forbearance from being extended beyond three months – and while we would argue a longer time period would be helpful, three months is a good start.

Bank of America is also working with state Housing Finance Agencies (HFAs) and the Administration on the distribution of the $2.1 billion Treasury made available for foreclosure relief programs. Proposals include additional principal reduction for severely underwater homeowners as well as assistance for the unemployed.

As part of this effort with the HFA's, Bank of America is pursuing additional avenues to provide more aid to the unemployed. We are evaluating a six to nine month forbearance that will include a contribution to a loan modification for customers who find a job and become eligible for a modification. If the job search proves unsuccessful, increased relocation assistance would be provided and accompanied by a deed-in-lieu of foreclosure.

The most important issue that is affecting the success of HAMP relates to changing customer behavior on:

- Complying with HAMP requirements to allow us to make an offer - 380,000 customers have not provided needed information for us to make an offer, and
- Complying with HAMP trial period requirements to enable a successful, completed modification - 100,000 customers have not made trial period payments or supplied the necessary documents to complete the trial period.

Although 50% of these customers are very hard to reach as they have either been delinquent for more than a year or have a loan-to-value ratio over 150%, we believe recent efforts on principal reduction and second liens should help make solicitations and offers more attractive to these customers.

Principal Reduction

An area of ongoing focus is determining the most effective and appropriate way to incorporate principal reduction into the loan modification process. While Bank of America is supportive of principal reduction for customers who have high loan to value ratios and are experiencing hardship, we believe solutions must balance the interests of the customer and the investor.

From the customer perspective, there is a fairness issue. Within Bank of America's residential servicing portfolio, nearly 86 % of customers are current and pay their mortgages every month – some of them making difficult choices and sacrifices to do so. This does not mean we should not do principal reduction for those unable to stay current, but we must do so in a measured, responsible way so that only customers with a legitimate hardship and genuine interest in maintaining homeownership qualify.

Bank of America has a new program on principal reduction we believe is a solid start. We recently announced enhancements to our proprietary National Homeownership Retention Program that include a first look at principal reduction for certain types of mortgages when calculating affordability under HAMP, including an innovative "earned principal forgiveness" approach to help customers who owe significantly more than their homes are worth.

Subsequent to our program announcement, Treasury also announced its new program providing that servicers should consider principal reduction for customers experiencing hardship and that have a loan-to-value ratio in excess of 115%. We are waiting for Treasury to finalize the details on this program and are very supportive of targeted principal reduction performed in a way that addresses the significant moral and financial hazards but also recognizes the reality regarding the diminished future prospects for home appreciation.

In addition, FHA has also recently announced a program that includes a short refinance feature that should be attractive to underwater customers and investors in these loans. All of these new enhancements should maximize the impact of using principal reduction as a method for responsibly assisting more distressed customers. We encourage the FHA and Treasury to complete the details on these programs as soon as possible.

Second Lien Modifications

One of the issues for first lien investors agreeing to consider principal reductions first on a loan modification is the existence of a second lien on the same property. Indeed, some of these first lien investors have taken the approach that second liens must be totally extinguished before the first lien holder takes any principal reduction.

Currently, of the 10.4 million first liens Bank of America services 15% have a second lien with Bank of America and 16% have a second lien with another lender. Bank of America's approach for our own portfolio is not to let the presence of a second lien prevent us from modifying our first lien loans, including the implementation of principal reductions even when the second lien is owned by a third party investor and has not been modified. Over the past two years, Bank of America has modified more than 80,000 home equity loans.

Ninety percent of Bank of America's home equity portfolio is made up of standalone originations used to finance a specific customer need, such as education expenses or home improvements. The remainder consists of piggy back (combo) loans originated with the home purchase.

Most of our second loans continue to have collateral value, and of those where the second loan is underwater, a significant number are still performing. Indeed, out of 2.2 million second liens in Bank of America's held for investment portfolio – only 91,000 seconds – about four percent – are (i) delinquent, (ii) behind a delinquent first mortgage and (iii) not supported by any equity. Bank of America has already taken significant write-downs of $10.5 billion over the last two years on its home equity portfolio.

In January, Bank of America became the first major loan servicer to sign the contract to participate in the Treasury's second lien program – known as 2MP, and on April 1, less than one week after receiving Treasury's final 2MP program guidelines, we became the first major loan servicer to begin mailing trial modification offers to home equity customers facing financial difficulty.

Even though the official process for confirming homeowner eligibility and measuring 2MP progress are not expected to be fully implemented for a number of months, we acted out of a sense of urgency. We took this step to provide financial relief to customers who need it now, and to help keep them in their homes with a more affordable, *combined* monthly mortgage payment.

For those situations where first and second liens are held by different investors and it is difficult to reconcile their economic interests, we believe a compromise solution on principal reduction is contained within the logic of 2MP. Under this program, the holder of the second lien is required to forebear a similar percentage as the first lien holder, which we believe is equitable. 2MP is a solid first step, and we would advocate working on a similar industry-wide process that would require the second lien holder to take a principal balance reduction proportionate to the first lien holder. Such an approach would provide customers with both affordable payments and a better equity position on both their first and second loans, and would therefore allow them to avoid foreclosure on both liens.

The new FHA refinance program also provides a sensible solution for dealing with second liens. Second lien holders are allowed to subordinate and partially or totally extinguish their liens for a reasonable incentive payment so long as the combined loan to value ratio does not exceed 115%.

We understand there is concern about the impact of second liens on loan modifications and the use of principal reduction. We hope our explanation of the current status of second loans will be instructive for the types of actions that should be considered to further facilitate appropriate loan modifications for customers who hold first and second loans.

Solutions to Achieve a Dignified Transition from Homeownership

While loan modification program enhancements will have a limited impact on the overall foreclosure numbers, they will have a meaningful impact on the family or individual whom we are able to keep in their home. We recognize the effect even one foreclosure has on the customer and community, and we will continue to help customers who want to stay in their homes and have the capacity to do so.

At the same time, we must compassionately and responsibly help those customers who have exhausted all their options and cannot maintain their mortgages.

Given the depth of the nation’s recessionary impacts on homeowners, a considerable number of customers will transition from homeownership over the next two years. The exact number of customers who will face this transition can only be estimated at this time, but given sustained high unemployment rates and high loan to value ratios, particularly in some regions, we believe the levels will be significant.

Within Bank of America’s portfolio of loans, there are large numbers of seriously delinquent customers. Hundreds of thousands of customers haven’t made a mortgage payment in more than a year. For many of those customers a transition from homeownership to rental or other alternative housing is likely to be the only viable option. Among the initiatives that we believe will be helpful to customers making this transition are short sales, deeds-in-lieu, and rental programs.

Bank of America launched the Treasury's Home Affordable Foreclosure Alternatives Program (HAFA), on April 5th and has implemented our own proprietary cooperative short sale program to provide more ease and assistance to delinquent customers who can no longer stay in their home. These initiatives will allow customers to avoid the stigma of foreclosure and potentially reduce the damage done to their credit.

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

We have called out a few initiatives and ideas and just as we have partnered with public policy officials, community groups and others on loan modifications, we must do the same to help customers through this transition.

CONCLUSION

At Bank of America, we are working hard to balance the needs of our customers, investors, shareholders and communities. We believe innovative solutions are necessary to help as many customers as possible sustain homeownership.

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

We appreciate the leadership of this Committee and will continue to work with you to develop solutions that will aid more customers.

Thank you.