Testimony of Stephanie Mudick
JPMorgan Chase
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Introduction

Chairwoman Waters, Ranking Member Capito, and Members of the Committee, thank you for inviting me to appear before you today. My name is Stephanie Mudick, and I am the head of the Office of Consumer Practices at JPMorgan Chase. I am grateful for the opportunity to discuss Chase's loan servicing business, our wide-ranging efforts to enable borrowers to keep their homes and avoid foreclosure where possible, and the recent issues that have arisen relating to affidavits filed in connection with certain foreclosure proceedings.

JPMorgan Chase is committed to ensuring that all borrowers are treated fairly; that all appropriate measures short of foreclosure are considered; and that, if foreclosure is necessary, the foreclosure process complies with all applicable laws and regulations. As I will discuss in detail later in my testimony, we regret the errors that we have discovered in our processes, and we have worked hard to correct these processes so that we get them right. We take these issues very seriously.

Chase services about nine million mortgages across every state, representing over $1.2 trillion in loans to borrowers. In our role as servicer, we are responsible for administering loans on behalf of the owner of the loan, which sometimes is Chase itself, but more often is someone else – a government-sponsored enterprise (GSE), a government agency (such as the Federal Housing Administration or the Department of Veterans Affairs), a securitization trust, or another private investor.

I will first discuss Chase's extensive efforts to help borrowers avoid foreclosure and then discuss the issues that led to our temporary halt to some foreclosures, as well as Chase's enhanced procedures for the foreclosure process.

The past several years have been very difficult ones for many Americans. We have made extensive efforts during these difficult economic times to help borrowers who have fallen behind on their payments understand all of their options and, where feasible, to work with them in an effort to modify their loans and bring their accounts current so that they can keep their homes.

At the outset, I want to emphasize that Chase strongly prefers to work with borrowers to reach a solution that permits them to keep their homes rather than foreclose on their properties. As we discuss below, solutions may include modification, temporary forbearance, short sales or deeds in lieu of foreclosure. Foreclosures cause significant hardship to borrowers, harm their credit profiles, and depress property values in the communities where they occur. Foreclosures also inevitably result in severe losses for lenders and investors. Therefore, we always consider whether there are viable alternatives to foreclosure before proceeding with a foreclosure.

It is critical to note that the analysis we use in deciding whether to proceed with a modification or foreclosure does not take into account servicer compensation. Furthermore, if it were considered, servicer compensation would tend to favor modification over foreclosure. Indeed, the cost for servicers to take a loan to foreclosure generally is significantly greater than the cost of a modification. With a successful modification, Chase is able to continue to service the loan and earn servicer fees; but when a property is sold as a result of foreclosure, Chase's role as servicer ends and Chase receives no further fees.

Chase has established modification programs that collectively have allowed us to avoid many more foreclosures than we have completed. We established these programs starting in early 2007 in recognition of the difficult economic conditions that resulted in a growing number of our borrowers being unable to make their monthly payments. While we keep striving to do even better, our efforts to date have yielded significant results. Since January 2009, Chase has offered almost one million modifications to struggling borrowers and has completed over 250,000 permanent modifications under the Home Affordable Modification Program (HAMP), Chase's own proprietary modification programs, and modification programs offered by the GSEs and FHA/VA. Combined with other programs designed to avoid foreclosure, we have prevented over 429,000 foreclosures since January 2009. Over that same period, we have completed over 241,000 foreclosures. In other words: during the last two years, Chase has successfully prevented about two foreclosures for each one we have completed.

Sustainable modifications are not always possible; there are some borrowers who simply cannot afford to stay in their homes, notwithstanding the modification programs and other foreclosure prevention alternatives available. There are other borrowers who are not seeking modifications; in the majority of cases that went to foreclosure sale in the last quarter, the properties were vacant or not owner-occupied.

Our Investment in Foreclosure Prevention

Our progress in foreclosure prevention derives in part from early and significant investments since late 2008. Currently, Chase employs over 6,000 customer-facing staff whose focus is working with distressed borrowers, and we have more than doubled the number of employees in this area in the last two years. For more than six months, we have assigned each borrower a single point of contact who serves as a consistent touchpoint for the borrower as he/she seeks a loan modification. More than 1,900 dedicated relationship managers serve in this role for our borrowers.

In addition, Chase has made major efforts to reach out personally to borrowers and offer assistance with modifications. Since early 2009, our employees have met with 115,000 struggling borrowers at the 51 Homeownership Centers we have created in 15 states and the District of Columbia. The Chase Homeownership Centers are a notable example of our early efforts to reach borrowers in need. We also have a Homeownership Preservation Office, which maintains relationships with national groups like HOPE NOW and NeighborWorks, as well as with hundreds of local non-profit organizations across the country. Our team works closely with government and community leaders on initiatives that focus on affordable housing, foreclosure prevention and community revitalization. The team also travels across the country and directs national outreach events. Over 3.7 million letters have been sent to borrowers inviting them to attend these events. More than 54,000 borrowers have attended one of the hundreds of events held to date.

We expend great efforts to reach our borrowers and inform them about modification alternatives. In the last two years, Chase has made 341 million outbound calls to borrowers. Chase does not wait for borrowers to contact us; when we believe a borrower may be at risk, we affirmatively reach out to them early to discuss possible modification options. While requirements vary by state, generally our outreach to borrowers includes numerous calls from a customer service representative and letters detailing the nature of the delinquency and possible government and other modification programs. Our borrowers also receive a Chase Homeownership and Outreach letter, including any information about local events that provide in-person help. When a loan becomes more delinquent, a Chase representative may visit the property; and generally at 90 days past due, the borrower receives notification of intent to foreclose. On average, we contact a borrower over 100 times before a foreclosure is completed. In addition, our loan counselors have fielded over 29 million inbound calls from borrowers seeking foreclosure prevention assistance in the last two years and 5 million calls to our dedicated loan modification hotline.

Loan Modification Programs

Chase's modification programs are focused on helping borrowers stay in their homes by making their monthly mortgage payments affordable.

HAMP Modifications

Chase has supported the Department of Treasury's efforts to increase mortgage modifications industry-wide through HAMP, and Chase was one of the first major servicers to begin implementing the program. Chase mails a HAMP application to every borrower whose loan meets the program's eligibility criteria at both 40 and 70 days delinquency. To date, we have sent HAMP applications to 900,000 borrowers.

Chase makes substantial efforts to help borrowers complete the necessary paperwork, and any decision denying a HAMP application is subject to a rigorous review. Chase also affords borrowers an opportunity to appeal denials of HAMP applications by supplementing the information in their file. When an application is pending, Chase suspends foreclosure sales; and if that application is denied, Chase ordinarily will not proceed with the foreclosure sale for a period of 30 days, provided that an investor does not instruct us to proceed sooner.

If a borrower is eligible for participation in HAMP and is approved for a trial modification, we adjust the mortgage payment to 31% of the borrower's total pretax income, as required by HAMP. To achieve this level, as a first step, the loan's interest rate is reduced to as low as 2%. If this is not sufficient, then the term of the loan is extended to 40 years. Finally, if necessary, a portion of the principal is deferred until the loan is paid off, and no interest is charged on the deferred principal.

The response to HAMP has been substantial. To date, we have offered HAMP trial plans to more than 270,000 borrowers and have over 60,000 borrowers in active permanent HAMP modification plans through October 2010. These modifications have benefitted borrowers by reducing their monthly mortgage payments in most cases. Our borrowers who have taken advantage of HAMP modifications realized an average reduction of 28% in their monthly payment.

Modifications for Adjustable Rate Mortgages

Prior to the introduction of HAMP, Chase implemented several of its own proprietary loan modification programs, including several programs for adjustable rate mortgages (ARMs). Chase-owned subprime hybrid ARMs scheduled to reset for the first time are modified to remain at the initial interest rate for the life of the loan. Borrowers qualify for this program if they have a clean payment history on a hybrid ARM with an interest rate that adjusts after the first two or three years. Borrowers do not need to contact Chase to benefit from this program; Chase implements the rate lock automatically, and borrowers are so advised. In cases of hybrid ARM loans that we service but do not own, we use the American Securitization Forum (ASF) Fast Track program to reduce payment shock. Under this program, qualifying borrowers will have their initial ARM rate frozen for five years.

We also have taken action to help borrowers with Chase-owned Pay Option ARMs. Chase did not originate or purchase these loans, but assumed them through the 2008 acquisition of the mortgage assets of Washington Mutual. Chase has developed proactive programs to assist current Pay Option ARM borrowers who may be at higher risk of default due to factors such as credit score, loan-to-value ratio (LTV), and future payment shock. To eliminate any potential payment shock, we offer to modify the loan to a fixed payment, keeping the borrower’s monthly payment at its current amount. For the majority of these modifications, the borrower’s payment is fixed for the life of the loan. Since 2009, Chase has proactively completed about 22,000 Option ARM modifications on current loans, worth $8 billion in unpaid principal balance.

Chase Custom Modifications

Borrowers not eligible for HAMP are reviewed on a case-by-case basis to determine their suitability for an alternative modification. We evaluate these loans by developing an estimated target affordable payment of 31% to 40% of the borrower’s gross income. We use the lowest percentage for borrowers with the lowest incomes. Once the target payment is calculated for the borrower, we test each modification option to see if it will get the borrower to an affordable payment. As in the HAMP program, we apply a net present value (NPV) analysis to each option to determine whether the value of the modification exceeds the value expected to be recovered through a foreclosure. Chase recommends a modification when that option produces both an affordable payment and a positive NPV result.

Despite our best efforts, not every loan can be modified, for a variety of reasons. Most of the mortgages we service are serviced on behalf of others; we do not own the loans. We generally owe those third parties, which include the GSEs, a contractual duty to maximize the return on the investment they made. As noted above, the high costs of foreclosure give them (and us) an incentive to consider meaningful payment reduction when necessary to effectively modify the loan, but modifications that do not maximize the return to investors are inconsistent with our duties as servicer. And even aside from our contractual duties, the U.S. mortgage market will never return to health if investors come to believe that the value of the collateral is unreliable.

Other Loss Mitigation Efforts

For a variety of reasons, loan modifications are not always a workable solution. Borrowers who cannot afford their homes, even if the payment is substantially reduced, need other solutions. So, in addition to loan modifications, Chase also offers borrowers other options to avoid foreclosure. These include:

- **Short Sales –** For borrowers who do not qualify for loan modification or would qualify, but do not wish to stay in their homes, Chase has a program that makes available a short sale in which Chase agrees to a sale to a third party, arranged by the borrower, at a price below the outstanding amount of indebtedness. Since April 2010, Chase has had a program to proactively contact borrowers who have listed their homes for sale and who would be good candidates for short sales. Chase provides these borrowers with a minimum offer that Chase would accept to approve a short sale. Since 2009, Chase has completed more than 83,000 short sales.

- **Deed in Lieu –** In cases where a short sale is not possible because a sale cannot be arranged within the prescribed period of time, Chase may offer borrowers the option of deeding the property to Chase in full satisfaction of their debt. Since 2009, Chase has completed more than 3,400 deeds-in-lieu.

- In addition to short sales and deeds-in-lieu, since 2009, Chase has implemented over 55,000 forbearance, extension and repayment plans to help with a hardship and avoid foreclosure.

Foreclosures

The decision to foreclose is always a difficult one, but there are unfortunately many cases where this alternative is unavoidable. In many cases, borrowers are unemployed or otherwise do not or cannot make any meaningful payment on their mortgages. In the average case where we foreclose, the borrower has not made any payment for 14 months; in Florida, where many of our foreclosures have occurred, the average period without payment prior to foreclosure sale is 22 months. In some cases, the borrower may not have an incentive to pursue a modification; of the properties on which we foreclose, a significant percentage is vacant or not the owner's primary residence, but rather an investment property. In cases where the property is vacant, foreclosure may not only be the right economic decision -- it also transfers the property into a new owner's hands, improving community safety and stabilizing neighboring property values.

We recently announced that we had temporarily suspended foreclosures, foreclosure sales, and evictions in a number of states to allow for a review and enhancement of our procedures. It is important to note at the outset that the issues that have arisen in connection with foreclosure proceedings do not relate to whether foreclosure proceedings were appropriately commenced. We have not found errors in our systems or processes that would have led foreclosure proceedings to be commenced when the borrower was not in default.

Chase has substantial safeguards in place designed to ensure that foreclosures are both a last resort and instituted only in appropriate cases. A loan is referred to foreclosure only after Chase has made substantial attempts to provide the borrower with alternatives to foreclosure. Then, as part of the process that can ultimately lead to referring a loan to foreclosure, Chase policy requires that all delinquent loans be reviewed by its Independent Foreclosure Review team. The Independent Foreclosure Review confirms that the loan is past due and that Chase has complied with its pre-referral policies, including repeated efforts to contact the borrower to discuss alternatives. Under Chase's policies, only *after* the Independent Foreclosure Review is complete can a loan be referred for foreclosure proceedings. The Independent Foreclosure Review is repeated two to three weeks prior to any scheduled sale, and a final check also is performed 72 hours prior to the sale. If any of these subsequent reviews suggests that a loan should not have been referred to foreclosure, we do not proceed with the sale. Under our policies, if a loan modification process has begun after the commencement of a foreclosure, we do not engage in a foreclosure sale if the modification succeeds or until the modification process fails. That is not to say we are perfect – we service millions of loans, and we sometimes do make mistakes. But when we find an error, we fix it.

The Nature of the Affidavit Issues

Chase's recent temporary suspension of foreclosure operations in a number of states arose out of concerns about affidavits prepared by local foreclosure counsel, signed by Chase employees, and filed in certain mortgage foreclosure proceedings. Specifically, employees in our foreclosure operations area may have signed affidavits on the basis of file reviews and verifications performed by other Chase personnel, not by the affiants themselves. In addition, we discovered other related issues in connection with some of these affidavits, including instances in which notarized affidavits may not have been signed and affirmed in the physical presence of the notary. Nevertheless, the facts set forth in the affidavits with respect to the borrowers' indebtedness and the amount of the debt – the core facts justifying foreclosure – were verified prior to the execution of the affidavits by Chase employees consulting the company's books and records, which are themselves subject to extensive internal and external controls. Therefore, we believe the underlying information about default and indebtedness was materially accurate and the issues described above did not result in unwarranted foreclosures.

We take these issues very seriously. Our process was not what it should have been; quite simply, it did not live up to our standards. To begin to address these issues, we temporarily halted foreclosure and related proceedings in certain states because our procedures may not have complied with personal knowledge and notarization requirements. In late September, Chase temporarily halted all foreclosure proceedings and property sales in the 23 states where foreclosure primarily occurs through a judicial process and where affidavits are generally filed as part of the process. Shortly thereafter, Chase also temporarily halted foreclosure proceedings in certain states where foreclosure primarily occurs through a non-judicial process in order to assess whether similar documentation issues might exist in those jurisdictions. As an additional safeguard, Chase also temporarily halted evictions in the states in which it suspended foreclosures, as well as in other states where Chase-signed affidavits might be used as part of the eviction process.

While these proceedings have been halted, Chase has thoroughly reviewed its foreclosure procedures and enhanced them to resolve these issues. Briefly, the remedial actions undertaken by Chase include:

- A complete review of our document execution policies and procedures;
- The creation of model affidavits that will comply with all local law requirements and be used in every case, and that will limit factual assertions to those within the personal knowledge of the signer and eliminate any legal conclusions that are outside the signer's personal knowledge;
- Implementation of enhanced procedures designed to ensure that the employees who execute affidavits personally verify their contents and that the affidavits are executed only in the physical presence of a licensed notary;
- Extensive training for all personnel who will have responsibility for document execution going forward and certification of those personnel by outside counsel;
- Implementation of a rigorous quality control double-check review of affidavits completed by Chase employees; and
- Review and verification of our revised procedures by outside experts.

In addition to enhancing procedures for future foreclosure filings, Chase also is working to remedy any issues with affidavits on file in pending proceedings. Although Chase's approach will vary based on the procedures in individual states, in cases in which judgment has not yet been entered, Chase plans to re-verify the material information in filed affidavits and file replacement affidavits prepared under the new enhanced procedures to eliminate any possible defects in these affidavits. Chase is taking other appropriate measures in connection with foreclosure matters in which judgment has been entered but a sale has not yet occurred.

We have worked hard over the past month and a half to review and strengthen our procedures to remediate the affidavit issues we found. We are committed to addressing these issues as thoroughly and quickly as possible.

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I hope that my testimony has explained our processes for dealing with cases of borrower default, as well as the issues surrounding the documentation filed in Chase's foreclosure proceedings and the steps we have taken to address them. Foreclosure is a last resort for Chase, but when we do foreclose, we are committed to making sure that we do so in compliance with applicable law and with respect for the borrower. I would be happy to answer questions from the Committee.