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TROUBLED ASSET RELIEF PROGRAM

Actions Needed by Treasury to Address Challenges in Implementing Making Home Affordable Programs

Statement of Mathew J. Scirè, Director
Financial Markets and Community Investment



Chairman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Making Home Affordable (MHA) program, including the Home Affordable Modification Program (HAMP). Since the Department of the Treasury (Treasury) first announced the framework for its MHA program over 2 years ago, the number of homeowners facing potential foreclosure has remained at historically high levels. HAMP, the key component of MHA, provides financial incentives to servicers and mortgage holders/investors to offer modifications on first-lien mortgages. The modifications are intended to reduce borrowers' monthly mortgage payments to affordable levels to help these homeowners avoid foreclosure and keep their homes.

Since HAMP's inception, concerns have been raised that the program is not reaching the expected number of homeowners. In two prior reports, we looked at the implementation of the HAMP first-lien modification program, noted that Treasury faced challenges in implementing it, and made several recommendations intended to address these challenges.¹ In addition, our ongoing work examines the extent to which additional MHA programs have been successful at reaching struggling homeowners, the characteristics of homeowners who have been assisted by the HAMP first-lien modification program, and the outcomes for borrowers who do not complete HAMP trial or permanent modifications. These programs include the Second-Lien Modification Program (2MP) for those whose first liens have been modified under HAMP, the Home Affordable Foreclosure Alternatives (HAFA) program for those who are not successful in HAMP modifications, and the Principal Reduction Alternatives (PRA) program for borrowers who owe more on their mortgages than the value of their homes.

¹GAO is required to report at least every 60 days on findings resulting from, among other things, oversight of the Troubled Asset Relief Program's (TARP) performance in meeting the purposes of the Act, the financial condition and internal controls of TARP, the characteristics of both asset purchases and the disposition of assets acquired, the efficiency of TARP's operations in using appropriated funds, and TARP's compliance with applicable laws and regulations (12 U.S.C. § 5226(a)). Under this statutory mandate, we have reported on Treasury's use of TARP funds to preserve homeownership and protect home values. See GAO, *Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable*, [GAO-09-837](#) (Washington, D.C: July 2009) and GAO, *Troubled Asset Relief Program: Further Actions Needed to Fully and Equitably Implement Foreclosure Mitigation Programs*, [GAO-10-634](#) (Washington, D.C: June 2010).

My statement is based on the report on HAMP that we issued in June 2010, as well as on preliminary observations from our ongoing work.² Specifically, this statement focuses on (1) the extent to which HAMP servicers have treated borrowers consistently and the actions that Treasury and its financial agents have taken to ensure consistent treatment; (2) the status of Treasury's second-lien modification, foreclosure alternatives, and principal reduction programs; (3) the characteristics of borrowers who received HAMP modifications; and (4) outcomes for borrowers who are denied or fall out of HAMP trial or permanent first-lien modifications.

To examine these questions, we spoke with and obtained information from 10 HAMP servicers of various sizes who collectively had been designated 71 percent of the TARP funds allocated to participating servicers. We visited 6 of them for our June 2010 report. In addition, for our ongoing work, we spoke with and obtained data from 6 large MHA-participating servicers. We reviewed HAMP program documentation issued by Treasury, including supplemental directives for the first-lien program and announcements of new TARP-funded homeowner assistance programs. To determine the key elements needed to ensure program stability and adequate program management, we compared documents obtained from Treasury regarding HAMP program governance and internal controls to the Government Performance and Results Act of 1993 (GPRA) and the Standards for Internal Control in the Federal Government.³ We also analyzed loan-level data from Treasury's HAMP database, which included data reported by servicers on borrowers evaluated for HAMP participation through September 30, 2010, to analyze the characteristics of borrowers who received HAMP modifications, were canceled from HAMP trial modifications, or redefaulted from permanent HAMP modifications. We coordinated our work with other TARP oversight entities, including the Congressional Oversight Panel, the Office of the Special Inspector General for TARP (SIGTARP), and the Financial Stability Oversight Board.

The work on which this testimony is based was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

²[GAO-10-634](#).

³Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285, codified at 5 U.S.C. § 306 (1993), and GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

In June 2010, we reported on several inconsistencies in the way servicers treated borrowers under HAMP that could lead to inequitable treatment of similarly situated borrowers. These inconsistencies involved how servicers solicited borrowers for the program, how they evaluated borrowers who were not yet 60 days delinquent on their mortgage payments, and how they handled borrower complaints.⁴ In addition, we noted that while Treasury had taken some steps to ensure servicer compliance with program guidance, it had not yet finalized consequences for servicer noncompliance. We made eight recommendations to improve the transparency and accountability of HAMP in June 2010. Treasury stated that it intended to implement some of the recommendations, but little action has been taken to date.

Further, as part of our ongoing work, we identified several implementation challenges that had slowed implementation of newer MHA programs, specifically 2MP, HAFA, and the Principal Reduction Alternative (PRA). For example, we found that servicers experienced difficulties in using a required database to identify borrowers who might be eligible for 2MP, contributing to a slow start for this program. We found that borrowers who were in HAMP trial or permanent modifications tended to share certain characteristics, such as reduced income and having high debt levels, and that those who were canceled from trial modifications or redefaulted from permanent modifications tended to be further into delinquency at the time of their modifications. Lastly, we found that many borrowers who were denied or fell out of HAMP modifications had been able to avoid foreclosure to date. But weaknesses in how Treasury reports the disposition paths, or outcomes, for these borrowers make it difficult to understand exactly what has happened to these homeowners.

Background

In March 2009, Treasury issued the first HAMP guidelines for modifying first-lien mortgages in an effort to help homeowners avoid foreclosure. The goal of the first-lien mortgage modification program is to reduce

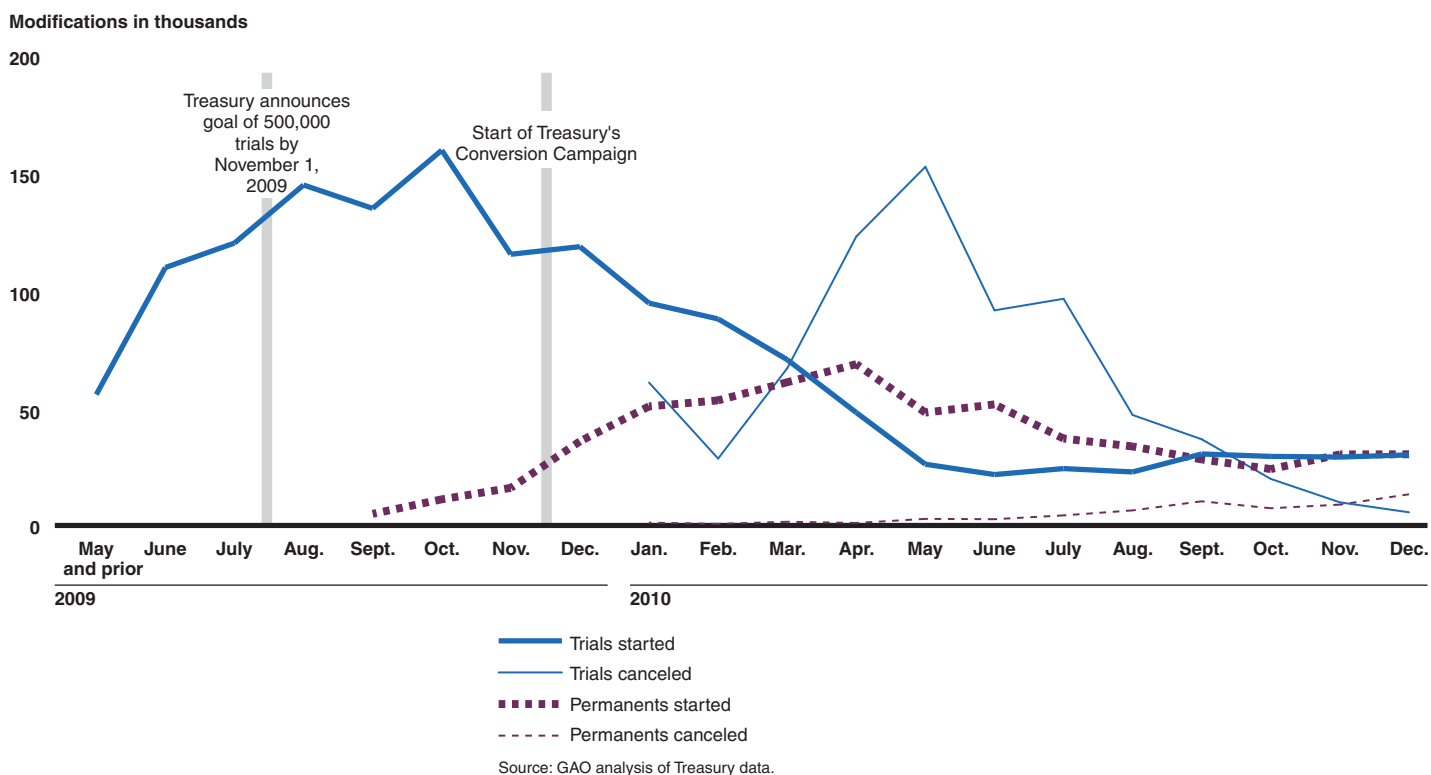
⁴[GAO-10-634](#).

struggling homeowners' mortgage payments to more affordable levels—specifically to 31 percent of the borrower's income. To reduce mortgage payments, servicers may modify the loan by lowering the interest rate, extending the amortization period, or forbearing principal. According to Treasury officials, the program was intended to offer reduced monthly payments to up to 3 to 4 million homeowners.

Through December 2010, there were a total of 143 active servicers under the TARP-funded portion of HAMP. Through December 2010, over 1.7 million HAMP trial modifications had been offered to borrowers, nearly 1.5 million of which had begun HAMP trial modifications.⁵ Of the trial modifications begun, approximately 152,000 were active trial modifications, and roughly 522,000 were active permanent modifications. Approximately 735,000 trial modifications and around 58,000 permanent modifications had been canceled (fig. 1). As of December 31, 2010, \$1 billion in TARP funds had been disbursed for TARP-funded housing programs, of which roughly \$840 million was disbursed to servicers for HAMP-related activity. Most of the disbursements to date have been made for the first-lien modification program.

⁵The government-sponsored enterprises (GSE) Fannie Mae and Freddie Mac have directed all of their approximately 2,000 servicers to implement parallel HAMP programs on first-lien mortgages owned or guaranteed by the GSEs. Roughly 46 percent of borrowers who were in trial or permanent modifications as of September 30, 2010, had non-GSE loans and, therefore, fell under the TARP-funded portion of HAMP.

Figure 1: GSE and Non-GSE HAMP Trial and Permanent Modifications Made and Canceled Each Month, through December 2010



In addition to first-lien modifications, Treasury has announced a number of TARP-funded housing programs, including those for modifying second liens held by borrowers with first-lien modifications under HAMP, reducing principal, offering temporary forbearance for unemployed borrowers, and providing alternatives to foreclosure (see table 1). At the current time, with the exception of the Housing Finance Agency (HFA) Hardest-Hit Fund, the cutoff date for borrowers to be accepted into TARP-funded programs is December 31, 2012, and disbursements of TARP funds may continue until December 2017.

Table 1: Status of TARP-Funded Housing Programs as of December 2010

Program	Program description	Program status
HAMP First-Lien Modification	First-lien loan modifications	<ul style="list-style-type: none"> • Announced in March 2009 • Implemented in April 2009 • 143 active non-GSE servicers • More than 1.5 million trials started—522,000 active permanent modifications, 152,000 active trials, and 735,000 cancellations • Over \$827 million disbursed in incentive payments
2MP	Second-lien loan modifications for HAMP first-lien borrowers	<ul style="list-style-type: none"> • Announced in March 2009 • Implemented in March 2010 • 17 servicers have signed agreements • \$2.9 million in incentive payments made
HAFA	Incentives for short sales or deeds-in-lieu of foreclosure	<ul style="list-style-type: none"> • Announced in March 2009 • Implemented in April 2010 • \$9.5 million in incentive payments made
HFA Hardest-Hit Fund	Funding for state housing finance agencies in the 18 states and Washington, D.C., hardest hit by the foreclosure crisis	<ul style="list-style-type: none"> • Announced in February and March 2010 • Implementation varies by state • \$7.6 billion designated for 19 HFAs
PRA	Principal reduction for HAMP-eligible borrowers with high loan-to-value ratios	<ul style="list-style-type: none"> • Announced in March 2010 • Implemented October 2010
HAMP Unemployed Borrowers	Temporary principal forbearance for unemployed borrowers	<ul style="list-style-type: none"> • Announced in March 2010 • Implemented July 2010 • No expected TARP funds
FHA Refinance	Principal reduction and loan refinancing into an FHA loan	<ul style="list-style-type: none"> • Announced in March 2010 • Implemented September 2010 • \$11 billion designated

Source: Treasury.

Servicers Have Been Inconsistent in Soliciting and Evaluating HAMP Borrowers and More Treasury Action Is Needed to Ensure Equitable Treatment of Borrowers with Similar Circumstances

Although one of Treasury's stated goals for HAMP is to standardize the loan modification process across the servicing industry, in our June 2010 report, we identified several inconsistencies in the way servicers treated borrowers under HAMP that could lead to inequitable treatment of similarly situated borrowers.⁶ First, because Treasury did not issue guidelines for soliciting borrowers for HAMP until a year after announcing the program, the servicers we contacted solicited borrowers differently. A few solicited those who were 31 days delinquent on their payments, but other servicers waited until borrowers were at least 60 days delinquent. We also noted that many borrowers had complained they did not receive timely responses to their HAMP applications and had difficulty obtaining information about the program. In March 2010, Treasury issued guidelines to address some of the issues related to communicating with borrowers about the program, and said it planned to monitor servicers' compliance with the guidelines.

Second, Treasury's lack of specific guidelines for determining HAMP eligibility for borrowers current or less than 60 days delinquent, but in imminent danger of defaulting has led to inconsistencies in how servicers evaluate them. The 10 servicers who GAO contacted reported seven different sets of criteria for determining imminent default. Two servicers considered borrowers in imminent default if they met basic HAMP eligibility requirements, but other servicers had additional criteria, such as requiring that a hardship situation has existed for more than 1 year. Treasury's goal was to create uniform, clear, and consistent guidance for loan modifications across the servicing industry, but these differences may result in one borrower's being approved for HAMP and another borrower with the same financial situation and loan terms being denied by a different servicer. We recommended that Treasury establish clear, specific criteria for determining whether a borrower was in imminent default to ensure greater consistency across servicers. However, Treasury believes the impact of these variations on borrowers is inconsequential and has declined to implement this recommendation. We continue to believe that further actions are warranted.

In addition, Treasury has not clearly informed borrowers that they can use the HOPE Hotline to raise concerns about servicers' handling of HAMP loan modifications and to challenge potentially incorrect denials, likely limiting the number of borrowers who have used the hotline for these

⁶[GAO-10-634](#).

purposes.⁷ The HOPE Hotline also has procedures for referring borrowers who need additional assistance to the Making Home Affordable Escalation Team. However, it is unclear whether borrowers are aware of and using the HOPE Hotline to raise concerns about their servicers and challenge potentially incorrect denials. We recommended that Treasury (1) more clearly inform borrowers that the HOPE Hotline may also be used for these purposes and (2) monitor the effectiveness of the HOPE Hotline as a process for handling borrower concerns.

Finally, Treasury has taken some steps to ensure that servicers comply with HAMP program requirements, but has yet to establish specific remedies for noncompliance with HAMP guidelines. For instance, the HAMP servicer participation agreement describes actions that could be taken in response to noncompliance and the HAMP Compliance Committee monitors servicers' performance and activities. But without standardized remedies for noncompliance, Treasury risks treating servicer noncompliance inconsistently and its methods of responding to incidents of noncompliance lack transparency. In our June 2010 report, we recommended that Treasury finalize and expeditiously issue consequences for servicers who do not comply with HAMP requirements. We made eight recommendations to improve the transparency and accountability of HAMP in June 2010. Treasury stated that it intended to implement some of the recommendations, but little action has been taken to date.

Implementation Challenges Have Affected the Progress of Treasury's Newer Housing Programs

The implementation of Treasury's 2MP, HAFA, and PRA programs has been slow, and limited activity has been reported to date. This slow pace is attributed in part to several implementation challenges, including the following.

- *Difficulty matching first and second liens for 2MP.* Because eligibility for 2MP required a first-lien HAMP modification, Treasury contracted with a database vendor to provide data on existing second liens that corresponded with these modifications. However, the servicers we contacted noted that even differences in the spelling of addresses—for

⁷Fannie Mae, in its role as the MHA program administrator, has contracted with the Homeownership Preservation Foundation to offer its HOPE Hotline for incoming borrower calls about HAMP and Treasury's other MHA programs. Through the HOPE Hotline, borrowers may obtain information about the programs, assess their potential eligibility, or discuss their individual situations, including complaints about their servicer or about potentially incorrect HAMP denials.

example, in abbreviations or spacing—could prevent an accurate identification. Initial 2MP guidelines stated that servicers could not offer a second-lien modification without confirming a match with the database vendor, even if they had serviced both first and second liens on the same property. In November 2010, Treasury provided updated program guidance that allowed servicers to offer a 2MP modification if they could identify a first- and second-lien match within their own portfolio or had evidence that a corresponding first lien existed, even if the database had not identified it.

- *Extensive program requirements for HAFA.* All six of the large MHA servicers we spoke with identified extensive program requirements as reasons for the slow implementation of HAFA, including the initial requirement that applicants first be evaluated for a HAMP first-lien modification. Because of this requirement, potential HAFA borrowers had to submit extensive income and other documentation required for a modification, even if they simply wanted to sell. In cases where a borrower had already identified a potential buyer before executing a short-sale agreement with the servicer, the additional time required for a HAMP first-lien evaluation may have dissuaded the buyer from purchasing the property. Restrictive short-sale requirements and a requirement that mortgage insurers waive certain rights may have also contributed to the limited activity under HAFA. Servicers said that given these requirements, they did not expect HAFA to increase their overall number of short sales and deeds-in-lieu. In response to this concern, Treasury released updated HAFA guidance on December 28, 2010, to no longer require servicers to document and verify a borrower's financial information to be eligible for HAFA.
- *Voluntary nature of the PRA program.* Treasury officials told us that 13 of the 20 largest MHA servicers were planning to offer principal reduction to some extent, but some servicers we spoke with said they would limit the conditions under which they would offer principal forgiveness under PRA. Treasury's PRA guidelines require all servicers participating in HAMP to consider principal forgiveness for HAMP-eligible borrowers with mark-to-market loan-to-value ratios (LTV) greater than 115 percent.⁸ But servicers are not required to offer principal reduction, even if the net present value (NPV) is higher when principal is forgiven.⁹ For example, one servicer had

⁸Mark-to-market LTV is the unpaid principal balance divided by the property value at the time of modification.

⁹The NPV model compares expected cash flows from a modified loan to the same loan with no modification, using certain assumptions.

developed a “second look” process that used internal estimates of default rates to determine NPV and did not forgive principal unless these estimates—not those calculated using program guidelines—indicated a higher NPV with forgiveness. As a result, only 15 to 25 percent of those who otherwise would have received principal forgiveness received it, according to this servicer. We recommended in June 2010 that Treasury report activity under PRA, including the extent to which servicers determined that principal reduction was beneficial to mortgage investors but did not offer it, to ensure transparency in the implementation of this program. Treasury officials told us they would report PRA activity at the servicer level once the data were available. We plan to continue to monitor Treasury’s reporting of PRA and other TARP-funded housing programs.

In addition, we found that Treasury could do more to build on the lessons learned from its first-lien modification program. For example, we previously reported that Treasury had not sufficiently assessed the capacity of servicers to implement the first-lien program. More recently, we observed that Treasury has not obtained all required documentation to demonstrate that servicers have the capacity to successfully implement the newer programs. According to Treasury, Fannie Mae has conducted program-specific readiness reviews for the top-20 large servicers for 2MP, HAFA, and PRA, including all 17 servicers participating in 2MP. These reviews assess servicers’ operational readiness, including the development of key controls to support new programs, technology readiness, training readiness, staffing resources, and program processes and documentation. According to Treasury’s summary of these reviews, of those that had completed reviews, 4 had provided all required documents for HAFA, and 3 had provided all required documents for PRA. None of the servicers provided all required documents for 2MP. As a result, servicers’ ability to effectively offer troubled homeowners second-lien modifications, foreclosure alternatives, and principal reductions is unclear. Further, Treasury has not implemented our June 2010 recommendation that it establish goals and effective performance measures for these programs, nor has it said how it will use any assessments to hold servicers accountable for their performance. Treasury also has not established actions it will take in cases where individual servicers are not performing as expected in these programs. As we noted in June 2010, without performance measures and goals, Treasury will not be able to effectively assess the outcomes of these programs.

HAMP Borrowers Shared Several Characteristics, Including Reduced Income; Early Data Indicate that Borrowers Who Redefaulted from Permanent Modifications Were Further Into Delinquency

Our analysis of HAMP data for borrowers in trial and permanent modifications indicated that over half of borrowers cited curtailed income, such as reduced pay, as the primary reason for needing to lower their mortgage payments (56 percent of borrowers in active modifications and 53 percent in trial modifications). However, only 5 percent of borrowers in each of these groups cited unemployment as their primary reason for financial hardship. Borrowers also had high levels of debt prior to modification with monthly mortgage payments that were 45 and 46 percent of gross monthly income, respectively, and total debt levels of 72 and 76 percent of gross monthly income, respectively. Even after modification, these borrowers continued to have high debt levels (median back-end DTI ratios of 55 and 57 percent for those in trial and permanent modifications, respectively). In addition, borrowers in trial and permanent modifications tended to be “underwater,” with median mark-to-market LTV ratios of 123 percent and 128 percent, respectively.

Borrowers who were either canceled from a trial modification or redefaulted from a permanent one shared several of these characteristics, including having high debt levels and being “underwater” on their mortgages. However, some characteristics appeared to increase the likelihood that a borrower would be canceled from a trial modification. For example, borrowers who received a trial modification based on stated income were 52 percent more likely to be canceled from trial modifications than those who started a trial modification based on documented income. In some cases, borrowers who received trial modifications based on stated income were not able to or failed to provide proof of their income or other information for conversion to permanent modification.¹⁰ In other cases, borrowers may have submitted the required documentation but the servicer lost the documents. In addition, borrowers who were 60 or 90 days or more delinquent at the time of their trial modifications were 6 and 9 percent more likely to have trial modifications canceled, respectively, compared with borrowers who were not yet delinquent at the time of their trial modifications. Treasury has acknowledged the importance of reaching borrowers before they are seriously delinquent by requiring servicers to evaluate borrowers still current on their mortgages for imminent default. But, as we noted in June

¹⁰Treasury has recognized challenges with documentation as a reason for the low conversion rate to permanent modifications, and as of June 2010, began requiring that servicers verify borrowers’ income before placing borrowers into trial modifications.

2010, this group of borrowers may be defined differently by different servicers.¹¹

Borrowers who had high mark-to-market LTV ratios (from 120 to 140 percent) were 7 percent less likely to be canceled from trial modifications than those with mark-to-market LTV ratios at or below 80 percent, and those with a mark-to-market LTV ratio of more than 140 percent were 8 percent less likely to be canceled. Borrowers who received principal forgiveness of between 1 and 50 percent of their total loan balance were less likely to be canceled from trial modifications compared with those who did not receive principal forgiveness. In addition, larger monthly payment reductions lowered the likelihood that a trial modification would be canceled. For example, borrowers who received a principal and interest payment reduction of least 10 percent were less likely to be canceled from their trial modifications than other borrowers.

Our initial observations of over 15,000 non-GSE borrowers who had redefaulted from permanent HAMP modifications through September 2010 indicated these borrowers differed from those in active permanent modifications in several respects. Specifically, non-GSE borrowers who redefaulted on their HAMP permanent modifications tended to have higher levels of delinquency at the time they were evaluated for a trial modification (median delinquency of 8 months compared to 5 months for those still in active permanent modifications), lower credit scores, and lower median percentage of payment reduction compared with those who were still current in their permanent modifications (24 percent compared with 33 percent). These borrowers may have received smaller reductions in their payments because they had lower debt levels before modification than borrowers who did not redefault.

¹¹[GAO-10-634](#).

Most Borrowers Denied or Canceled from Trial Modifications Have Avoided Foreclosure to Date, but Limits to Treasury's Data Make Understanding Their Outcomes Difficult

We requested data from six servicers on the outcomes of borrowers who (1) were denied a HAMP trial modification, (2) had their trial modification canceled, or (3) redefaulted from a HAMP permanent modification. According to the data we received, of the about 1.9 million GSE and non-GSE borrowers who were evaluated for a HAMP modification by these servicers as of August 31, 2010, 38 percent had been denied a HAMP trial modification, 27 percent had seen their HAMP trial modifications canceled, and 1 percent had redefaulted from a HAMP permanent modification.¹²

According to these servicers' data, borrowers who were denied HAMP trial modifications were more likely to become current on their mortgages without any additional help from the servicer (39 percent) than to have any other outcome. Of those borrowers who were canceled from a HAMP trial modification, servicers often initiated actions that could result in the borrower retaining the home. Specifically, 41 percent of these borrowers had received or were in the process of receiving a permanent proprietary modification, and 16 percent had received or were in the process of receiving a payment plan. However, servicers started foreclosure proceedings on 27 percent of borrowers at some point after the HAMP trial modification was canceled, but only 4 percent of these borrowers completed foreclosure. Compared with borrowers who were denied, borrowers who had a HAMP trial modification canceled were less likely to become current on their mortgages (15 percent) or to pay off their loan (4 percent).

Finally, though data are limited, of the borrowers who redefaulted from a HAMP permanent modification, almost half were reflected in categories other than proprietary modification, payment plan, becoming current, foreclosure alternative, foreclosure, or loan payoff. Twenty-eight percent of borrowers who redefaulted from permanent modifications were referred for foreclosure at some point after redefaulting, but, like borrowers denied or canceled from a HAMP trial modification, the percentage of borrowers who completed foreclosure remained low relative to other outcomes (less than 1 percent). Unlike borrowers who were denied or canceled, borrowers who redefaulted were less likely to

¹²The remaining borrowers included those in active trial and permanent modifications, those who were still being evaluated for trial modifications, and those who were offered but declined trial modifications. Two servicers provided the data as of their closing date for reporting August 2010 data to Treasury, September 6, 2010, and September 8, 2010, respectively.

receive or be in the process for receiving a permanent proprietary modification or payment plan after redefaulting, with 27 percent of borrowers receiving or in the process for receiving one of the outcomes. In addition, less than 1 percent of borrowers who redefaulted had become current as of August 31, 2010.¹³

We also looked at data that Treasury had begun reporting on the disposition paths of borrowers who were denied or canceled from HAMP trial modifications. However, weaknesses in how Treasury requires servicers to report data make it difficult to understand the current status of these borrowers. First, Treasury's system for reporting the disposition of borrowers requires servicers to place borrowers in only one category, even when borrowers are being evaluated for several possible dispositions, with non-HAMP (proprietary) modifications reported first. As a result, the proportion of borrowers reported as receiving proprietary modifications is likely to be overstated relative to other possible dispositions, such as foreclosure starts. Further, Treasury does not require servicers to distinguish between completed and pending actions, so some reported outcomes may not be clear. For example, we asked six large servicers to separate borrowers who had a HAMP trial modification canceled into two groups: those who were being evaluated for permanent proprietary modifications and those who had actually received them. The servicers' data indicated that 23 percent of these borrowers were in the process of being approved for proprietary modifications, and 18 percent had received one. At the same time, Treasury reported that 43 percent of borrowers canceled from a HAMP trial modification through August 2010 were in the process of obtaining a proprietary modification.¹⁴

Servicers told us they had been able to offer more proprietary modifications than HAMP permanent modifications because proprietary

¹³Because borrowers who redefault on a HAMP modification would still retain the terms of their HAMP modification, we would not expect many borrowers who redefaulted to receive a proprietary modification. One servicer, however, reported that 95 percent of those borrowers who redefaulted from a HAMP permanent modification had an action pending for a proprietary modification. The servicer explained that it evaluates the majority of these borrowers for another modification program after they redefault.

¹⁴We requested that servicers provide the data as of August 31, 2010, but servicers could report borrowers with a canceled HAMP trial modification to Treasury until early September 2010 for August 2010 reporting. In addition, servicers may have included loans in our data request that have not yet been reported to Treasury and, therefore, would not be reflected in the number of borrowers that Treasury reports. Lastly, one servicer reported borrowers to Treasury for a business division not included in our data.

modifications offered greater flexibility. For example, several servicers told us that their proprietary modification programs had fewer documentation requirements. Several servicers told us they were able to offer more proprietary modifications than HAMP modifications or help borrowers when HAMP could not because their proprietary modifications had fewer eligibility requirements, such as restrictions on occupancy type. In addition, while HAMP guidelines require borrowers to have a mortgage payment exceeding 31 percent of their income, all of the servicers we spoke with indicated their proprietary modification programs also served borrowers who had lower payment ratios. While the number of proprietary modifications has outpaced the number of HAMP modifications, the sustainability of both types of modifications is still unclear. For example, proprietary modifications may not reduce monthly mortgage payments as much as HAMP modifications, potentially affecting the ability of borrowers to maintain their modified payments.

In summary, we reported in June 2010 that it would be important for Treasury to expeditiously implement a prudent design for the remaining TARP-funded housing programs. Our current work shows there is more Treasury can do to ensure the effective implementation of these programs, including ensuring that servicers have sufficient capacity to implement them, and that borrowers are notified about potential eligibility for second-lien modifications. We also believe it will be important for Treasury to have clear and accurate information on the dispositions of borrowers who are denied or fall out from HAMP modifications. Without accurate reporting of borrower outcomes, Treasury cannot know the actual extent to which borrowers who are denied, canceled, or redefaulted from HAMP are helped by other programs or evaluate the need for further action to assist this group of homeowners. We provided a copy of our current draft report to Treasury for its review and comment. Treasury acknowledged the report's description of servicers' challenges and appreciated our assessment of Treasury's housing programs. Treasury indicated that the draft report raised certain criticisms of the design and implementation of MHA that were unwarranted. We continue to believe there are opportunities to improve the transparency, accountability, and effectiveness of MHA and anticipating the report this month, in March 2011. We will continue to monitor Treasury's implementation and management of TARP-funded housing programs as part of our ongoing oversight of the performance of TARP in meeting its legislative goals. We are also conducting a broad-based study of the federal government's efforts to mitigate the impact of foreclosures, which will include an assessment of how federal foreclosure mitigation efforts or alternatives

might better preserve homeownership, prevent avoidable foreclosures, and otherwise help resolve troubled mortgages.

Chairman Biggert, Ranking Member Gutierrez, and Members of the Subcommittee, I appreciate this opportunity to discuss this important program and would be happy to answer any questions that you may have. Thank you.

GAO Contact and Staff Acknowledgments

For information on this testimony, please contact me at (202) 512-8678 or sciremj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made major contributions to this statement include Lynda Downing, Harry Medina, John Karikari (Lead Assistant Directors); Tania Calhoun; Emily Chalmers; William Chatlos; Grace Cho; Rachel DeMarcus; Marc Molino; Mary Osorno; Jared Sippel; Winnie Tsen; Jim Vitarello; and Heneng Yu.

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