NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

Regulatory Comments

NCRC Comments on AHP & Foreclosure Prevention:

RIN Number 3069-AB35, Docket Number 2008-09

June 16, 2008

National Community Reinvestment Coalition

727 15th Street, N.W.
Suite 900
Washington, D.C. 20005
www.ncrc.org

Voice: 202-628-8866
Fax: 202-628-9800

June 16, 2008

Federal Housing Finance Board
1625 Eye St. NW
Washington DC 20006

Proposed Rule: Affordable Housing Program Amendments
RIN Number 3069-AB35, Docket Number 2008-09

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) appreciates that the Federal Housing Finance Board is addressing the nation's foreclosure crisis. The record levels of foreclosure require an immediate large scale and coordinated response from the public, private and nonprofit sectors. We are therefore pleased that the Federal Housing Finance Board is contemplating a foreclosure prevention program.

NCRC is an association of more than 600 community-based organizations that promote access to basic banking services, including credit and savings, to create and sustain affordable housing, job development and vibrant communities for America's working families. NCRC also administers the National Homeownership Sustainability Fund (NHSF), which has assisted over 5,000 borrowers and saved nearly $500 million in home equity.

While the overall intent of your proposal is well-intentioned, NCRC has concerns with certain areas. The first of these is the use of the Affordable Housing Program (AHP) subsidy to leverage refinance loans for borrowers stuck in problematic mortgages. AHP has few resources for low-income rental and homeownership housing. Your proposal does not thoroughly investigate whether other resources can be effectively utilized by themselves or in combination with AHP. NCRC therefore urges you to consider the use of the Community Investment Program (CIP), the Community Investment Cash Advance (CICA) and other resources for this program.

In addition, the use of AHP introduces a potential moral hazard to your program. In essence, the Federal Home Loan Banks will be offering significant subsidies to member banks and thrifts so that the member institutions can refinance problematic mortgages that they issued. In other words, the proposal runs the risk of subsidizing problematic lending. We understand that you propose to require the member banks to match the AHP subsidy on a 2 to 1 basis, yet the subsidization of problematic lending remains. In contrast, NCRC has put forth its HELP Now proposal, which is attached for your review. Under this construct, the financial institutions are not subsidized and are required to agree to a discounted payment for their problematic mortgages. Likewise, the House and Senate are currently exploring using the FHA program to refinance mortgages, but are requiring the original lender to incur a significant financial penalty for being relieved of its problematic loans. NCRC urges the Federal Housing Finance Board to consider a establishing a bulk refinance mechanism that does not subsidize irresponsible lending.

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The other major element that NCRC asks the Finance Board to reconsider is the group of borrowers targeted by your proposal. Your proposal focuses on borrowers of non-traditional and subprime loans as you suggest that resetting loans are the major problem driving the foreclosure crisis. Yet the recent report issued by the Mortgage Bankers Association, and the public discussion of that report in the media, suggests that borrowers are experiencing financial distress before the resets. In addition, delinquency and default rates are at record levels in prime lending. NCRC therefore suggests that you expand your program and make it generally available to more broad categories of borrowers. For example, the Federal Housing Finance Regulatory Reform Act of 2008 currently being considered by the Senate would extend eligibility to FHA refinances for borrowers who now have debt-to-income ratios greater than 31%. NCRC suggests that you adjust your eligibility to be consistent with the Senate and House bills which are expected to be reconciled and passed soon by Congress.

In light of NCRC's suggested changes to core elements of your proposal, we anticipate that you will issue another proposal for comment. Thank you for your consideration of our comments and your intention to be actively engaged in addressing the national foreclosure crisis.

Sincerely,

John Taylor
President & CEO

NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

Policy Recommendations

Recommendation to Establish the Homeowner Emergency Loan Program (HELP Now)

Submitted to the United States Senate Committee on Banking, Housing and Urban Affairs
Thursday, January 31. 2008

"Strengthening our Economy: Foreclosure Prevention and Neighborhoods Preservation"

by The National Community Reinvestment Coalition
2008

National Community Reinvestment Coalition

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Suite 900
Washington, D.C. 20005
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Fax: 202-628-9800

Recommenation to Establish the Homeowner Emergency Loan Program (HELP Now)

About NCRC

The National Community Reinvestment Coalition (NCRC) is an association of more than 600 community-based organizations that promote access to basic banking services including credit and savings, to create and sustain affordable housing, job development and vibrant communities for America's working families. Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, local and social service providers from across the nation.

Current Efforts Inadequate to Stem Foreclosure Crisis

The most recent available data reinforces the reality that the home mortgage crisis continues to grow. And despite the best efforts of the home mortgage finance industry, voluntary measures to stem the crisis are failing to respond adequately to the scale of the problems. According to Moody's Investors Service, only 3.5 percent of loans scheduled for interest rate resets in the first nine months of 2007 were modified. Yet even if the numbers were higher, the remedies being offered are not working. Current industry workouts and payment plans do not move families into long-term affordable mortgages. Rather, they shift the problems into the future. And, the unsuccessful results of this shifting are clear: according to the Mortgage Bankers Association, fully 40 percent of subprime adjustable rate mortgages (ARMs) that went into foreclosure in the third quarter of 2007 were loans that had previously experienced a modification or repayment plan.

The FHASecure program, introduced in August of 2007, provides additional flexibilities in FHA underwriting guidelines that open the door to refinancing for borrowers who have good credit histories but cannot afford higher mortgage payments due to a loan reset. This program does provide a long-term affordable mortgage solution for borrowers who qualify. But FHASecure lacks the capacity to address the full panoply of problem loans outstanding. According to a January 28, 2008 Reuters article, the American Securitization Forum estimates that FHASecure will assist roughly 44,000 subprime borrowers in its current form. As a result, while an important part of the solution, it is inadequate as the total remedy. Finally, neither FHASecure nor voluntary industry efforts address homeowners who have been foreclosed upon due to unfair and deceptive practices. Likewise, neither program addresses the mounting REO properties that are concentrated and growing in communities across the nation. A broader solution is required to stabilize families in their homes and return confidence to the housing markets and the economy.

Broader Solution Needed: Homeowners Emergency Loan Program (HELP Now)

When faced with a major foreclosure crisis resulting from the economic turmoil of the Great Depression, the federal government responded with a new housing finance agency, The Home Owners Loan Corporation (HOLC). A similar entity, the Resolution Trust Corporation (RTC), was established in the 1980s to aid in the clean-up of the failing savings and loan industry. Although these institutions fulfill their missions, waiting to approve, fund, staff and create programs for a new agency could take more than a year to accomplish. The immediacy of the foreclosure crisis does not allow that luxury of time.

Create a Program, Not an Agency

The National Community Reinvestment Coalition is developing a comprehensive proposal to respond to the foreclosure crisis. NCRC proposes to build on the HOLC model, but rely on existing institutions such as the US Department of the Treasury, FHA, Fannie Mae, Freddie Mac, or the Federal Home Loan Banks to purchase outstanding loans, provide financing or insure loans. By avoiding the added time that would be required to create and staff a new agency, this model could potentially become operational immediately. The proposal recommends the creation of a two-year recoverable loan program, the Homeowners Emergency Loan Program (HELP Now).

Under the program, the federal government would offer to purchase, at a discount, loans held in securitized pools. Discounting the purchase of loan pools would strike a balance between assisting homeowners and ensuring that lenders, servicers, and securitizers are not rewarded for financing and servicing predatory loans. Once held in portfolio by the federal government, the loans could be modified in a meaningful way to create long-term affordability, or refinanced.

Use the Private Markets to Refinance Loans

Borrowers requiring refinancing would be allowed to refinance their loans through private lenders based on standardized underwriting criteria that would include consideration of a borrower's ability to repay the loan. Loans would be underwritten by lenders to be eligible for securitization by the Government Sponsored Enterprises. In addition to being affordable, fixed rate, self amortizing mortgage products, refinanced loans would have their initial principal balance adjusted to reflect current appraised home values.

Government is Paid Back

The discounted value of the home would be reflected in a lien (in the form of a soft second). This lien would be recaptured by the government when the asset is sold (assuming adequate equity growth and the property is held for at least five years) or if the property is refinanced. There would be no repayment obligation by homeowners in excess of that which could be captured by appreciation. Losses would be borne by the federal government, but would be minimal relative to the costs of failing to end the foreclosure crisis.

NonProfits Act as Trusted Advisors

Studies have shown consumers to be wary of contacting their loan servicers to request loan modifications or other advice. Given the substantial level of predatory lending in the market, and growing concerns over fraud, their fears are neither surprising nor irrational. Nonprofit intermediaries that have expertise as home loan counselors, mortgage advisors, or lenders, would be funded to contact and assist borrowers to secure loan modifications or refinance. Nonprofit intermediaries could also act as mortgage advisors to ensure that borrowers recieve the best possible loans given the borrower's financial circumstances.

Assist Borrowers Who Have Lost Their Homes
The final piece of the proposal would empower HUD with expanded authority and resources to develop a plan, working with nonprofit community development organizations, to address foreclosed and vacant and abandoned properties. Consumers who have lost their homes due to foreclosure would be provided a right of first refusal to repurchase their homes based on the new HELP Now program guidelines. Properties that are not suitable for repurchase or where former homeowners are no longer interested in or eligible to buy back the properties would be transferred to the HELP Now initiative's REO program. The focus of HUD's HELP Now REO property efforts would be to ensure that properties are returned to productive *and affordable* use as quickly as possible. HUD might rely on or borrow from major successful initiatives such as the City of Chicago's *Troubled Building Initiative,*[1] or institutions such as Smart Growth America,[2] with expertise in the field.

A Win-Win for Families, the Housing Finance Industry and the Markets
The NCRC proposal addresses the single most challenging hurdle that all previous initiatives have faced, which is the inability to restructure or refinance loans held in securitized pools. By purchasing those loans, servicers can offer meaningful modifications that create long-term homeownership affordability. Lenders can offer refinancing options that meet the borrower's ability to repay loans based on the current and realistic value of properties. And families who have lost their homes to foreclosure can recover that loss. By including soft seconds in subsidized loan agreements, the government is paid back a substantial share of its upfront investment.

This broad-based plan not only addresses the most significant challenges facing the housing industry related to the foreclosure crisis, but also ensures that the private markets play the lead role in stabilizing families in their homes. HELP Now would provide a needed stimulus to the housing market that should contribute significantly to the ailing economy. Finally, HELP Now is not a bailout. It is a public private partnership that shares the burden for ending the foreclosure crisis.

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1 Since 2003, the Troubled Buildings Initiative, part of the city of Chicago's department of Housing, compels landlords to maintain safe and drug-free environments for City residents. Primary areas of concern include neighborhood gang and drug activity, disconnection of utilities that place residents at risk, and lack of maintenance or repairs that creates dangerous conditions for residents. The city partners with non-profit organizations to reclaim foreclosed, vacant and abandoned properties to strengthen city blocks and neighborhoods. In the first three years of the program, over 2,500 units were rehabilitated or repaired.
(City of Chicago website. 2008)

2 The National Vacant Properties campaign is a joint partnership between Smart Growth America, LISC and the Metropolitan Institute at Virginia Tech. The goal of this campaign is to help communities prevent abandonment, reclaim vacant properties, and once again become vital places to live. The campaign builds a national network of leaders and experts; provides tools to communities; raises awareness through communications; and provides technical assistance and training. The National Vacant Properties Campaign has worked with nonprofits, elected officials and residents in 14 states. (*National Vacant Properties Campaign Website. 2008)*