

Statement of

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Troubled Asset Relief Program (TARP)
National Constitution Center in Philadelphia, Pennsylvania**

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Mr. Atkins, Mr. Neiman, and Mr. Silvers, my name is Eileen Fitzgerald, and I am Chief Operating Officer of NeighborWorks America. I appreciate the opportunity to talk with you today about NeighborWorks' housing counseling and foreclosure mitigation work, the challenges borrowers face in negotiating loan modifications with their mortgage servicers, and the impact that Making Home Affordable and the Home Affordable Modification Program (HAMP) has had on servicers' ability to modify troubled mortgages.

By way of background, NeighborWorks America was established by Congress in 1978 as the Neighborhood Reinvestment Corporation. The Corporation receives a federal appropriation from the Transportation, Housing and Urban Development, and Related Agencies Appropriations Subcommittee. For fiscal year 2009, the Corporation's federal appropriation is \$131 million, with an additional \$50 million for foreclosure prevention counseling grants. The corporation's Board of Directors is made up of the heads of the federal financial regulatory agencies (the Federal Reserve; the Federal Deposit Insurance Corporation; The Comptroller of the Currency; the Office of Thrift Supervision; the National Credit Union Administration) and the Secretary of HUD, or their designees.

NeighborWorks America's primary mission is to expand affordable housing opportunities (rental and homeownership) and to strengthen distressed urban, suburban and rural communities across America, working through a national network of local community-based organizations, known collectively as the NeighborWorks network.

The NeighborWorks network includes over 235 nonprofit organizations, serving more than 4,450 communities across the United States—in all 50 states, the District of Columbia and the Commonwealth of Puerto Rico. NeighborWorks organizations operate in our nation's largest cities and in some of its smallest rural communities.

NeighborWorks organizations provide a wide variety of services that reflect the needs of their neighborhoods and communities. In the last 10 years, NeighborWorks has:

- Assisted more than 270,000 families become homeowners or preserve homeownership;
- Provided homeownership counseling to more than 560,000 families;
- Assisted over 135,000 families of modest means to become homeowners (of which, 91 percent are low-income and 53 percent are ethnic/racial minorities); and
- Provided nearly 85,000 professional training certificates to community development practitioners from over 3,600 organizations and municipalities nationwide.

NeighborWorks organizations also own and manage more than 74,000 units of affordable rental housing.

But today's focus is NeighborWorks' role in foreclosure mitigation.

The Corporation identified the problem of rising foreclosures five years ago and created the NeighborWorks Center for Foreclosure Solutions, which is an unprecedented partnership between leading nonprofit organizations as well as state, local and federal agencies and members of the mortgage lending and servicing sectors that involves a comprehensive, multi-faceted approach to the foreclosure crisis.

From our experience, we know that the best defense against delinquency and foreclosure is objective education and advice before the borrower begins shopping for a home and selecting a mortgage product. The most reliable and trusted home buyer counseling is provided through objective non-profit agencies (including local NeighborWorks organizations and other HUD-approved nonprofit housing counseling agencies) that put the consumers' and the communities' interest first. We also know that homeowners' odds of success are increased even further when they have access to post-purchase counseling and homeowner education. Further, we know that counseling can help troubled homeowners improve their outcomes when facing foreclosure.

In December 2007, the Consolidated Appropriations Act of 2008 (P.L. 110-161) created the National Foreclosure Mitigation Counseling Program (NFMC) to address the subprime foreclosure crisis. The legislation named NeighborWorks America administrator of the \$180 million program. The legislation required that NeighborWorks America grant at least \$167,800,000 to qualifying organizations including state housing finance agencies, HUD- approved housing counseling agencies, and NeighborWorks organizations that provide mortgage foreclosure mitigation assistance primarily in states and areas with high rates of defaults and foreclosures primarily in the subprime housing market. The funds were targeted to provide foreclosure mitigation counseling to help eliminate the default and foreclosure of mortgages of owner-occupied single-family homes at risk of foreclosure. The legislation required that NeighborWorks America award at least \$50 million of the funds within 60 days of the legislation's enactment. In response, in February 2008, NeighborWorks America announced the first National Foreclosure Mitigation Counseling program grants totaling over \$130 million to 130 organizations.

On July 30, 2008, Congress passed the Housing and Economic Recovery Act of 2008 (P.L. 110-289), which appropriated an additional \$180 million to the NFMC Program, including \$30 million for legal assistance. On March 11, 2009, President Barack Obama signed the Omnibus Appropriations Act of 2009 (Public Law 111-8) which appropriated an additional \$50 million for continuation of the National Foreclosure Mitigation Counseling (NFMC) Program.

To date (as of September 17, 2009), more than 674,000 homeowners at risk of foreclosure have received counseling through NFMC, served by more than 1,700 NFMC grantees and subgrantees. More than half of clients served (53%) are minority homeowners, while minorities make up 24% of all homeowners. 49% of all homeowners seeking assistance report a loss of income as the primary reason they are facing foreclosure. While only 18% of mortgages nationwide are adjustable rate (ARMs), 37% of homeowners seeking assistance held an ARM. More than half of the homeowners receiving counseling through NFMC were 60 days late at first contact with a counselor

NFMC Program Grantees submit quarterly reports to NeighborWorks throughout the course of the program. In these reports, they are asked to identify key challenges they encountered while counseling homeowners facing foreclosures. NeighborWorks conducted an analysis of the 1,290 challenges Grantees reported for activity that occurred between January 1, 2008 and March 31, 2009 – right after the Making Home Affordable (MHA) program was launched. During this time period, interactions with servicers and lenders were cited most frequently as a challenge for counselors in working with homeowners facing foreclosure.

Types of challenges Grantees reported facing were categorized as:

- efficient and timely communication with lenders and servicers;
- obtaining workable mortgage solutions from servicers for homeowners;
- homeowner resources and interactions; and
- counseling program administration.

The most commonly reported types of challenges pertain to working with servicers (47.8%). Grantees reported that the majority of the challenges they face are related to communication with servicers, which accounted for 37.2% of total challenges. Another type of challenge Grantees reported facing when working with servicers was obtaining workable mortgage solutions for homeowners (15.2%). Grantees commonly reported that they encountered challenges that pertained to homeowners' resources, as well as counselors' interactions with homeowners (37.2%). Challenges related to program administration accounted for the lowest proportion of challenges (15%).

President Barack Obama launched the Making Home Affordable (MHA) program on March 4, 2009. NeighborWorks is appreciative of a number of aspects of MHA. First, we would like to commend the 571,000 offers to borrowers for trial modifications, and 360,000 trial modifications that were initiated as of August 2009. Second, the 31% front end ratio requirement provides a realistic chance of success for borrowers and is a significant improvement over front end ratio requirements in earlier loan modification plans. Further, servicers have been very willing to get input on counselors' issues, and have committed to addressing these issues. The MHA program has also been willing to make improvements as challenges have been identified. Finally, adding Federal Housing Administration (FHA) insured loans to the MHA program expands the opportunity to mitigate the effects of foreclosure to thousands more families.

However, while there are a number of improvements in progress, working with servicers has continued to be a challenge for counselors under MHA.

The counselors in the NFMC Program are working in the MHA program in two ways – counselors assist clients who are trying to determine if they are eligible for a MHA modification or refinance, and they work with clients that have received a refinance or modification but have high back end debt to income ratios. Because these counselors are on the front lines in the foreclosure crisis, the NFMC Program has been holding feedback sessions on what they are finding regarding the implementation of the program.

On July 1, July 15, July 29, August 12, August 26, September 9, and September 23, 2009, NeighborWorks held a series of listening sessions to gather counselor feedback on MHA. Several themes emerged from this feedback including:

- (1) Difficulty trying to communicate with servicers
- (2) Servicers are not following the guidelines of the Making Home Affordable program
- (3) Frustrations with the system as a whole

I will discuss each theme in turn.

- (1) Difficulty trying to communicate with servicers

Counselors noted first that many servicers will not work with counselors. For example, some servicers will not accept an authorization form from the counseling agency with the client's signature and require use of their own form. Some servicers want the client to follow up directly with them to ensure the client is not paying for counseling. Finally, some servicers ask for counselors' Social Security numbers before

they can talk to a representative about a client. It is NeighborWorks' understanding that servicers have instructed staff not to ask for counselors' Social Security numbers, but this practice continues.

Counselors also noted that servicer representatives and processes are difficult in general. Counselors may spend as much as two hours on hold trying to reach a servicer, and then are frequently transferred to numerous phone lines before getting answers to questions. Others said that due to heavy phone traffic, calls get routed to any available line that is open. There is no consistency within servicers with regards to which representatives – or what departments – answer a phone call. Further, counselors gave numerous examples of servicers changing contact information frequently and require documents to be resent.

Some servicers are bringing third parties including collection agencies into the process as opposed to modification representatives. These collection agents call borrowers demanding payment and do not address refinance or modification options.

(2) Servicers are not following the guidelines of the Making Home Affordable program

Counselors gave many examples of servicers not helping homeowners who were current on their payments but who knew they would have trouble making their mortgage payments in the near future. Instead, the servicers advised the borrowers to stop making payments and call back when they were 30, 60, or even 90 days delinquent.

Counselors also reported that some servicers will not disclose terms of a trial modification or payment breakdown. For instance, one servicer gave a client a trial modification, but the representative said he was not sure what modification the client would receive at the end of the trial period. In other cases, servicers stated that they could not tell the counselor the terms of the trial modification as they did not know what the terms would be yet – or even if there would be a modification at all. In other cases, several servicers set up trial modifications but did not indicate at that time the terms of the permanent modification, how the payment amount was derived, and/or the breakdown between principal, interest, taxes or insurance.

Other servicers are not putting trial modification offers in writing. In one case, a servicer made three separate offers to a borrower on the telephone and then sent the borrower a letter stating she was ineligible for a modification.

Counselors are citing that servicers are giving out misinformation about the program, such as stating that only Fannie Mae and Freddie Mac loans were eligible for modification, or misstating the required front and back end ratios. In one case, a servicer approved a modification, but told the client they had to prove they had three months of reserves in the bank before the modification could be approved. Some servicers are telling borrowers that they do not have to get the borrower's front end ratio down to 31%, or even to 38%. One servicer worked with a borrower to get their front end ratio down to 47%, and another borrower to 50%, but they said they did not have to get the ratio down to 31%. Some servicers are not clear on the guidelines pertaining to unemployment benefits and refuse to accept them as income. Other servicers are offering other workouts before MHA workouts although MHA modifications are supposed to be offered first.

Counselors also gave examples of a number of servicers not halting foreclosures while reviewing files for MHA eligibility. In one example, the servicer has moved forward with foreclosure sales even though the client is in review for a modification—in California, where there is a 90 day moratorium on foreclosure sales. When asked about this requirement, the servicer representatives said that servicer was exempt from state and MHA requirements, and that an email was sent around to employees stating that they did not have to comply with the moratorium, and could continue with sales on clients being considered for MHA.

Some servicers are extending trial modifications and delaying permanent modifications. One servicer asked to continue the trial modification for one to two months as they had not reviewed the documentation yet and were not prepared to offer a permanent modification.

(3) Frustrations with the system as a whole

Many counselors are frustrated that servicers will not give a reason for denial for HAMP, giving numerous examples of this practice.

Counselors also noted that it takes too long to get a response to modification requests, or that it takes too long to get to the point of having a complete package, and eventually the counselors are required to resubmit new packages with updated information. It often takes as long as two to three months to hear if a client is even approved for a trial modification. In some cases, counselors are required to resubmit the same packages more than once during this time. They said that servicers either lose documents or take so long to review them that the information is outdated. After three months, counselors are told to resubmit stale data.

The NFMC counselors with whom we spoke are very supportive of the idea of creating a central portal for submitting modification requests, such as the Hope NOW and Treasury portals currently in development. They also would like uniform procedures and forms. The effort to establish uniform servicer guideline currently underway will help counselors immensely in helping trouble borrower navigate the foreclosure mitigation process. Finally, counselors feel that they could be much more effective if they had access to NPV models. Counselors would like to understand how servicers determine home values, as the values are different from what the counselor sees from their own Automated Value Models (AVMs), appraisals, and Broker Price Options (BPOs).

In sum, Federal, state, local governments and nonprofits will have to continue to work together with private industry—lenders, servicers and investors—to address the foreclosure crisis and improve the effectiveness of MHA and HAMP.

I again thank you for the opportunity to testify and stand ready to answer any questions.