

Comments on FHFA White Paper

Building a New Infrastructure for the Secondary Mortgage Market

The Homeownership Preservation Foundation (HPF) appreciates the opportunity to comment on your White Paper. I will limit my comments at this time to encourage FHFA to include provisions that reinforce and sustain the utility of independent, third-party, nonprofit housing counseling in its proposal for a new Pooling and Servicing Agreement (PSA). HUD-approved housing counselors have provided a critical, highly-valued consumer resource during the housing crisis. Creation of a model PSA provides a unique opportunity to define and codify the roles that housing counseling entities play in the secondary mortgage market infrastructure; building off the extensive work that counseling agencies, such as HPF, are currently engaged in to support national housing policy and the GSE's loss mitigation practices. If we do not seize this opportunity, homeowners stand to lose a trusted, dependable ally entirely focused on achieving a resolution in the best interest of the consumer. Federal Reserve Chairman Ben Bernanke echoed these sentiments recently:

... We have also seen that counseling can help consumers who are facing delinquency or default. Borrowers in trouble who receive foreclosure counseling are relatively more likely to subsequently become current on their mortgage, receive a loan modification, and, ultimately, keep their home. ¹²

Federal Reserve Chairman Ben Bernanke Comments at Operation Hope Conference. Atlanta, Georgia. November, 2012

Presently, foreclosure prevention counseling is primarily driven by the US Treasury, HUD and the GSEs and funded by HUD grants and mortgage industry payments. Mortgage industry funding is partly derived from servicing cash flows, which is enabled by guidance from the GSEs and the American Securitization Forum (ASF). The current foreclosure mitigation counseling compensation structure is voluntary and evolved out of agreements negotiated with the US Departments of Treasury and HUD, other regulators, and the mortgage industry. These agreements have benefitted consumers but will soon expire, significantly reducing the opportunities for consumers to avail themselves of this vital service.

The current crisis has manifestly demonstrated the value of effective counseling in reducing losses to investors and delivering substantial benefits to consumers. HPF encourages you to seize the opportunity for reinforcing and extending the use of housing counseling as a permanent feature of a new PSA.

Overview:

Housing consumers have been poorly-served by the current mortgage servicing model which did not contemplate, nor was built to serve, a housing market that experienced extraordinary levels of loan defaults. Market analysts are forecasting millions of potential foreclosures over the next several years so the pressure on servicing systems, as well as homeowners, will remain intense for the foreseeable future. Weaknesses in service delivery are being mitigated by the deployment of thousands of housing counselors on the front lines to help homeowners work through their individual challenges.

Case by case, housing counselors advocate on behalf of consumers with their servicers while delivering a candid assessment of each individual's financial situation. Independent, nonprofit housing counseling agencies are creative, effective and efficient in serving the needs of homeowners, making judicious use of limited funding resources. Distressed homeowners have shown a preference to work with independent, non-profit, third-party counseling agents, whether by telephone or face-to-face.

Regardless of the methodology used in the engagement, counselors deliver candid, objective, and empathetic guidance that is focused entirely on helping the homeowner resolve their mortgage challenges in a beneficial manner. Evidence suggests that not only is independent, non-profit housing counseling focused on serving the interests of consumers, but it is also aligned with the economic and operational interests of servicers and investors.

A new PSA creates an opportunity to embed housing counseling as an ongoing, value-adding, component of servicing. This builds on the current funding mechanism for foreclosure mitigation counseling, which is partly sourced from funds devoted to special servicing. HPF advocates that the provisions in the current servicing agreements be codified in the new PSA model; enabling independent, third-party, nonprofit foreclosure mitigation counseling to be certified as a mandatory component of loss mitigation practices. This will help sustain the ongoing availability of housing counselors to work with homeowners, strengthen professionalism in the industry and facilitate the delivery of a high level of service quality to housing consumers.

Homeowner's Hope Hotline – The Consumer Experience.

Established by the Homeownership Preservation Foundation (HPF) in 2004, well before the foreclosure crisis emerged, the Homeowner's Hope Hotline has built an infrastructure of a central telephone number, 888-995-HOPE, a call center, and seven partner agencies comprising a nationwide network of roughly 500 trained and HUD-certified housing and credit counselors. This workforce delivers readily accessible and comprehensive guidance in 170 languages to about 4-5,000 distressed homeowners each business day who are reaching out for help in resolving their mortgage challenges. In May, 2009, the Hotline triage call center was tapped by

the Obama Administration to be the Making Home Affordable (MHA) call center as part of the call to action for distressed borrowers.

Integration of counseling in a new servicing model.

HPF proposes that the future servicing model codifies the reimbursement of counseling expenses in the GSE's special servicing guidance, building on the structure that currently exists.¹ This structure for counseling compensation also currently exists in the American Securitization Forum (ASF) May 14, 2008 guidance for securitization trust cash flows.²

ASF guidance states that

Borrower counseling expenses may be viewed as servicing advances, where consistent with the terms of applicable securitization operative documents, and therefore eligible for reimbursement from securitization trust cash flows in the following circumstances:

1. For loans that are in default or where default is reasonably foreseeable; and
2. Where the servicer concludes, in its reasonable judgment that the related counseling service has had or is likely to have the effect of mitigating losses and maximizing recoveries on the particular loan.

While the current compensation structure for housing counseling is threatened with near-term expiration, we strongly urge you to consider means for sustaining this critical service for consumers. Enabling independent, third-party, nonprofit housing counseling to be an ongoing component of a model pooling and servicing structure will secure the availability of an efficient and effective resource pool that is devoted to serving the housing consumer. HPF believes that there is ample justification for the continuation and evolution of this guidance into a new servicing model.

For more information about these comments, please contact

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¹ <https://www.efanniemae.com/sf/guides/ssg/annltrs/pdf/2010/ntce061410.pdf>

² The American Securitization Forum has issued guidance to its members that borrower counseling fees should be reimbursable from securitization cash flows in situations where the servicer concludes that the counseling service has or is likely to mitigate losses and maximize recovery on the particular loans that are in default or where default is reasonably foreseeable.

http://www.americansecuritization.com/uploadedFiles/ASF_Counseling_Funding_Guidelines%20_5%20_20_08.pdf



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