

May 6, 2014

Carol Galante, Commissioner
Federal Housing Administration
U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

Dear Commissioner Galante,

The undersigned organizations write to express concern about the lack of progress in protecting homeowners affected by the Distressed Asset Stabilization Program (DASP). Over the past 18 months, we have discussed HUD's expanded use of asset sales to address delinquent loans through DASP and steps HUD should take to reform the program and provide greater transparency. These measures, discussed in the attached issue brief, include:

- The process for selection of loans for inclusion in all sale pools (both Neighborhood Stabilization Pools and unrestricted national pools) must require rigorous scrutiny of the servicer's loss mitigation reviews.
- Monitoring and reporting should ensure effective oversight and enforcement, including fair housing. (A copy of a letter to Brian Faux asking questions regarding some of these issues is attached.)
- HUD should do homeowner outreach both directly and through use of outside advocacy groups and housing counselors to document borrower complaints and to seek redress where appropriate. (A copy of a draft letter to homeowners that we previously sent is attached.)
- Post-sale requirements for Neighborhood Stabilization pools must be revised to ensure transparency and accountability.
- For all categories of loan sales, HUD should promote non-profit purchases and require private investors to seek sustainable outcomes and provide detailed reporting.

Starting in 2012, HUD has greatly increased the number of loans sold through this program. For example, in the December 17, 2013 sale, HUD sold 13,661 loans that had total unpaid principal balance of over \$2.6 billion. Over the last three years, roughly 73,000 mortgages were sold to private investors in a series of auctions. Once these loans are sold, the participating lenders, which in the case of the December 17, 2013 sale were Bank of America, Chase, SunTrust, and Wells Fargo, receive their full insurance claim. The loans then lose their FHA-insurance, and homeowners lose the benefits of FHA's loss mitigation program.

HUD representatives have indicated in our meetings that DASP should not just benefit HUD's bottom line, but that it will also be good for homeowners. Under the program's design, lenders should only include loans that they have determined are not eligible for standard FHA

loss mitigation. In addition, the new investors who purchase these loans will have a financial incentive to engage in more extensive loss mitigation given that they purchased these loans for a fraction of the unpaid principal balance.

At the outset, we expressed our concern about HUD's assumptions about how DASP will help homeowners. Because of significant servicer non-compliance with HUD loss mitigation protocol, we believed that loans would be included in the pools that were in fact eligible for loss mitigation even though servicers certified otherwise to HUD. In addition, we did not believe that the new investors would in fact engage in significant loss mitigation without restrictions in the sale that would require this. We also raised concerns about HUD's ability to determine that any loss mitigation offered was done on a fair and non-discriminatory basis.

Unfortunately, we have heard some very stark examples of homeowners in the process of seeking FHA loss mitigation whose homes were sold in DASP sales. This is happening even in the early stages of the program, and we expect we will only hear more. As we feared, homeowners who were clearly eligible for loss mitigation were wrongfully included in the sales. Following are several examples from the field of homeowners whose loans were sold despite their active involvement in loss mitigation efforts, as well as one example of a post-DASP sale outcome that undermines sustainable outcomes.

1. Mary and Merrill Willey, Stockton, California

On July 8, 2013, Bank of America approved the Willeys, 8327 N. Pershing Avenue, Stockton, CA 95209, for a loan modification under FHA-HAMP, which they accepted. Bank of America had solicited the Willeys to apply for FHA-HAMP on March 15, 2013, and they turned in a financial package on March 28, 2013. The Willeys made their trial plan payments for August and September of 2013. When they tried to make their third and final trial plan payment in order to receive their final modification, their new servicer, Ocwen, informed them that it was not honoring the modification. After this occurred, Ms. Willey's advocate contacted HUD to complain and was told that, despite the fact that there was an active loss mitigation application that was approved, Bank of America had the loan sold and it was no longer FHA-insured. According to the HUD representative, Bank of America made a claim on this loan on June 27, 2013 and received a payoff on July 2, 2013. The HUD representative provided no option for help.

2. Samantha Ann Toral, Carol Stream, Illinois

Ms. Toral had a similar experience to the Willeys. After losing her job, Ms. Toral, 1290 Antigo Trail, Carol Stream, IL 60188, started the loss mitigation at the end of 2011. For months, she tried to reach an agreement with Bank of America and did not receive a clear answer to her eligibility, and in June of 2012, Bank of America filed a foreclosure lawsuit. After months of working through the loan modification process, she received an affordable trial plan offer from Bank of America in December of 2012, and Bank of America told her on the phone what the

terms of the modification would be. She made her trial plan payments and called Bank of America in early 2013 to follow up on the loan modification. She was then told that she was no longer a Bank of America customer and that she should contact Bayview. It took Bayview months to find her account, and when it did eventually find it, it claimed no knowledge of the modification or trial plan payments. She was later told that her loan was no longer FHA-insured.

3. Clinton Wilson, Queens, New York; Constance Cheeseman, Queens, New York

Lenders have even sold FHA loans via DASP in the middle of mandatory mediation programs meant to ensure access to loss mitigation. Both Mr. Wilson, 177-15 145th Road, Jamaica, NY 11434, and Ms. Cheeseman, 137-40 234th Street, Rosedale, NY 11422, were participating in New York state's mandatory court settlement conferences with Chase when they learned that the loans had been sold through DASP. They received no notice that the sale occurred even though they were actively participating in negotiations with their lender.

4. Robert Sanzari, Easton, Connecticut

In addition, there have been issues with the new loan servicers after a DASP sale. Mr. Sanzari, 82 Marsh Road, Easton, Connecticut, 06012, and his wife suffered greatly in 2012 when they both lost their jobs and their daughter suddenly passed away. In early 2013, they managed to regain employment and have enough income to afford a reasonable loan modification. They should have been an excellent fit for FHA loss mitigation; however, in the meantime, a new servicer, Statesbridge, took over the loan and has claimed that it is no longer FHA insured. When Mr. Sanzari and his wife started to apply for assistance through Statesbridge in early 2013, it informed them that the loan had to be current before it could be reviewed for a loan modification. They learned from Statesbridge that the small amount of equity that they had in the home kept Statesbridge from approving a modification. Statesbridge took this position on equity despite the fact that the investor only paid a small percentage of the unpaid principal balance to acquire the home loan. After Loraine Martinez from the Connecticut Fair Housing Center helped them prepare a qualified written request, Statesbridge informed them that they could be reviewed for non-FHA modification options; however, Statesbridge lost their November 2013 application. Mr. Sanzari and his wife sent in another application in December of 2013; however, Statesbridge never responded to the application and instead sued for foreclosure in April of this year.

HUD must put protections in place to avoid problems like these in future sales. As noted above, we have provided suggestions on these matters, including a notice and review system to promote effective loss mitigation. We have also requested specific data on the post-sale loss mitigation outcomes. We request the opportunity to meet with you to discuss these recommendations and other measures HUD should take to improve the DASP program.

Sincerely,

Americans for Financial Reform

Connecticut Fair Housing Center

Empire Justice Center

Legal Aid Society of Southwest Ohio

National Consumer Law Center (on behalf of its low-income clients)

National Fair Housing Alliance

Attachments: Issue Brief: FHA's Distressed Asset Sale Program Should Strengthen Home Retention Goals (December 26, 2012);

Fair Housing and Consumer Organization Recommendations on the DASP Homeowner Letter (sent to HUD via email to Nate Shultz Sept. 10, 2013);

Letter to Brian Faux from Geoff Walsh (Feb. 28, 2013).