

Sept. 17, 2021

The Honorable Dr. Janet L. Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Yellen,

On behalf of the clients and communities we represent, we urge the Treasury Department to ensure accessibility, transparency, and accountability in the Homeowner Assistance Fund (HAF) program. HAF assistance was included in President Biden's American Rescue Plan because many homeowners across the nation will be facing foreclosure in the coming months, especially homeowners of color who have been hardest hit by the pandemic. The success of HAF—and the preservation of homeownership in communities across the nation—is dependent on establishing program guidelines that make key information about implementation and participation available to all stakeholders. Accordingly, the Treasury Department should:

- Ensure that Treasury's HAF staffing is adequate to provide timely and comprehensive oversight of the program;
- Make public on the Department's website the draft HAF plans submitted by states, territories and tribes;
- Make public on the Department's website the final HAF plans approved by the Department; and
- Immediately establish data collection and timely public reporting requirements, including regarding access by socially disadvantaged individuals, including homeowners of color.

As you know, the foreclosure moratorium for government-backed loans has ended and the CFPB estimates that at least 900,000 homeowners will be exiting payment forbearances before the end of this year, with many at risk of immediately facing foreclosure because they are exiting without a payment arrangement in place. HAF Funds will play a key role in helping these homeowners save their homes. Data already indicate the disparate risk of foreclosure faced by low- and moderate- income homeowners and homeowners of color. Ensuring equitable distribution of HAF monies is essential.

The Census Bureau's Household Pulse Survey highlights the challenges faced by homeowners of color and low-income homeowners. In early to mid-August (Week 35), over 13% of Black homeowners with a mortgage living in owner-occupied properties and over 11% of similarly situated Hispanic homeowners reported living in households that were behind on their mortgage payments. This figure rises to over 20% for homeowners with annual income under \$25,000.

A recent report by the CFPB reviewing the performance of top mortgage servicing companies indicated that a significant portion of homeowners are exiting forbearances without payment arrangements for their delinquency, resulting in ongoing delinquency and a risk of foreclosure. The Bureau found that the share of borrowers who exited forbearance while still delinquent was, in the aggregate, in the 10% to 30% range for both federally-backed and private loans. For one servicer specializing in borrowers with subprime credit, this figure was approximately 60%, and two that service private loans had delinquent exit rates above 50%. These homeowners are or will soon be facing foreclosure unless they can make payment arrangements with their mortgage servicers.

Homeowners with FHA mortgages are facing particular challenges. According to the Mortgage Bankers Association National Delinquency Survey for the Second Quarter of 2021, over 12% of FHA borrowers are delinquent, which is more than three times the rate for conventional loans. FHA is a key source of mortgage funding for homeowners of color and low- and moderate-income homeowners; the higher delinquency rate makes clear that the coming foreclosures will have a disparate impact on these communities.

Treasury's implementation of HAF can make a meaningful difference for many homeowners who otherwise will not be able to save their homes from foreclosure. Despite substantial expansion of loss mitigation options for homeowners, especially those with government-backed loans, many homeowners' needs are unmet. HAF funds will help homeowners with a variety of unmet needs, including for mortgage reinstatement, delinquent property taxes, homeowners insurance and HOA fees, and utility bills not covered by other available assistance. Moreover, HAF assistance is available to certain homeowners who are less likely to be able to obtain affordable repayment options, such as those with land contracts, manufactured housing, and reverse mortgages.

In order to ensure that HAF meets its program goals, Treasury must commit to a transparent process. Accordingly, we urge Treasury to adopt the following policies in its implementation of HAF:

Adequate staffing. The success of Treasury's work on HAF is dependent upon ensuring that the HAF team is adequately staffed. To date, Treasury personnel have provided thoughtful guidance to reflect the statutory goals of the program and have aimed to create an inclusive, effective program. However, to realize those goals the staff must have adequate dedicated personnel to review and provide meaningful feedback on HAF plans submitted by states, territories and tribes and to do so in a manner timely enough to help prevent foreclosures, which are already starting for some borrowers and will accelerate in the coming months. Servicers of FHA-insured reverse mortgages, loans made to older homeowners as a means to supplement their income so they can age in place, have already started referring loans to foreclosure due to the lack of adequate loss mitigation options in the FHA's current program rules. 30,000 reverse mortgage borrowers are expected to be in foreclosure due to property charge defaults by the end of the year. Moreover, homeowners across the country are increasingly facing foreclosures due to delinquent taxes or HOA fees. Prompt review of HAF plans is essential for providing these homeowners with the assistance contemplated by Congress in the American Rescue Plan.

Public posting on Treasury’s website of initial HAF plans submitted by states, territories and tribes. Many HAF administrators have not shared their submitted plans (although they may have shared an earlier draft for public comment), leaving stakeholders without information on whether prior input was incorporated and without access to the current proposal. Some HAF administrators have posted versions of the plans that were submitted, but these materials lack key information submitted through Treasury’s portal, such as responses to questions regarding how the proposal differs from Treasury’s recommended templates, how such provisions may satisfy program goals, and other details that may have been omitted from published materials. While posting the final plans, as discussed below, is also crucial, stakeholders need access to submitted plans in order to provide ongoing meaningful input into the process. Stakeholders recognize the submitted plans are not final; this is precisely why disclosure at this stage is essential.

Public posting on Treasury’s website of final HAF plans as approved by the Department and implemented by HAF administrators. Treasury has not announced any plan to publish final approved HAF plans. Homeowners, housing counselors and legal services attorneys working with homeowners, and other community organizations, as well as homeowners themselves, need access to final HAF plans to understand who may be eligible and for what and to ensure that eligible applicants are able to access available assistance. The final plans provide key information about forms of assistance, application procedures, and eligibility and documentation requirements. While summary information may be useful, homeowners and their advocates will need access to complete program rules to ensure compliance with guidelines.

Immediate establishment of data collection and public reporting standards. Reporting requirements are essential to ensure program compliance, proper federal oversight, stakeholder accountability, and public confidence that HAF funds are distributed in a fair, effective, and non-discriminatory fashion. Accordingly, it is critical for Treasury to collect from each state/territory/tribal entity detailed information about how program funds are being spent and how and whether program administrators are satisfying HAF requirements regarding targeting for socially disadvantaged individuals. Further, Treasury must make as much of that information public as possible on a timely and consistent basis. This should include loan- and borrower-specific data at the census tract level. Timely disclosure of these data is essential to enable stakeholders to identify gaps and bottlenecks in each HAF program so they can be corrected early in order to prevent unnecessary foreclosures. During the foreclosure crisis a decade ago, Hardest Hit Fund data were reported by state and type of use. HAMP data were provided at the MSA level. Greater detail is warranted for the current program, which reaches every jurisdiction in the country and comes on the heels of an international pandemic that has hit vulnerable populations the hardest.

We appreciate the substantial work the Treasury Department has done already to stand up a strong HAF program and to engage with stakeholders. We look forward to continuing to work with you to ensure an efficient and equitable distribution of funds to homeowners facing COVID hardships. For further discussion, please contact Alys Cohen, Staff Attorney at the National Consumer Law Center, at acohen@nclc.org or Lisa Sitkin, Senior Staff Attorney at the National Housing Law Project, at lsitkin@nhlp.org.

Sincerely,

National Groups:

Affordable Homeownership Foundation Inc.
Americans for Financial Reform Education Fund
CAARMA
Center for Community Progress
Center for Responsible Lending
Consumer Action
Consumer Credit and Budget Counseling, Inc. d/b/a National Foundation for Debt Management
Consumer Federation of America
HomeFree-USA
National Association for Latino Community Asset Builders
National CAPACD- National Coalition for Asian Pacific American Community Development
National Coalition For The Homeless
National Community Reinvestment Coalition (NCRC)
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Law Project
National Housing Resource Center
National NeighborWorks Association
National Urban League
Prosperity Now
Revolving Door Project
Rural Community Assistance Corporation
The Leadership Conference on Civil and Human Rights
UnidosUS
Woodstock Institute

State Groups:

Administration of Resources and Choices (ARC), AZ
Arizona Housing Coalition
Avenue CDC, TX
Campesinos Sin Fronteras, AZ
CCCS of Buffalo, Inc., NY
Central Florida Community Development
Central Islip Civic Council, Inc., NY

Chhaya CDC, NY
Clarifi, PA
Community Development Network of Maryland
Community Legal Services of Philadelphia
Community Reinvestment Solutions, Inc., AZ
Consumer Credit Counseling Service of Buffalo, Inc., NY
Consumer Credit Counseling Service of Maryland and Delaware, Inc.
Financial Protection Law Center, NC
Foreclosure Prevention Legal Aid Clinic, University of Puerto Rico School of Law
Greater Boston Legal Services, on behalf of its low-income clients
Greater Kansas City Housing Information Center, MO
Housing Action Illinois
Housing Assistance Program of Essex County, Inc., NY
Housing Opportunities of Fort Worth, TX
Housing Options & Planning Enterprises, Inc., MD
Housing Solutions of Northern Arizona
Human Development Services of Westchester, NY
Instituto de Educación Práctica- Puerto Rico Bar Association
Integrated Community Solutions, Inc., MN
Jacksonville Area Legal Aid, Inc., FL
JASA/Legal Services for Elder Justice, NY
LCHA, IL
Legal Aid Society of Southwest Ohio, LLC
Maryland Consumer Rights Coalition
MICAH- Metropolitan Interfaith Council on Affordable Housing, MN
Mountain State Justice, WV
Neighborhood Housing Services of Chicago
New Jersey Citizen Action
Newtown Community Development Corporation, AZ
Olive Hill Community Economic Development Corporation, Inc., NC
OnTrack WNC Financial Education & Counseling, NC
Orange County Rural Development Advisory Corp., NY
Public Counsel, CA
Real Estate Education and Community Housing, Inc., FL
Refugee Family Assistance Program, GA
Rockaway Development & Revitalization Corporation, NY
St. Johns Housing Partnership, FL
St. Petersburg Neighborhood Housing Services, Inc. dba Neighborhood Home Solutions, FL
The Homeowners Employment Corporation, GA
Tri-City Peoples Corporation, NJ
Ventura County Community Development Corporation, CA
Vermont Legal Aid
Washington County CDA, MN
Western Arizona Council of Governments
Western New York Law Center, Inc.
Youngstown Neighborhood Development Corporation, OH

cc:

Wally Adeyemo, Deputy Secretary

Gene Sperling, Senior Advisor to the President

Jacob Leibenluft, Counselor to the Secretary

Noel Poyo, Deputy Assistant Secretary for Community Economic Development