Financial Services and Products ADVISORY

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Loan Modifications: The Making Home Affordable Program

Over the past few weeks—on February 18 and March 4—the Obama administration has rolled out the Making Home Affordable program (MHA). The MHA is a key part of the Financial Stabilization Plan (FSP) that Secretary Geithner announced on February 10.[1] The MHA includes two main components, the Home Affordability Refinance program (HARP) and the Home Affordability Modification program (HAMP). The March 4 announcement focused on HAMP.

The MHA has been advertised largely as a foreclosure prevention initiative. The initiative may have further reaching consequences. Both HARP and HAMP draw bright lines—respectively, a loan-to-value (LTV) ratio of 105 percent and a debt-to-income (DTI) ratio of 31 percent. These two metrics effectively distinguish the winners and the losers among home borrowers. A few sets of consequences are worth noting:

- **Borrowers.** Winning borrowers under either program are likely to see their monthly payments drop, and a corresponding reduction in delinquency and foreclosure risk. Losing borrowers, by contrast, will be marked as high credit risks and will need to decide whether they can manage their finances, sell their homes or seek out alternatives to foreclosure, if any.

- **Investors.** Investors may benefit from the greater clarity to credit risk assessment as a result of the HARP and HAMP metrics. Qualifying borrowers under either program will appear to present less credit risk than borrowers who do not qualify, and thus it may be easier to price the credits to qualifying versus non-qualifying borrowers. With a greater degree of certainty about credit risk, investors may be more willing to commit funds to the mortgage loan industry. An additional interesting question for investors is whether HAMP's 31 percent DTI ratio should be an underwriting standard for all new loans.

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1 *See* "Treasury Announces New Framework for Banking Industry Recovery," February 17, 2009. http://www.alston.com/fisap_advisory_obama_plan_update The MHA was referred to as the Affordable Housing Stabilization and Foreclosure Prevention Plan when first announced on February 10.

- **Home Prices.** By forcing decisions by non-qualifying borrowers, the MHA may accelerate the number of homes on the market. Such sales will occur either voluntarily or through foreclosure and its alternatives. In economic terms, this result will assist the price discovery process. The more speedily homes securing troubled mortgage loans can be sold, even at what unavoidably will be liquidation prices, the sooner the housing industry will stabilize. The sellers, the investors in the sellers' loans and home builders with new homes already on the market will bear the significant economic burden of this process.

We describe HARP and HAMP below and identify important policy decisions embedded in each program. We then review the effort in the MHA to improve confidence in Fannie Mae and Freddie Mac. Attached to the advisory is a chart that sets forth the highlights of HARP and HAMP.

HARP

This program is designed to expand the number of homeowners potentially eligible to refinance into Fannie Mae or Freddie Mac conforming first mortgage loans. Currently, refinancing largely is available only to borrowers whose refinanced loan would reflect an LTV ratio of 80 percent or less. Under the new program, borrowers presenting LTV ratios of between 80 percent and 105 percent also would be eligible. HARP has no requirements or specific inducements for lender participation, but lenders underwriting to Fannie and Freddie standards should see an increase in refinancings.

In a speech on March 4, President Obama stressed that the plan will assist only "responsible" borrowers who are struggling to stay current on their existing loans, not the "unscrupulous or irresponsible" who purchased homes they were unable to afford or those borrowers with mortgages on investment properties. To this end, the refinancing program is available only where the borrower is current on his or her existing loan, where that loan is held or guaranteed by Fannie or Freddie, where the new loan would not exceed the 105 percent LTV ceiling and where the new loan would be a first mortgage on an owner-occupied home.

The 105 percent LTV ceiling appears to be based on one of two policy judgments that have not been spelled out by the administration. First, loans with LTV ratios in excess of any ceiling above 80 percent doubtless present a greater risk of default, but it is unclear why 105 percent (rather than, say, 100 percent or 110 percent) is the appropriate demarcation line. Further, disqualifying borrowers from the refinancing program if their LTV is above 105 percent reflects some judgment that these borrowers cannot be helped—even though, by definition, these borrowers are still current on their existing loans. Second, if we assume that the original loan was made at an 80 percent LTV, then the 105 percent LTV ceiling means that a home that has declined more than 30 percent, or perhaps more than just 25 percent, in value is likely to render the homeowner ineligible for the program.[2] Many areas have experienced price reductions substantially greater and, in these areas, the program will not have much impact.

HARP appears likely to produce two different results, perhaps both at the same time. In many (but not all) cases, a refinancing will increase a borrower's net income after first mortgage loan payments. The borrower may save this "extra" money in order to protect against increased delinquency risk as the result of an unanticipated event, such as unemployment or serious illness. Alternatively, the borrower may spend the money on new consumer goods and services. Judging from the President's remarks on February 18, the administration appears to prefer the former, but there is no mechanism in HARP to reach one goal over another.

The impact of the refinancing program on lenders, servicers and investors in Fannie- and Freddie-backed loans and securities may vary. For lenders (and associated mortgage bankers and brokers), the effect should be a noticeable increase in refinancings and greater fee income. Lenders that may refinance non-conforming loans face an interesting question about whether to follow Fannie and Freddie in raising their own LTV ratio caps. Investors in mortgage-backed securities (MBS) may view the program ambivalently. On the one hand, an increase in refinancings will mean a higher rate of prepayments, a corresponding reduction in the number of loans in a securitized pool and a probable diminution in the duration of returns on the MBS. On the other hand, the refinancings may help with credit risk, price discovery and a degree of housing industry stability. For servicers, when refinancings into lower rates increase, profits typically suffer. Of course, if the alternative to a refinancing is not continued payments on a current loan but a greater risk of default and foreclosure, then a refinancing is the best sub-optimal result for investors and servicers.

HAMP

This program encourages servicers[3] to modify first mortgage loans in order to avoid foreclosures for at-risk homeowners. On March 4, Treasury released specific guidelines on borrower eligibility and the standards and terms for modification. This program should dramatically increase the number of loan modifications, since participation is required for all Fannie Mae-or Freddie Mac-guaranteed first mortgage loans. The Obama administration estimates that HAMP will reach as many as three to four million at-risk homeowners. There are several components to HAMP, including standards for borrower eligibility and for servicer participation, a test for whether a borrower's loan should be modified, the steps by which a loan may be modified and various financial incentives for participants

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2 The rough calculation is this: assume a borrower originally took out an $80,000 loan on a $100,000 home, yielding an 80 percent LTV ratio. If the principal amount remains the same, the 105 percent LTV ceiling is reached when the home value sinks to $76,000 (80/76 equals 105 percent), a 24 percent decline in the home price. Since most at-risk borrowers took out their existing mortgage loans relatively recently, they will not have paid off much, if any, of the principal on the original loan. Assuming that a borrower has been able to pay off $5,000, then the home price that yields a 105 percent LTV ratio is approximately $71,500, representing a 28.5 percent decline from the original home price.

3 This advisory uses the term "servicer" to cover any entity, including the original entity and any third-party servicers, that is responsible for collections and other administrative duties in connection with a residential mortgage loan.

in the modification process. Two dates are important: HAMP took effect when announced on March 4, and the deadline for modifications eligible for Treasury assistance is December 31, 2012. The Obama administration intends to make the HAMP components the national standard for loan modifications; the application of HAMP to Fannie- and Freddie-guaranteed loans and the likely inclusion of all insured depository institutions nearly ensure this result.

1. Borrower Participation

There are several threshold requirements for borrowers who hope to have their loans modified. These requirements are as follows:

- A borrower's DTI ratio must exceed 31 percent. The elements included in and excluded from the DTI calculation are significant. The numerator includes nearly all monthly payments associated with a first mortgage loan: principal, interest, taxes, insurance and homeowners association or condominium fees. Payments associated with a second mortgage loan are not included in the numerator. Monthly gross income is the amount before any payroll deductions. For screening purposes, a servicer may multiply monthly net income by 1.25 to arrive at an approximate monthly gross income.
- A borrower must be 60 days' delinquent or at "imminent risk" of default. Imminent risk means an impending increase in a borrower's DTI that would raise it above 31 percent as the result of either an increase in the interest rate or a change in circumstances. The imminent risk judgment is made by the servicer and must be supported by documentation from the borrower.
- A borrower must occupy the home that secures the mortgage loan. Occupancy status will be verified independently.
- The loan must be a first-lien loan with an outstanding principal balance that does not exceed $729,750 and must have been originated before January 1, 2009.
- A borrower must fully document his or her income with, among other things, the most recent income tax return and, for wage earners, the two most recent pay stubs. Self-employed borrowers will need to provide other (but unspecified) documentation of income.

2. Servicer Participation

The participation rules for servicers are straightforward on their face, but the application to a particular institution may prove to be difficult. The basic rules are these:

- Participation is required for all servicers that will receive FSP funding in the future or that service loans guaranteed by Fannie Mae or Freddie Mac. No institution has yet received FSP funds in the "future" relative to the effective date of HAMP, so this universe of participants has yet to develop. As a formality, Fannie and Freddie will have to amend their seller-servicer contracts to incorporate the HAMP guidelines.

- Participation by all other servicers is now voluntary—but in some instances could become compulsory quickly. Servicers of loans guaranteed by government agencies or government-sponsored enterprises other than Fannie and Freddie cannot be required to participate, but the Obama administration will seek legislation to permit these entities to require participation. The federal banking agencies issued a press release on March 4 that urged all of their regulated institutions to participate. This suggestion effectively may become a requirement through the examination and supervision process. State regulators are not required to implement the HAMP standards for servicers that they oversee (and that are not already required to participate), but many may choose to do so.

For servicers that are not required to participate, HAMP offers several types of incentive payments (described further below) to encourage participation. Participating servicers are required to sign a program agreement. Failure to do so will, among other things, disqualify the servicer from receiving incentive payments.

3. Modification

Each participating servicer must follow three steps to determine whether and how to modify a loan.

First, the servicer must notify all borrowers of the modification program (if the governing servicing agreement so permits) and be prepared to respond to any requests for modifications. In responding, there are two screens for the servicer to apply: whether the borrower is at least 60 days' past due or is at imminent risk of default, and whether the existing DTI ratio exceeds 31 percent. Delinquency status can, of course, be determined immediately. "Imminent risk," however, requires a case-by-case review of rate increases on existing variable rate loans and of changed life circumstances that are likely to result in a DTI ratio above 31 percent. The imminent risk analysis overlaps with the assessment of the DTI ratio, while the delinquency evaluation does not. The servicer should already have the data necessary to determine the numerator in the DTI ratio but is likely to require income documentation from the borrower in order to calculate the denominator.

In connection with this first step, HAMP's one-time incentive payments for successful modifications of still-current loans may induce a servicer to take a more active role. A servicer already has data on future resets of variable rate loans. To maximize possible payments, a servicer may wish to reach out to borrowers facing resets in the near future and, therefore, potentially facing an imminent risk of default. A servicer will still have to obtain income data from such borrowers. Additionally, of course, a borrower who is still current may contact his or her servicer, and a successful modification also will qualify for the incentive payment.

Second, the servicer must determine whether a loan can be modified under the HAMP guidelines to achieve the target DTI ratio of 31 percent. HAMP sets forth a "Standard Waterfall" of three adjustments to guide this determination.

- The servicer first should reduce the interest rate on the existing loan by an eighth of a percentage payment until the loan payments would result in the target DTI. The floor to this series of reductions is two percent.
- If a two percent interest rate does not achieve the target DTI ratio, then the servicer should extend the maturity of the loan for up to 40 years from the date of the modification. The maturity date should not be later than what is required to reach the 31 percent DTI ratio.
- If the DTI ratio remains above 31 percent after the loan has been hypothetically modified to a two percent loan with a 40-year maturity, then the servicer should evaluate forbearance on principal repayments. That is, the servicer should reduce the principal repayment amount in each monthly payment until reaching the DTI target. HAMP does not impose limits on forbearance—that is, there is no minimum monthly repayment of principal—and forbearance theoretically could result in an interest-only loan with a balloon repayment of principal at maturity or upon the sale of the home. Forbearance does not mean forgiveness, but a servicer is permitted under HARP to forgive principal.

If, after these adjustments are made, the borrower still would face a DTI ratio above 31 percent, then the loan is ineligible for modification under HAMP. (The servicer nevertheless may decide to modify the loan on its own terms, but the modified loan would not be eligible for HAMP's incentive payments.) For these ineligible loans, a participating servicer is required to pursue less onerous remedies, such as short sales or deeds in lieu of foreclosure, before pursuing a formal foreclosure.

Third, for a loan where modification would achieve the target DTI ratio, the servicer must assess whether, as an economic matter, the loan should be modified. Conceptually, this analysis is clear: the servicer must compare the net present value (NPV) of the cash flows from the hypothetically modified loan with the NPV of the cash flows from the existing, unmodified loan. If the NPV of cash flows from the modified loan is greater—or the comparison is "positive"—then the servicer must modify the loan. If the comparison is negative, then the servicer may, but is not required to, modify the loan. Even if a loan is ineligible under this analysis and later goes into default, the servicer must, as above, pursue alternative remedies before instituting a foreclosure proceeding.

The NPV analysis itself is complicated mathematically and requires several assumptions. The HAMP guidelines provide some of the parameters. One important piece of data is whether the rate on the modified loan will be fixed or variable (an issue discussed below). Additionally, the discount rate assumption is not a single fixed number, but is related to the Freddie Mac Primary Mortgage Market Survey Rate (PMMS Rate). The government will develop tables for cure rates and redefault rates, although a servicer with a book of at least $40 billion is allowed to set its own cure and redefault rates based on its own experience. (Redefaults during the first 90 days are discussed in greater detail below.) Additional parameters will be forthcoming.

4. Modification Terms

A loan that is modified after passing the eligibility tests and the NPV analysis will have the same terms as the servicer has developed to reach the target DTI ratio of 31 percent. Certain other terms that are not necessarily part of the target DTI assessment are required as well and may be important to both borrowers and sellers.

- **Fixed or variable rate.** The rate on the modified loan will depend on the relationship of the rate adjusted under the Standard Waterfall and the interest rate cap (IRC). The IRC is the lesser of the fully indexed and fully amortizing original contractual rate (i.e., an introductory rate is not relevant) and the PMMS rate for 30-year fixed rate conforming mortgage loans, rounded to the nearest 0.125 percent, as of the date that the modification document is prepared. For adjustable rate loans with high reset rates, the typical IRC will be the PMMS rate.

  If the modified rate exceeds the IRC, then the modified rate is fixed for the life of the loan. If the modified rate is less than the IRC, then the modified rate remains fixed for five years, after which the servicer may raise the rate by up to one percentage point annually until it reaches the IRC at the time of modification. If rates on conforming loans rise over time (which seems likely, given the relatively low rates now prevailing), these adjustments will mean that these below-IRC loans probably will remain below the market rate throughout the life of the loan.

- **Trial period.** A borrower must remain current on a modified loan for 90 days (or longer, if the pooling and servicing contract so requires) before the modification becomes final. During this time period, the servicer may not pursue foreclosure. If the borrower remains current, then all participants in the modification process become eligible for incentive payments. These payments are intended to motivate both the borrower and the servicer to maintain current payments on the modified loan. If the borrower is not current at the end of 90 days, then the loan is terminated from HAMP, and no incentive payments are available to any of the participants.[4] The borrower also is ineligible for future participation in the program.

- **Escrow.** A modified loan must provide for the escrow of all tax and insurance payments in connection with a modified loan, whether or not these payments were held in escrow in connection with the original loan. If a servicer does not have this capacity, it must develop or acquire it within six months of signing the program agreement.

- **Fees and charges.** A servicer may not charge any fees to a borrower whose loan is modified, and any late fees on the original mortgage must be waived.

- **Counseling.** Borrowers with particularly high debt obligations, even after modification, are required to participate in debt counseling. This obligation is based on a "back-end" DTI ratio that is calculated differently from the DTI ratio for an eligible loan. The numerator of the back-end DTI

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[4] A borrower also will be deemed to have failed the trial period if the borrower is in a foreclosure restart state and is not current at the time that the foreclosure sale is scheduled.

ratio includes all monthly payments associated with any loans secured by the borrower's home, including second mortgages and home-equity lines. The denominator, monthly gross income, remains the same. If this back-end ratio equals or exceeds 55 percent, then debt counseling is required.

5. Incentive Payments

HAMP offers several incentives to borrowers and servicers, but the assistance is not available until successful completion of the mandatory 90-day trial modification period.

- **Sharing on interest rate reductions.** For any loan that is modified and that passes the trial period, Treasury will share equally with the investors the lost revenue associated with the reduction of the DTI ratio from 38 percent to 31 percent. Investors must bear the full cost of modifications to achieve the 38 percent DTI ratio.

- **Borrowers.** For a successful modification, a borrower will receive a "Pay-for-Performance Success Payment," an annual reduction of up to $1,000 in outstanding principal for the first five years. There is a *de minimis* limit on this payment: it is available only to a borrower whose loan modification has resulted in a decrease of at least six percent in his or her monthly payments. Additionally, the annual amount is the lesser of $1,000 or half the reduction in the borrower's annualized monthly payment.

- **Servicers.** Three different payments are available to servicers: a one-time "Servicer Incentive Payment" of $1,000 for each loan modified under the HAMP guidelines; a "Pay for Success Payment" of up to $1,000 for each of the first three years if the borrower remains current on the modified loan; and a "Current Borrower One-Time Bonus Incentive" of $500 for modifying a loan while it is still current. The Pay for Success Payment is available only if a loan modification has reduced monthly payments by at least six percent, and the annual payment will be the lesser of $1,000 or half the reduction in the borrower's annualized monthly payment.

- **Investors.** Investors also may receive a Current Borrower One-Time Incentive Payment of $1,500. As noted above, this payment should encourage the monitoring of upcoming rate resets in order to detect possible "imminent-risk-of-default" borrowers and to contact these borrowers before the reset occurs.

- **Insurance against home price declines.** HAMP includes a $10 billion insurance fund to make a cash payment to an investor on each modified loan to partially offset the probable losses that may result from a decline in home prices. Treasury has not provided further details on this fund or on the nature of the partial guarantee.

6. Servicer Duties to Investors

A servicer's ability to modify a delinquent loan or one at imminent risk of default is authorized and limited by the pooling and servicing agreement (or other comparable agreement) that governs the servicing of the loan. HAMP requires a servicer to modify a loan where the governing agreement permits the servicer to make the modification. If the agreement does not allow the modification, the servicer is required to seek to have the agreement modified. Of course, where a servicer is acting under the seller-servicer terms of Fannie Mae or Freddie Mac, modification will not present a legal issue.

Where servicing is governed by a private contract, however, the servicer's modification authority may not always be clear. Modifications typically are covered in general terms, with a servicer able to modify a loan where it is in the best interests of the investors or where it is consistent with the servicer's fiduciary duties to the investors. While the securitization industry is making efforts to standardize modification authority, HAMP does not to date provide any safe harbor or other protection to servicers that are willing to participate but are unsure of their authority to do so.

7. Junior Lienholders

Ordinarily, as part of a modification, the junior lienholder must consent to remain in a second position after a first mortgage loan has been modified or to release the lien altogether. The HAMP guidelines state that incentives will be provided to induce subordinate lienholders to release their liens. The nature and details of the incentives are yet to come.

8. Bankruptcy and Foreclosures

HAMP makes several provisions, some of which have been mentioned above, for borrowers who may be in extremis—in bankruptcy or facing foreclosure. A borrower who is in, or has been discharged in, bankruptcy still may participate in the modification process, assuming he or she meets the eligibility requirements. Separately, the Obama administration and the Democrats in Congress are working to enact a first mortgage cram-down in the bankruptcy laws. Currently, a bankruptcy judge may force a modification of certain mortgage loans, including junior lien mortgages and mortgage loans on vacation or other properties, but this authority does not extend to first mortgage loans on the borrower's home. A bill passed by the House and now pending in the Senate, H.R. 1106, would enact this reform.

As to foreclosures, HAMP compels a moratorium while a loan is considered for modification and during the three-month trial period for modified loans. Moreover, where a loan is ineligible for or incapable of modification, HAMP participants first must pursue remedies other than foreclosure, including a short sale or a deed in lieu of foreclosure.

9. Existing Programs

In addition to putting a new modification program in place, HAMP attempts to strengthen existing federal programs for modification. Specifically, the Hope for Homeowners Program ("H4H Program"), established under the Housing and Economic Recovery Act of 2008, will be restructured by the Federal Housing Administration to increase borrower participation by reducing certain borrower fees, increasing lender flexibility to modify loans, broadening eligibility to include borrowers who have higher debt loads and providing compensation to servicers of existing loans. Additionally, the H4H Program will be able to make incentive payments comparable to those available under HAMP.

To assist borrowers in some of the hardest hit markets, the FSP sets aside $2 billion for Neighborhood Stabilization Program grants. These grants, which provide emergency assistance to state and local governments and are offered through HUD, would be used for programs specifically aimed at reducing foreclosure. While the FSP's primary purpose is to refinance mortgage loans in order to reduce the number of preventable foreclosures, $1.5 billion has been set aside to help renters stay current with their monthly rent payments, thereby reducing homelessness.

10. Policy Decisions

The HAMP guidelines are significant both for what they do and for what they don't do. Embedded within the program are policy choices that may have significant consequences for participants.

- The core metric in HAMP is the ratio of a borrower's monthly payments on the existing first mortgage loan to the borrower's monthly gross income (DTI ratio). Borrowers are eligible if currently delinquent or if faced with a DTI ratio above 31 percent that (together with other circumstances) puts the borrower at "imminent risk" of delinquency.

- The 31 percent DTI ratio for modifications suggests that any new mortgage loans should be underwritten to the same standard. At the least, any insured depository institution making new loans may have to justify to its regulator the use of a different DTI ratio.

- The HAMP guidelines establish a sequence—the Standard Waterfall—of modification methods to achieve a DTI ratio of 31 percent. Interest rate reductions (with a floor of two percent) are the first step, followed by maturity extensions, and then the forbearance (but not necessarily the forgiveness) of principal.

- A servicer's obligation to reduce interest rates first should cause voluntary participants to consider carefully the consequences of participation. Some rate reductions may result in yields permanently below market.

- While the Obama administration intends the HAMP guidelines to become the national standard, federal legislation and moral suasion will be necessary to achieve this result. Participation is required for servicers or investors that will receive FSP funding in the future and to servicers that administer loans guaranteed by Fannie Mae or Freddie Mac. Legislation will be required to compel participation by servicers of other government-guaranteed residential mortgage loans. Participation appears to be voluntary, unless Congress or the federal banking agencies compel participation, which is within the regulators' broad range of persuasive powers. Treasury will have to persuade state regulators to follow suit. The incentive powers may be effective in encouraging participation.

- Treasury's payments under HAMP are strictly expenditures and not investments. There is no provision for a financial return to the government. Treasury has estimated the cost of HAMP at $75 billion.

- HAMP includes various incentive payments, but the effectiveness of these payments is uncertain. The incentive payment for a borrower to remain current on a modified loan may not have much impact if the borrower later simply lacks the capacity to repay.

- HAMP does not fully address second mortgages. For borrowers, monthly payments on these loans do not factor into the DTI eligibility calculation and thus the post-modification DTI may be higher than 31 percent. For servicers, the need for consent by second mortgage lenders will complicate the modification process.

- HAMP also does not fully address potential servicer liability to investors. The HAMP guidelines do not, of course, require servicers to breach pooling and servicing agreements, but there is no kind of safe harbor. Servicers not required to participate in HAMP should review their potential liability carefully.

Support of Fannie Mae and Freddie Mac

Because the refinancing program relies heavily on Fannie Mae and Freddie Mac to purchase loans with higher LTV ratios and, thus, greater credit risk, the MHA significantly expands Treasury's support of the two GSEs.

In effect, Treasury's support will enable the two GSEs to guarantee higher-risk loans. The principal business of Fannie and Freddie is to create liquidity for residential lending by buying conforming mortgage loans from originators and re-selling them to investors either as whole loans or in the form of MBS. The two GSEs enhance the value of the loans they sell by guaranteeing repayment of principal and interest on the loans. The financial model of the two entities is based on the purchase of conforming loans—largely (although not exclusively) first mortgage loans on owner-occupied properties where, among other features, the LTV is less than 80 percent. Otherwise conforming loans with LTVs above 80 percent are higher-risk loans that currently both GSEs have not priced into their guarantees. The new support from Treasury will permit Fannie and Freddie to guarantee these higher-risk loans and will take a number of forms.

First, for several years, the two GSEs have had access to Treasury funds but, until recently, have never had occasion to take advantage of them. In connection with the conservatorships for the two GSEs last September, however, Treasury entered into a preferred stock purchase agreement with each GSE. Under this agreement, Treasury would, as needed, purchase up to $100 billion in preferred stock from each entity. According to Treasury's estimates in February, Fannie Mae will have raised a total of $16 billion through the program, and Freddie Mac will have raised a total of approximately $50 billion.[5] Although both GSEs still have substantial amounts available under the original purchase agreements, Treasury has doubled the amount available under each preferred stock purchase agreement to $200 billion.

Second, Treasury and the primary regulator of Fannie Mae and Freddie Mac will raise the ceiling on the retained mortgage loan portfolio of each GSE from $850 billion to $900 billion.

Third, Treasury will continue to purchase, presumably in increased amounts, MBS issued by Fannie Mae and Freddie Mac.

Fourth, Treasury will foster increased cooperation between the GSEs and state and local housing authorities. Presumably—although the mechanics are not clear—such cooperation would cause the authorities to reduce the risk on refinanced loans sold to Fannie and Freddie.

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5 Based on Fannie Mae's recently reported fourth quarter results, it is expected to seek an additional approximately $15.2 billion from Treasury under the preferred stock agreement.

Highlights of the Making Home Affordable Plan

	Housing Affordability Refinancing program	Housing Affordability Modification plan
Borrowers		
Eligibility	• Current on existing loan; no delinquency. • LTV on outstanding principal balance > 80% but <105%. • First mortgage loan owned or guaranteed by Fannie Mae or Freddie Mac. • Principal < $ 729,750 for single-family home. • Owner-occupied primary residence. • Otherwise meets lender underwriting criteria. • Existing loan originated on or before Jan. 1, 2009. • DTI ratio not relevant.	• 60 days' delinquency or in "imminent danger of default." Bankrupt borrowers also eligible. • First mortgage loan < $ 729,750 on owner-occupied primary residence. • Loan originated on or before Jan. 1, 2009. • Income and home value verification. • Front-end DTI ratio > 31%, based on 1st lien mortgage debt and monthly gross income. • Back-end DTI ratio of 55% or more requires borrower to receive debt counseling. • NPV comparison by servicer is positive, or servicer's option to modify. • LTV ratio not relevant. • Successful completion of 90-day trial period.
New Loan Terms	• 15- or 30-year fixed rate mortgage. • Apart from LTV relaxation, refinancing under lender's own terms that comply with Fannie and Freddie requirements.	• Fixed or slightly variable rate that produces front-end DTI at or below 31%. • Waterfall of adjustments: interest rate reduction to 2%; lengthened maturity; principal forbearance. • Principal reduction in servicer's discretion. • Permanent fixed rate if modified rate > interest rate cap. • Fixed rate for 5 years; single percentage point increase annually if original modified rate < interest rate cap. • One-time modification. • Waiver of late fees and no fees or charges. • Capitalization of arrearages. • Mandatory escrow for real estate taxes and mortgage relate insurance payments. • Foreclosure suspension during 90-day trial period.

Servicers		
Participation	• Voluntary.	• Mandatory for servicers that receive FSP funding in the future or that service Fannie- or Freddie-guaranteed loans. • Voluntary for all others—but HAMP standards expected to become national standard. Regulators may force compliance.

Duties	• Current servicer must determine eligible borrowers and begin accepting applications on or after March 4.	• Servicer must determine whether modification permitted by servicing contract. If not, must seek investor permission. • Servicer must determine eligible borrowers.
	Housing Affordability Refinancing program	**Housing Affordability Modification plan**
Incentives and Other Government Assistance		
Incentive Payments	• None	• Borrower Pay-for-Performance: $1,000 annual reduction in principal for 5 years, if current. • Servicer Incentive Payment: $1,000 for each eligible modification that meets HAMP guidelines. • Servicer Pay-for-Performance: $1,000 annually for 3 years if borrower current. • Investors and Servicers: for modifications of loans still current, $1,500 to lender/investor and $500 to servicer. • Investors: dollar-for-dollar match on rate modifications for certain loans between 38% and 31% DTI. • $10 billion insurance fund to cover possible losses if home prices fall after modifications.
Indirect	• Treasury will (i) double preferred stock purchase program; (ii) raise the ceiling on retained mortgage loan portfolio to $900 billion; (iii) continue purchases of GSE-issued MBS; (iv) increase organize ventures with state agencies.	• Comparable modification programs for FHA, VA and rural housing loans.

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