Financial Institutions

E-ALERT

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Obama Administration Unveils Housing Support and Foreclosure Mitigation Plan

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On February 18, 2009, the Obama Administration unveiled its "Homeowner Affordability and Stability Plan," which seeks to help up to 7 to 9 million families restructure or refinance their mortgages to avoid foreclosure. This new Homeowner Affordability and Stability Plan is one component of the Administration's Financial Stability Plan previously announced on February 10, 2009.[1]

The key components of the Homeowner Affordability and Stability Plan are:

Access to Refinancing

- A new program will seek to help as many as 4 to 5 million homeowners who took out conforming loans owned or guaranteed by Fannie Mae or Freddie Mac to refinance through those two institutions. Although specific details have not been released, the program will permit certain homeowners that owe more than 80 percent of the value of their homes to refinance.

Homeowner Stability Initiative

- The Homeowner Stability Initiative will seek to help at-risk homeowners make payments on their mortgages. The initiative's goal is to reduce the amount homeowners owe per month in mortgage payments to sustainable levels. The initiative will include assistance to households at risk of imminent default despite being current on mortgage payments, but will not aid speculators or "house flippers." The initiative will assist only homeowners who commit to make payments to stay in their homes.
- The initiative will include a shared effort by the lender and the U.S. government to reduce monthly payments. Lenders will be responsible, in the first instance, for lowering interest rates so that the borrower's monthly mortgage payment is no more than 38 percent of the borrower's monthly income. The initiative will then match further reductions in interest payments dollar-for-dollar with the lender to bring the ratio down to 31 percent. The lower interest rate is frozen for five years, after which it may be gradually increased to the conforming loan rate in place at the time of the modification. Lenders will also be able to reduce monthly payments by reductions in principal, with Treasury sharing in the cost.
- Servicers will receive an up-front $1,000 fee for each eligible modification meeting guidelines established under the initiative. Servicers will also receive "pay for success" fees of up to $1,000 per year for three years, awarded monthly as long as the borrower stays current on the loan.
- To give borrowers an extra incentive to remain current on payments, the initiative will provide a monthly balance reduction payment that reduces the principal balance of the mortgage loan. As long as the borrower

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[1] For a further summary of the terms of the Financial Stability Plan, see our prior e-alert Obama Administration Unveils Financial Stability Plan (February 10, 2009).

remains current on his or her mortgage loan, he or she can receive up to $1,000 each year in such principal reduction payments for five years.

- To encourage efforts to reach borrowers before they fall behind on their payments, an incentive payment of $500 will be paid to servicers, and an incentive payment of $1,500 will be paid to mortgage holders, if they modify at-risk loans before the borrower falls behind.
- To incentivize lenders to modify more mortgages and thus increase the prospect of keeping more families in their homes, the initiative will include a partial guarantee program administered by the FDIC and Treasury. For this purpose, Treasury will create an insurance fund of up to $10 billion. This fund will be designed to discourage lenders from opting to foreclose on mortgages – that could otherwise be viable – out of concern that home values will continue to decline. Holders of mortgages modified under the program will be provided with an additional insurance payment on each modified loan, linked to declines in the home price index.
- Treasury will develop uniform guidance for loan modifications across the industry, working closely with the federal bank regulatory agencies and building on the FDIC's existing program. All financial institutions receiving assistance under the Financial Stability Plan going forward will be required to implement loan modification plans consistent with the Treasury guidance. Freddie Mac and Fannie Mae will use Treasury's guidance for loans that they own or guarantee.
- Other planned measures to reduce foreclosures include (1) increased regulatory oversight, reporting and quarterly meetings with Treasury, the FDIC, the Federal Reserve and the Department of Housing and Urban Development to monitor performance; (2) allowing judicial modifications of home mortgages during bankruptcy for borrowers (which will require new federal legislation); (3) providing $1.5 billion in relocation and other forms of assistance to renters displaced by foreclosure and $2 billion in neighborhood stabilization funds; and (4) improving the flexibility of Hope for Homeowners and other Federal Housing Administration programs to modify and refinance at-risk borrowers.

<u>Strengthening Freddie Mac and Fannie Mae</u>

- Treasury will increase its commitment to provide funding to Freddie Mac and Fannie Mae through the purchase of preferred stock from the original level of up to $100 billion each to up to $200 billion each. This increased funding will enable the enterprises to carry out efforts to ensure mortgage affordability for responsible homeowners. These funding commitments are being made under the Housing and Economic Recovery Act, enacted on July 30, 2008, and not the Emergency Economic Stabilization Act, which is commonly referred to as the Troubled Assets Relief Program (TARP).
- Treasury will continue to purchase Freddie Mac and Fannie Mae mortgage-backed securities to promote stability and liquidity in the marketplace. Treasury will also increase the allowable size of the enterprises' retained mortgage portfolios from $850 billion to $900 billion, along with corresponding increases in allowable debt outstanding.
- The Administration will work with Freddie Mac and Fannie Mae to support state housing finance agencies in serving homebuyers.

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Attorneys in Covington's Financial Institutions Group have advised many clients on recent financial services and banking developments. The Financial Institutions Group's expertise derives from advising clients on the impact of such developments over the course of the past three decades. Please do not hesitate to contact any member of our Financial Institutions Group, including the undersigned, should you have any questions.

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