Press Release

FEDERAL RESERVE press release

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For immediate release

The Federal Reserve Board on Friday published a policy that was adopted to help avoid preventable foreclosures on certain residential mortgage assets held, owned, or controlled by a Federal Reserve Bank. The Federal Reserve Board has decided to apply the policy to the residential mortgage assets held by Maiden Lane, LLC, Maiden Lane II, LLC and Maiden Lane III, LLC. Maiden Lane, LLC was formed to facilitate the acquisition of The Bear Stearns Companies, Inc. by JPMorgan Chase. Maiden Lane II, LLC and Maiden Lane III, LLC were established in connection with the restructuring of the assistance provided by the government to American International Group, Inc.

The policy also was developed pursuant to section 110 of the Emergency Economic Stabilization Act.

Attachment (35 KB PDF)

Homeownership Preservation Policy for Residential Mortgage Assets

Section 110 of the Emergency Economic Stabilization Act (EESA) requires that each Federal property manager that holds, owns, or controls mortgages, mortgage-backed securities, or other assets secured by residential real estate (residential mortgage assets) implement a plan that "seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners program under section 257 of the National Housing Act or other available programs to minimize foreclosures." Section 110 generally provides that the Federal Reserve Board (Board) shall be considered a Federal property manager with respect to residential mortgage assets held, owned, or controlled by or on behalf of a Federal Reserve Bank other than residential mortgage assets that are held, owned, or controlled by or on behalf of a Federal Reserve Bank (1) in connection with open market operations under section 14 of the Federal Reserve Act (12 U.S.C. 353), or (2) as collateral for an advance or discount that is not in default.

The Board has developed and adopted this Homeownership Preservation Policy (Policy) to guide the Federal Reserve Banks if the Board were to become subject to section 110 of the EESA due to qualifying ownership or control of residential mortgage assets by a Federal Reserve Bank. The goal of this Policy is to avoid preventable foreclosures on such assets through sustainable loan modifications and other actions that are consistent with the Federal Reserve's obligation to maximize the net present value of the assets for the benefit of taxpayers. The Board in its discretion, and as permitted by applicable law, may decide to apply this Policy to other residential mortgage assets that are held, owned or controlled by a Reserve Bank.

A Federal Reserve Bank may retain one or more agents to manage and maximize the value of a portfolio of residential mortgage assets, subject to direction by the Federal Reserve Bank. If a Federal Reserve Bank retains directly or indirectly an agent to manage or service residential mortgage assets subject to section 110, the Federal Reserve Bank will provide for the agent to act in accordance with the Policy and may provide additional instructions or guidance to the agent to facilitate implementation of the Policy. If necessary, the Federal Reserve Bank will take reasonable steps to modify pre-existing contracts with agents (including servicers) to permit implementation of this Policy. The Federal Reserve Bank also will monitor implementation of the Policy by the agent.

The manner in which this Policy is implemented will vary based on whether the subject assets are whole mortgage loans or mortgage-backed securities. This distinction arises because mortgage-backed securities represent interests in pools of mortgages in which the Federal Reserve Bank may hold only a fractional interest along with other investors.

With respect to whole residential mortgage loans that are subject to section 110 of the EESA, a Federal Reserve Bank or its agent will implement this Policy. With respect to any interest in residential mortgage-backed securities or a pool of such securities that is subject to section 110, the Federal Reserve Bank or its agent will (1) encourage the servicer for such securities to implement a loan modification program that is consistent with this Policy, and (2) assist the servicer as appropriate in facilitating loan modifications that are consistent with this Policy. For example, the Federal Reserve Bank or its agent will advise the servicer that, with respect to the Reserve Bank's interest in the securities or pool of securities, the Reserve Bank will support loan modifications (1) that are offered to borrowers who are likely to default absent the modification yet be able to sustain the modified loan payments, and (2) that preserve to the extent possible the value of the property and the mortgage consistent with the terms of the governing agreements, applicable law, and protection of the interests of the taxpayers.

If a Federal Reserve Bank holds, owns, or controls residential mortgage assets subject to section 110, the Federal Reserve Bank or its agent will take the following steps.

A. Proactive Review

1. If residential mortgage assets become subject to this Policy, the Federal Reserve Bank or its agent will promptly review the covered residential mortgage loans to determine which, if any, borrowers should be offered a loan modification in accordance with this Policy. As part of this review, the Federal Reserve Bank or its agent will promptly review those residential mortgage loans that are in foreclosure or for which foreclosure is reasonably foreseeable to determine whether a loan modification should be offered to the borrower because the expected net present value (NPV) of a loan modification consistent with this Policy would be greater than the expected NPV of the loan and net proceeds to be received on the mortgage through foreclosure.

2. In applying this Policy, the Federal Reserve Bank or its agent will give priority to residential properties that are owner-occupied.

B. Loan Modifications

1. To qualify for a loan modification under this Policy, the borrower must be at least 60 days delinquent. Exceptions to this requirement may be made in appropriate cases, such as if a borrower is expecting a known trigger event (*e.g.*, an interest rate reset) or has recently experienced a decline in income that, in either case, is likely to result in the borrower becoming 60 days or more past due.

2. For eligible residential borrowers who are unable to afford their current mortgage and who have the ability to perform on a modified loan, the Federal Reserve Bank or its agent will offer the borrower modified loan terms if the modified loan has an expected NPV that is greater than that which would be expected from foreclosing on the property, and, thus, is consistent with the Federal Reserve Bank's obligation to maximize the return to taxpayers. The modified terms may include one or more of the following:

    a. A reduction in the interest rate;

    b. An extension of the term of the loan;

    c. A deferral or reduction of the outstanding principal balance of the loan; or

    d. Changes to other terms of the loan.

3. If a borrower meets the 60-day delinquency requirement, the Federal Reserve Bank or its agent will determine whether the borrower's loan may be modified into a loan that would (i) be sustainable by the borrower and (ii) have an expected NPV that is greater than the strategy of foreclosing on the property. In addition, in order for a senior mortgage loan on an owner-occupied residential property to be considered sustainable for purposes of this Policy, the modified loan must—

    a. Result in the borrower having a mortgage debt-to-income ratio of 38 percent or less under the senior mortgage, as determined on a fully amortizing basis and including real estate taxes, hazard and mortgage insurance and, where applicable, mandatory homeowners' association dues, ground rents, special assessments, and similar charges;

    b. Have a term of no greater than 40 years;

    c. Have a fixed interest rate;

    d. Provide for the establishment or maintenance of an escrow account for the payment of real estate taxes and mortgage-related insurance premiums; and

    e. Have a reasonable likelihood of being repaid by the borrower, taking into account both the payment terms of the mortgage, the estimated overall household monthly debt payments of the borrower (based on information obtained from the borrower or otherwise reasonably available), and the current and expected cumulative mortgage loan-to-value ratio on the property.

4. In modifying loans under this Policy, the Federal Reserve Bank or its agent will—

    a. Seek to maximize the expected NPV of the modified loan based on, among other things, the payments to be made under the terms of the modified loan and the likelihood of default on the modified loan;

    b. Verify the borrower's income prior to completing the loan modification;

    c. Prioritize, to the extent consistent with maximizing expected NPV, the reduction in the outstanding principal balance of the mortgage in any case where such balance is 125 percent or more of the estimated current value of the property;

    d. Perform due diligence as appropriate concerning the property to determine the occupancy status, condition and value of the property;

    e. Where possible, make loan modification determinations on a systematic basis for all residential mortgage loans with similar characteristics within a particular portfolio of assets; and

    f. Waive outstanding late and delinquency fees as part of any completed loan modification.

5. If the Federal Reserve Bank or its agent determines that a loan modification would meet the standards established by this Policy, and such other standards as may be established by the Federal Reserve Bank or its agent that are consistent with this Policy, the Reserve Bank or its agent will promptly offer the loan modification to the borrower.

6. *Subordinate Mortgages on Owner-Occupied Property*

    a. In cases where a Federal Reserve Bank holds, owns or controls both a senior mortgage and a subordinate mortgage on the same owner-occupied residential property that are at least 60 days delinquent, the Federal Reserve Bank or its agent will seek to modify both the senior mortgage and the subordinate mortgage using the standards and criteria set forth in this Part B.

        i. Where appropriate and consistent with maximizing expected NPV, such modification actions may include consolidating the subordinate mortgage and senior mortgage into a single, modified senior mortgage that would be sustainable by the borrower.

ii. Modifications involving both a senior mortgage and a junior mortgage on the same owner-occupied residential property will be considered sustainable by the borrower if the modification(s) would result in the borrower having a mortgage debt-to-income ratio under both the senior mortgage and the junior mortgage, as modified, of 43 percent or less, as determined on a fully amortizing basis and including real estate taxes, hazard and mortgage insurance, homeowners' association dues, ground rent, special assessments, and similar charges.

b. In cases where a Federal Reserve Bank holds, owns, or controls a delinquent subordinate mortgage on an owner-occupied residential property, but not the senior mortgage(s) on the property, the Federal Reserve Bank or its agent will—

i. Work with the holder or servicer of the senior mortgage(s) and will encourage the holder or servicer of the senior mortgage(s) to engage in loan modifications that are consistent with this Policy; and

ii. Modify the subordinate mortgage, either independently or in conjunction with a modification of the senior mortgage(s), where appropriate and consistent with maximizing expected NPV, taking into account the likelihood of foreclosure on the property and the expected recovery on the subordinate mortgage through foreclosure before and after the modification.

7. *Residential Rental Property*

a. In the case of a loan on residential rental property, including rental units in 2- to 4-unit dwellings, the Federal Reserve Bank or its agent will, to the extent possible, ensure that any loan modification:

i. Preserves the continuation of any existing rental subsidies and protections; and

ii. Considers the need for operating funds to maintain proper conditions at the property.

b. If, notwithstanding efforts under this Policy, a mortgage results in foreclosure, and tenants reside in one or more units of the property, the Federal Reserve Bank or its agent will, whenever possible and in keeping with state and local laws, allow paying tenants to maintain residency in keeping with their pre-existing lease agreements.

8. *Net Present Value Calculations*

   a. The Federal Reserve Bank or its agent will use reasonable assumptions in calculating the expected NPV of a foreclosure and a modified loan, including--

      i. A reasonable discount rate, which in the case of a modified loan includes a premium appropriate to the risks posed by the cash flows from the modified loan;

      ii. In the case of foreclosure, reasonable assumptions regarding foreclosure expenses and expected recovery rate; and

      iii. In the case of a modified loan, reasonable assumptions regarding the likelihood of redefault by the borrower, taking into account the cumulative loan-to-value ratio on the property.

   b. To estimate the current value of the property, a Federal Reserve Bank or its agent shall use an appraisal, a broker price opinion or other valuation method that is reasonably designed to provide a fair estimate of the current market value of the property.

C. Temporary Repayment Plans

1. In appropriate circumstances, such as in cases where a borrower is experiencing a temporary financial hardship or when a permanent loan modification is not otherwise consistent with the Federal Reserve Bank's obligations to the taxpayers, the Federal Reserve Bank or its agent may offer repayment plans or other types of short-term assistance in lieu of formal loan modifications.

D. Exceptions Authority

1. A Federal Reserve Banks or its agent may make exceptions to this Policy when such exceptions are appropriate and consistent with the goal of this Policy to avoid preventable foreclosures on residential mortgage assets subject to the Policy through sustainable loan modifications and other actions that are consistent with the Federal Reserve's obligation to maximize the net present value of the assets for the benefit of taxpayers. The Federal Reserve Bank will consult with the Board regarding any exceptions.

E. Borrower Outreach

1. The Federal Reserve Bank or its agent (including a servicer) will engage in outreach efforts (*e.g.*, telephone, mail, email, web site) to borrowers

who are identified as at risk of becoming 60 days or more delinquent. The Federal Reserve Bank or its agent will also cooperate with qualified third parties such as nonprofit housing counselors to help reach troubled borrowers.

2. With respect to current borrowers at risk of default due to imminent rate resets or other foreseeable trigger events, the Federal Reserve Bank or its agent may take steps consistent with the Policy as appropriate in order to prevent delinquency or cure delinquency in its early stages.

F. Other Homeowner Assistance Programs

1. To the extent that a borrower may be eligible for other homeowner assistance programs that would be appropriate for the borrower, the Federal Reserve Bank or its agent will inform the borrower that other programs may be available (including the HOPE for Homeowners Program), encourage them to investigate those alternatives, and work with the borrower as appropriate to facilitate the loan modification process. For borrowers who are eligible for, and elect to participate in, the HOPE for Homeowners Program, the Federal Reserve Bank or its agent will accept the proceeds of a refinancing loan made under that Program as full payment of all debts under the borrower's existing mortgage, and waive all late payment and delinquency fees on the mortgage, when the proceeds of the refinancing loan exceed the NPV expected to be achieved through other available alternatives.

2. The Federal Reserve Bank or its agent will encourage borrowers to work with qualified third parties such as nonprofit housing counselors and, as appropriate, make referrals to such third parties.

G. Property Maintenance and Vacancy Prevention

1. Through this Policy, the Federal Reserve Banks will strive to keep homeowners in their homes whenever possible and consistent with the Federal Reserve's obligations to taxpayers. If, notwithstanding efforts under this Policy, a Federal Reserve Bank takes control of real-estate owned ("REO") property through foreclosure or deed-in-lieu-of-foreclosure, the Reserve Bank or its agent will direct servicers to properly secure and maintain the property to minimize impact on the surrounding neighborhood. The Federal Reserve Bank or its agent will direct the servicer to promptly market the REO property for sale or, if appropriate, rent the property to qualified tenants to reduce risk of vacancies. In the event of vacant properties, the Federal Reserve Bank or its agent will direct servicers to consider sale to local governments or qualified nonprofit organizations when feasible.

H. Monitoring and Updates

1. The Board will review the Policy on an ongoing basis and monitor its implementation if the Board becomes a Federal property manager. Based on its periodic reviews, the Board may, in consultation with the Federal Reserve Banks, modify the Policy as appropriate.