

Congress of the United States
Washington, DC 20515

April 23, 2020

The Honorable Steven T. Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

The Honorable Benjamin S. Carson, Sr.
Secretary of Housing and Urban Development
Department of Housing and Urban Development
451 7th St. SW, Room 10120
Washington, DC 20410

The Honorable Jerome H. Powell
Chair
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave. NW
Washington, DC 20551

The Honorable Mark A. Calabria
Director
Federal Housing Finance Agency
400 7th St. SW
Washington, DC 20219

The Honorable Sonny Perdue
Secretary
Department of Agriculture
219A Whitten Building
1400 Independence Ave. SW
Washington, DC 20250

The Honorable Robert Wilkie
Secretary
Department of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

Dear Secretary Mnuchin, Secretary Carson, Chair Powell, Director Calabria, Secretary Perdue, and Secretary Wilkie:

Thank you for your work to stabilize the U.S. economy and maintain Americans' access to housing during this disease outbreak and necessary public health response. We support the steps you have already taken to allow mortgage borrowers to avoid delinquency, and we write today to ask for additional steps to ensure that mortgage markets are able to function smoothly and that homeowners are able to continue to afford their mortgages once the current forbearance period is over.

In order to support homeowners and to prevent the mortgage market from becoming a vector for damage to the financial system as it was in 2008, we encourage your agencies to adopt three connected policies as soon as possible:

1. Clear guidance on how to handle the forbore payments at the conclusion of the forbearance period, with an emphasis on ensuring mortgage payments remain affordable;
2. Creation of a liquidity facility that will allow mortgage servicers to fund the payments they must advance to loan owners during the forbearance period; and
3. A requirement that any servicer that makes use of the liquidity facility offers the same forbearance options and post-forbearance modification procedures to all mortgage borrowers, whether or not their mortgages are federally insured.

We strongly support the Federal Housing Finance Agency's (FHFA) quick action to provide up to 12 months of forbearance for and suspend foreclosures for homeowners¹ during this economic crisis, and this policy was extended to all federally backed mortgages in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Given the magnitude of this crisis and the 20 million applications already completed for Unemployment Insurance (UI), we expect millions of families to qualify for and take advantage of the forbearance relief. We appreciate the FHFA's announcement that mortgage servicers are only required to advance four months of missed payments, but more must be done to ensure we have a unified policy on advancing payments. In order to make existing and expanded forbearance programs work, we believe several steps must be taken now.

Liquidity for Mortgage Servicers

As you know, third-party mortgage servicers are contractually obligated to advance the payments to the loan owner when borrowers do not pay, either due to delinquency or forbearance. As more borrowers take advantage of forbearance, mortgage servicers will increasingly have to step in, and the required advances seem likely to exhaust the cash reserves of many or all of the mortgage servicers.² We saw in 2008 how failures of mortgage servicers created significant stress on the financial system. Financial stress among mortgage servicers also caused unnecessary foreclosures. There is no reason to risk either of these happening again, especially given the federal government's good early steps to help homeowners. **We urge the federal government to create a liquidity facility that servicers can draw upon to access the cash they need to make their required advances.** This facility should have conditions that ensure the liquidity facility is for the direct benefit of homeowners and the financial stability of the mortgage servicing industry.

Modifying Mortgages After Forbearance

One fundamental question in developing a liquidity facility is the term of the loans, and that in turn depends on when mortgage servicers will be repaid for the amounts they've advanced. The various agencies have taken a variety of approaches to this with repayment varying from partial repayment of

¹<https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Suspends-Foreclosures-and-Evictions-for-Enterprise-Backed-Mortgages.aspx>

²<https://www.urban.org/research/publication/liquidity-vehicle-mortgage-servicing-advances-consumers-best-interest>

the advance within a couple months³ to repayment once a modification is completed after forbearance, likely 15 months or more. **As part of developing the liquidity facility, the federal agencies should provide certainty and consistency on when they will repay servicer advances.**

In most cases, the repayment of servicer advances will be closely tied to completion of a mortgage modification following the forbearance period. This process would also benefit from greater consistency. Most of the agencies have laid out several different modification paths for their servicers⁴ and the options vary from agency to agency. We support the goal of tailoring each modification to the borrower's specific situation, but we believe simplicity is a greater virtue when we likely will see millions of Americans exiting forbearance in a narrow window next Spring. This will improve communication to borrowers and reduce the chances that the servicers are overwhelmed and unable to complete modifications borrowers are entitled to, which occurred far too often from 2008 to 2012. In recognition of this, **federal agencies should deploy a few, uniform modification options for borrowers at the end of their CARES Act forbearance period.** In recognition of this, federal agencies should deploy few, uniform modification options for borrowers at the end of their CARES Act forbearance. Modification options should include the FHA's National Emergency Partial Claim,⁵ which rolls the forborne payments into an interest-free second mortgage, and the selection of the final modification should be driven by affordability to the borrower so as to minimize the chance of redefaults.

Options for Non-Agency Mortgages

For those Americans whose mortgage is backstopped by the federal government, the safety net of forbearance and modification described above should be robust enough to allow them to maintain their homes for the duration of the crisis. However, \$4 trillion in single-family mortgages fall outside of the CARES Act scope.⁶ In the interests of simplicity (homeowners are often not aware who actually owns their mortgage, so they won't necessarily know which relief they're entitled to) and equity (the economic damage from the virus affects everyone, regardless of the type of mortgage), the uniform forbearance and modification options described above should be offered to all homeowners, and the liquidity facility provides the tool to extend this relief. **Third-party servicers who make use of the liquidity facility should be required, as a condition of accessing the liquidity, to offer the same forbearance and modification options to all borrowers.** As part of this, all servicers should be required to demonstrate compliance with fair lending laws in conducting these modifications.

³ GNMA program only repays advance of principal and interest, not taxes and insurance.

⁴ For example, VA lists six options:

https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_12.pdf Fannie lays out three options, each of which have sub-options:

<https://singlefamily.fanniemae.com/media/22261/display#page=5>

⁵ https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_048

⁶ <https://www.federalreserve.gov/releases/z1/20200312/z1.pdf#page=141>

Plans for the Future

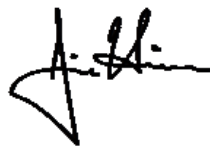
Several of us have longstanding concerns with the structure of the mortgage servicing market. We support further examination and regulation of capital and liquidity requirements in mortgage servicing, and we will work closely with you on any legislative proposals you have on this subject. But for now, the focus must be on urgent action to ensure that we do not face massive disruptions of the mortgage market and that homeowners get the assistance to which they are entitled.

We appreciate your continued efforts to help sustain the American economy and our housing finance system during these challenging times, and we look forward to working together to protect homeowners and the mortgage market during the COVID-19 pandemic. Thank you for your consideration.

Sincerely,



Denny Heck
Member of Congress



Jim Himes
Member of Congress



Ben McAdams
Member of Congress



Juan Vargas
Member of Congress



Bill Foster
Member of Congress



Josh Gottheimer
Member of Congress



Ed Perlmutter
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Jennifer Wexton
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Dean Phillips
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Stephanie Murphy
Member of Congress



Norma J. Torres
Member of Congress



Sean Casten
Member of Congress



Charlie Crist
Member of Congress

CC: Members of the Financial Stability Oversight Council (FSOC) Task Force on Nonbank Mortgage Liquidity:

- Comptroller Joseph Otting, Office of the Comptroller of the Currency;
- Chairman Jelena McWilliams, Federal Deposit Insurance Corporation;
- Director Kathy Kraninger, Consumer Financial Protection Bureau;
- Commissioner Brian Montgomery, Federal Housing Administration;
- Principal Executive Vice President Seth Appleton, Government National Mortgage Association;
- Commissioner Charles Cooper, Texas Department of Banking