Consumer Financial Protection Bureau
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# CFPB's Principles for the Future of Loss Mitigation

This document outlines four principles, Accessibility, Affordability, Sustainability, and Transparency, that provide a framework for discussion about the future of loss mitigation as the nation moves beyond the housing and economic crisis that began in 2007. As the U.S. Department of Treasury's Home Affordable Modification Program (HAMP) is phased out, the Consumer Financial Protection Bureau (CFPB) is considering the lessons learned from HAMP while looking forward to the continuing loss mitigation needs of consumers in a post-HAMP world. These principles build on, but are distinct from, the backdrop of the Bureau's mortgage servicing rules and its supervisory and enforcement authority. This document does not establish binding legal requirements. These principles are intended to complement ongoing discussions among industry, consumer groups and policymakers on the development of loss mitigation programs that span the full spectrum of both home retention options such as forbearance, repayment plans and modifications, and home disposition options such as short sales and deeds-in-lieu.

The future environment of mortgage default is expected to look very different than it did during the crisis. Underwriting based on the ability to repay rule is already resulting in fewer defaults. Mortgage investors have recognized the value of resolving delinquencies early when defaults do occur. Mortgage servicers have developed systems and processes for working with borrowers in default. The CFPB's mortgage servicing rules have established clear guardrails for early intervention, dual tracking, and customer communication; however, they do not require loss mitigation options beyond those offered by the investor nor do they define every element of loss mitigation execution.

Yet, even with an improved horizon and regulatory guardrails, there is ample opportunity for consumer harm if loss mitigation programs evolve without incorporating key learnings from the crisis. While there is broad agreement within the industry on the high level principles, determining how they translate into programs is more nuanced. Further development of these principles and their implementation is necessary to prevent less desirable consumer outcomes and to ensure the continuance of appropriate consumer protections.

The four loss mitigation principles defined in this document were initially articulated at a "Life after HAMP" meeting hosted by Treasury in November 2015 and reiterated in a February 2016 symposium hosted by the Federal Housing Finance Agency (FHFA). These principles are also described in more detail in the recently published Treasury, the Department of Housing and Urban Development (HUD), and FHFA white paper, "Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis can Influence the Path Forward." Although the Bureau agrees with Treasury, HUD, and the FHFA that a fifth principle, Accountability, is critical to the implementation of the other principles, the Bureau does not discuss accountability in this document. The Bureau's mortgage servicing rules provide standards for accountability when loss mitigation programs are offered.

Though these four principles, detailed below, have applicability to most loss mitigation programs, certain recommendations may not align with government insured lending programs such as those offered by Federal Housing Administration, Veterans' Affairs, or Rural Housing Service. The Bureau also notes that loss mitigation options appropriately include both home retention and home disposition options, depending on the individual circumstances. As used in this document, loss mitigation options include forbearance agreements, repayment plans, modifications, short sales, deeds-in-lieu and any other option that is intended to assist borrowers in finding a solution to their short- or long-term difficulty in paying their mortgage as originally agreed.

The CFPB believes these principles are flexible enough to encompass a range of approaches to loss mitigation, recognizing the legitimate interests of consumers, investors and servicers. One of the lessons of HAMP is that loss mitigation that is good for consumers is usually good for investors, as well. The CFPB therefore seeks to engage all stakeholders in a discussion of the principles for future loss mitigation.

## Accessibility

- Consumers can easily obtain and use information about loss mitigation options and application procedures from their servicers.
- Consumers can submit a request for loss mitigation using a common and readily available form of application in order to expedite consideration and to better enable housing counselors and others to support consumers in the loss mitigation process.
- Consumers are asked to submit only documentation necessary to enable consideration for available options, and servicers make appropriate efforts to obtain and verify information within the servicer's control.
- Consumers have ready access to individuals, including housing counselors and others, who can help them seek loss mitigation and understand the effect of the terms they are being offered.
- Consumers' requests for loss mitigation assistance are responded to timely and effectively by servicers.
- Consumers have access to clear and effective escalation options.
- Consumers are considered for appropriate loss mitigation options from imminent default through late stages of delinquency.
- Consumers who are similarly situated receive fair and equal consideration for loss mitigation options within similar timeframes.
- Servicers should generally be aware of and consider how they will meet the needs of those with limited English proficiency.

## Affordability

- When repayment plans and modifications are offered, they are generally designed to produce a payment and loan structure that is affordable for consumers.
- Modifications for consumers with hardships provide a meaningful payment reduction.
- Loss mitigation options are flexible enough to assist special populations (e.g., pre-crisis subprime loans) or unique circumstances (e.g., disasters).
- Consumers are not required to pay upfront costs or fees to obtain a loss mitigation option from their servicer.

## Sustainability

- The loss mitigation option offered is designed to resolve the delinquency.
- Deficiency balances are not imposed on consumers experiencing hardship as a condition of a short sale or deed-in-lieu on their principal residence.
- When modification options are used, they are designed to provide affordability throughout the remaining or extended loan term.
- Where trial modifications are used, successful trials are converted to permanent modifications timely and efficiently.
- Servicers and investors should consider modification options that reduce principal when doing so may benefit the investor, unless prohibited by statute.
- Loss mitigation options are defined and made available for consumers who decline a loan modification offer.
- Loss mitigation options are available for borrowers who re-default.
- Loss mitigation outcomes are monitored by servicers and investors to determine their impact on re-default rates, and program terms are adjusted to achieve effective outcomes and respond to economic conditions.

## Transparency

- All terms (e.g., deferred interest, future rate or term changes, and repayment of forbearance amounts) are clearly described in a manner consumers can understand. Plain language should be used to the extent reasonably feasible.
- Key loss mitigation vocabulary, e.g., hardship, imminent default, streamlined modification, etc., and data standards are defined and used consistently by mortgage servicers and investors.
- Consumers get clear, concise information and rationales about loss mitigation decisions.
- Consumers are not required to sign broad waivers of rights as a condition of receiving loss mitigation assistance.
- Key loss mitigation data is reported publicly on a regular basis to ensure that loss mitigation programs are effectively meeting consumer and market needs.