State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING
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Commissioner

BULLETIN NO. 07-24

TO: **ALL NEW JERSEY LICENSED MORTGAGE BANKERS, CORRESPONDENT MORTGAGE BANKERS, MORTGAGE BROKERS, SECONDARY LENDERS, REGISTERED MORTGAGE SOLICITORS, AND ALL NEW JERSEY CHARTERED BANKS, SAVINGS BANKS, STATE ASSOCIATIONS AND CREDIT UNIONS**

FROM: **STEVEN M. GOLDMAN, COMMISSIONER**

RE: **WORKOUT ARRANGEMENTS FOR RESIDENTIAL MORTGAGE BORROWERS**

The Department of Banking and Insurance ("Department") encourages all entities involved in the mortgage lending and servicing industries including, but not limited to, those regulated under Title 17 of the New Jersey statutes, to provide appropriate workout arrangements for financially stressed borrowers and to preserve homeownership and avoid the prospect of foreclosure.

Workout Arrangements for Financially Stressed Borrowers

The Department encourages all entities involved in the mortgage lending industry in New Jersey (particularly those in the mortgage loan servicing industry to the extent they are authorized to do so) to provide workout arrangements for financially stressed borrowers that will modify or convert their loans to loan products with predicable payments that are manageable for the borrower. The Department requests that loan servicers promptly identify borrowers currently in distress, and those who they anticipate may be in distress as a result of the interest rates on their adjustable rate mortgage loans resetting in the coming two years. It is also requested that loan servicers notify such borrowers of reset provisions, and utilize loss mitigation techniques which will preserve the privilege of homeownership and avoid the prospect of foreclosure. The early identification program should be consistent with the following statements dated September 4, 2007: (1) the "Statement on Loss Strategies for Servicers of Residential Mortgages" published by the Federal Deposit Insurance Corporation ("FDIC"), the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Conference of State Bank Supervisors ("CSBS"); and (2) the Joint Release published by the FDIC, CSBS and the American Association of Residential Mortgage

Regulators ("AARMR") entitled "FDIC, CSBS and AARMR Suggest Servicers Avoid Debt-to-Income (DTI) Ratios Above 50 Percent for Modified Obligations".

Homeownership Preservation Principles

The Department strongly recommends that loan servicers act in accordance with principles developed by the United States Senate Committee on Banking, Housing and Urban Affairs and released on May 2, 2007, entitled the "Homeownership Preservation Statement of Principles" (the "Principles"). The six Principles applicable to private industry loan servicers, as the Department views them, are as follows:

1. Early Contact and Evaluation. Servicers should develop a systematic approach to contacting subprime adjustable rate mortgage (ARM) borrowers sufficiently prior to loan resets to determine whether the higher payments create a reasonable risk of default. If it is clear, after reviewing all the available facts and circumstances, that the borrower will be unable to make the new payments when the loan resets, the servicer may assume that default on the mortgage is reasonably likely to occur and consider ways in which the loan may be modified.

2. Modify to Create Longterm Affordability. If a borrower cannot afford a reset payment, the servicer should seek to modify the loan prior to the reset. The objective of the modification should be to create a permanent, fixed rate financing solution for the borrower, which is sustainable for the life of the loan, and not to merely defer the date of the rate reset. Modification options should include, as appropriate, one or more of the following:

- Change from adjustable to fixed rate. Switching from an adjustable to an affordable fixed rate loan by, for example, making the introductory rate or another demonstrably affordable rate permanent.
- Reduce the interest rate. Reducing a high interest rate is one way to assist a borrower to afford the mortgage. Ability to repay should take into account the borrower's total debt-to-income ratio, including factoring in the costs of taxes and insurance.
- Reduce principal. Reducing the loan principal in order to ensure borrower affordability and a continued revenue stream to investors.
- Reamortize the loan. Reamortizing the loan to account for any changed loan terms or to make the payments more affordable.
- Escrows. If possible, servicers should begin to escrow for taxes and insurance as part of the modification process to ensure the home loan will remain sustainable for the life of the loan.

3. Dedicated Teams and Resources. Servicers should adopt a loss mitigation and loan modification policy that will permit modifications to be effectuated in the large numbers that may be necessary in the near term in a timely fashion. Servicers should do so by allocating teams and resources specifically dedicated to the task. When feasible, servicers should partner with experienced third party counselors and non-profits to make outreach as effective as possible.

4. <u>Low-Cost Refinancing</u>. For those who are eligible, refinancing to prime loans should be made in as streamlined and low-cost fashion as possible.

5. <u>Maximize Success, Minimize Damage</u>. Not every foreclosure can be prevented nor every home saved. All parties should work to minimize the damage to borrowers, communities, and the mortgage market when saving the home is not possible. The Department urges servicers to be prepared to promptly refer borrowers whose homes cannot be saved to the appropriate local providers of alternative services.

6. <u>Accountability</u>. A system should be developed for measuring progress on achieving the principles outlined above in order that progress can be tracked and reported and that the process can be as transparent and accountable as possible.

The Department encourages all loan servicers to follow these Principles with respect to all borrowers. Although the Principles are designed largely to address certain types of adjustable rate mortgage loans, loan servicers will surely be asked to deal with issues and questions relating to other loan types as well, on which these Principles should also provide guidance. Furthermore, the Department urges all loan servicers to follow these Principles with respect to all borrowers without regard to such borrower classifications, categorizations, or distinctions as may result from plans or agreements struck by HOPE NOW participants, or by other means. HOPE NOW is a collaboration of credit and homeowners' counselors, mortgage servicers and mortgage market participants that was formed earlier this year with the encouragement of the United States Departments of the Treasury and Housing and Urban Development.

<u>For Further Information</u>

Copies of the above-referenced documents are all available on the Department's website at www.njdobi.org in the banking link under the "Resources for Industry" heading.

12/17/07
Date

/s/ Steven M. Goldman
Steven M. Goldman
Commissioner

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