Frequently Asked Questions (FAQ) Regarding Subprime Legislation

Q1: What did Bush Administration propose for aiding homeowners that are in distress?

A1: In 2007, Bush launched a temporary program called ***FHASecure***, which modified the Federal Housing Assistance (FHA) program by providing additional flexibility in its underwriting guidelines. In effect, the program opened the door to refinancing for borrowers with good credit histories who cannot afford their mortgages after reset. *FHASecure* gives borrowers with non-FHA adjustable rate mortgages the ability to refinance into FHA insured loans. Under the program, a lender will not automatically disqualify a borrower because he/she is late on a payment. The lender may also offer the borrower a second mortgage, covering the difference between the value of the original mortgage and what is owed. Through the refinancing, homeowners can expect to pay lower monthly payments.

In addition, Bush directed secretaries Paulson and Johnson to collaborate with lenders, servicers, investors, and mortgage counselors to initiate the ***HOPE NOW Alliance***. *HOPE NOW* assembles these members of the private sector to voluntarily address the foreclosure issue. Participants in the alliance seek to aggressively reach out to potentially at-risk, credit-worthy homeowners to help them re-work their mortgages. This group agreed on a set of industry-wide standards to help homeowners by: (1) refinancing existing loans into private mortgages; (2) moving them into an FHA secure loan; or (3) freezing their current interest rate for five years. However, the freeze excludes anyone that is more than thirty days late at the time the mortgage would be modified or more than sixty days late at any time within the previous twelve months. It also excludes anyone who cannot afford the loans at the introductory rate. The interest freeze covers anyone with an ARM resetting in 2008, but leaves out anyone capable of making the mortgage payment at the reset rate. HOPE NOW also provides a 24-hour counseling hotline.

Q2: What are the effects of *FHASecure*?

A2: During the first three months of operation, *FHASecure* received more than 120,000 applications and helped 35,000 homeowners refinance their loans. Although *FHASecure* was designed for consumers who would not qualify for FHA insurance, more than 98% of the assisted borrowers would have qualified for FHA products in 2007. Only 541 targeted borrowers were aided. As of June 2, 2008, *FHASecure* helped 200,000 homeowners avoid foreclosure by refinancing their mortgages through FHA. In just the past three months, the effects of *FHASecure* were significant, as it insured twice as many loans during this time as it did in the first three months of the program. As more and more homeowners learn about the positive changes they can make using the FHA’s 30-year fixed, prime rate financing, the numbers of Americans that have been helped by the program continues to increase.

Q3: What are the effects of the *HOPE NOW Alliance*?

A3: Approximately 545,000 subprime mortgage holders were helped the second half of 2007. Fourteen Hope Now servicers responsible for more than 33.3 billion home loans, as of September 2007, provided the data. With the help of *HOPE NOW*, the mortgage industry is helping more than 160,000 families a month keep their homes by either modifying their loans or by developing more realistic payment plans. Since the summer of 2007, the industry overall has reworked more than one million mortgages to help homeowners stay in their homes.

Q4: What is Congress doing to address the foreclosure crisis?

A4: Most recently, Senators Chris Dodd and Richard Shelby completed bipartisan legislation that includes major efforts to address this issue – the "Housing and Economic Recovery Act of 2008." The comprehensive housing legislation contains provisions from a Dodd-Shelby bill that was approved by the Committee on May 20, as well as measures from the Foreclosure Prevention Act of 2008, which passed the Senate in April.

Q5: What are the suggested effects of this legislation?

A5: The legislation will help to contain the current problems in the housing markets and prevent another crisis of this magnitude by providing relief to hundreds of thousands of American homeowners and introducing broad improvements to the nation's housing system.

Q6: Where is the bill now?

A6: After the Senate Banking Committee approved the bill on May 20,[1] the full Senate debated the bill on June 25. However, final action on the bill was delayed until after the Fourth of July recess. The Senate's plan was to go to a direct vote, but the bill did not get the necessary votes to limit debate. The bill stalled in the Senate as members argued over whether to add an amendment that would extend renewable energy tax credits. Senate Democrats refused to consider the non-housing amendment, so Senate Republicans refused to grant unanimous consent to advance the bill to direct consideration.

Q7: What are the next steps for the bill?

A7: Once approved by the Senate, the bill will be sent to the House, were legislators will attempt to rectify it with their own housing measures. House leaders are dedicated to getting the bill passed and to President Bush before the August recess, but the chambers must first rectify a few differences between them.

Q8: What does this comprehensive legislation contain?

A8: The "Housing and Economic Recovery Act of 2008" includes three separate legislative pieces, such as:

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[1] In the legislative process, after introduction, bills are referred to a committee according to their specific rules. The committee either approves the bill so that it moves forward in the legislative process or rejects the bill by not acting on it.

- “Federal Housing Finance Regulatory Reform Act of 2008”
- “Hope for Homeowners Act of 2008”
- “Foreclosure Prevention Act of 2008”

Q9: What is the “Federal Housing Finance Regulatory Reform Act of 2008”?

A9: This legislation increases and modernizes the regulation of government-sponsored enterprises such as Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBs) through the Federal Housing Finance Agency (FHFA). The FHFA will be an independent agency of the federal government that will require these regulated entities to submit regular reports, including financial statements on their condition, management, activities, or operations. It will establish risk-based capital requirements for the enterprises to ensure their safe and sound operation, while supporting the risks that arise in their operation and management. It will provide loan limits for both Fannie Mae and Freddie Mac, with the limits not exceeding $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a two-family residence, $645,300 for a mortgage secured by a three-family residence, and $801,950 for a mortgage secured by a four-family residence. The FHFA director will establish annual housing goals regarding mortgage purchases, including eliminating interest-rate disparities for minorities compared to non-minorities with similar credit worthiness. The FHFA will enforce its orders through cease and desist authority, civil money penalties, and the authority to remove officers and directors.

Additionally, this Act requires Fannie Mae and Freddie Mac to annually pay amounts equal to 4.2 basis points on each dollar of unpaid principal balance of each enterprise’s total new business purchases. The enterprises must also allocate 65% of such amounts to HUD to fund the Housing Trust Fund and 35% of such amounts to fund the Capital Magnet Fund.

This Act acknowledges that servicers of pooled residential mortgages owe a fiduciary duty to investors to maximize the net present value of the pooled mortgages. In addition, it establishes that servicers do act in the best interest of all such investors if they agree to or implement a work-out plan that meets the following criteria: (1) default on the payment has occurred or is reasonably foreseeable; (2) the property secured by such mortgage is occupied by the mortgagor; and (3) the anticipated recovery on the principal outstanding obligation under the modification exceeds the anticipated recovery through foreclosure.

Q10: Who is Fannie Mae?

A10: Fannie Mae is a governmental agency that is a secondary market lender. Their aim is to provide liquidity in the housing market by purchasing and investing in mortgage loans. As a result, they put capital (cash) into the hands of originating lenders who fund these loans. Their services are offered to homeowners who are involuntarily in financial hardship.

Q11: Who is Freddie Mac?

A11: Freddie Mac is Fannie's brother corporation. Freddie purchases mortgages, packages them into securities, and sells them to investors on Wall Street. This allows capital to flow back into the hands of the originating lender so that new loans can be made.

Q12: What are FHLBs?

A12: FHLBs are an essential source of stable, low-cost funds, which are provided to financial institutions for home mortgage, small business, rural, and agricultural loans. The FHLBs represent the largest source of home mortgage and community credit.

Q13: Who is the FHA?

A13: The FHA is a part of HUD, whose purpose is to expand homeownership and rental opportunities for people not covered adequately by private mortgage markets. They insure mortgages that are bought by Fannie Mae and Freddie Mac. If the homeowner defaults, the lender recovers the loan amount from HUD. If the lender forecloses, it receives most of the principal, interest, and costs from the FHA Insurance Fund. FHA insured mortgages are guaranteed by Ginnie Mae, so investors feel confident in their purchases.

Q14: What is the Housing Trust Fund?

A14: The purpose of this program is to provide grants to states to support homeownership and rental housing among low-income individuals. To help address the subprime mortgage crisis, in 2009, 100% of the amounts allocated to this program will be used for grants to states to facilitate loan modification and refinance options for low- to moderate-income borrowers facing foreclosure. The states must use the grants to: (1) support the refinancing of loans with a loan-to-value ratio of no greater than 90% of the current appraised value of the home; (2) reduce outstanding loan balances so that the loan-to-value ratio is not greater than 90% of the appraised value of the home, as long as the lender, servicer, or investor reduces the balance by the necessary amount to bring the loan value at or below the appraised value of the home; and (3) pay off any outstanding amounts owed by eligible homeowners for insurance or to bring the homeowner current on mortgage payments.

Q15: What is the Capital Magnet Fund?

A15: Amounts in the Capital Magnet Fund will be available for a competitive grant program to attract private capital and to increase investment in: (1) the development, preservation, rehabilitation, or purchase of affordable housing for extremely low-, very low-, and low-income families and (2) economic development activities or community service facilities, such as day care centers, work-force development centers, and health-care clinic, which, in conjunction with affordable housing activities, strategize to stabilize low-income areas. The potential grantees include certified community development institutions and non-profit organizations.

Q16: What is the "HOPE for Homeowners Act of 2008"?

A16: The HOPE for Homeowners Act creates a temporary, voluntary program within the FHA to back FHA-insured mortgages to distressed homeowners. Certain borrowers could refinance their home loan through a private lender with an FHA loan guarantee. Borrowers with a second home or a vacation home, as well as anyone previously convicted of fraud, will be ineligible for the program. It would authorize FHA to provide up to $300 billion in loan guarantees from October 2008 – September 30, 2011. A portion of the Housing Trust Fund will fund the program and if the program costs less than projected, the excess funds will be returned to the Housing Trust Fund. Any excess savings will reduce the national debt.

The mortgage lender must agree to bring the loan-to-value ratio to no greater than 90% of the property's current appraised value. The mortgage holder would also have to pay 3% of the original insured loan amount to FHA. The new loan would have to carry a fixed interest rate and the loan amount could be no more than $550,000. Upon sale, refinancing, or other disposition, the borrower would pay FHA a share of the new equity created by the program. This program is expected to serve approximately 400,000 borrowers.

Q17: What is the "Foreclosure Prevention Act of 2008"?

A17: This bill was passed by the Senate on April 10 and was designed to address the dilemmas faced by families and their communities. It entails significant FHA reform to modernize and expand the reach of the FHA program. The FHA limit is increased from 95% to 110% of area median home price with a cap at 150% of the GSE limit, which is currently $625,000. FHA loans will require 3.5% down-payments, as well as counseling to promote stable homeownership.

Community Development Block Grant Funds will be used to purchase foreclosed homes at a discount to rehabilitate, which will stabilize the neighborhoods. The government will provide $3.92 billion to communities hardest hit by foreclosures and delinquencies.

The Neighborhood Reinvestment Corporation will distribute $150 million in additional funds for housing counseling to ensure families can quickly get the help they need. As a result, as many as 250,000 additional families will connect with their mortgage servicer or lender to explore options that will help them stay in their homes.

The bill amends the Truth in Lending Act (TILA) to ensure that consumers are provided with timely and meaningful disclosures in connection with mortgages. It expands the types of home loans subject to early disclosures (within three days of application), including refinancings, and requires that disclosures be provided no later than seven days prior to closing so that borrowers can shop for another loan if not satisfied with the terms. The bill requires a new disclosure that informs borrowers of the maximum monthly payments that can be applied to the loan. It also increases the statutory damages for TILA violations, ranging from $200 to $2000 to $300 to $3000.

Finally, this bill lengthens the time a lender must wait before starting foreclosure from three months to nine months after a soldier returns from service. In addition, it provides returning soldiers with one year relief from increases in interest rates. It contains provisions that establish a counseling system for veterans and active servicemen facing financial difficulties.

Q18: What is the Neighborhood Reinvestment Corporation?

A18: The Neighborhood Reinvestment Corporation, dba NeighborWorks America, is a US public/private neighborhood redevelopment corporation that was formalized by Congress in 1978. Its mission is "revitalizing older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level."