



## Recommendations for Treasury Transition

### Fair Housing Enforcement and Compliance

**Fair Lending Enforcement at the Treasury:** Fair lending and fair access to appropriate, affordable and sustainable credit should be a priority of the Treasury Department. The OCC and OTS should place stronger emphasis on fair lending oversight, regulation and enforcement. Additionally, the agencies should review and expand their efforts to affirmatively further fair housing, as required under the Fair Housing Act and Executive Orders 11063 and 12892.

**Federal Preemption of State Laws:** The OCC has moved aggressively to pre-empt state civil rights and consumer protection statutes – and has extended that preemption to banks’ affiliates, subsidiaries, and third party vendors. The OTS has followed suit. But while the agencies have used their powers of pre-emption to create a consumer protection void for customers of national banks and thrifts, neither has taken any action to fill that void. If the agencies override state protections, leaving consumers exposed to unfair and discriminatory practices, they have an obligation to create and enforce comparable federal protections for consumers.

**President’s Fair Housing Council:** The National Commission on Fair Housing and Equal Opportunity strongly recommends the revitalization of the President’s Fair Housing Council to coordinate fair housing activities throughout the federal government including among departments and regulatory agencies, as provided in the Fair Housing Act and Executive Order 12892. We urge the Treasury Secretary to take immediate steps to participate in the Council and appoint appropriate staff to fulfill the Treasury’s obligations with respect to the Council. The Council should promptly address the foreclosure and mortgage crisis, mortgage reform, and regulatory reform.

### TARP, Foreclosure Prevention, and Economic Recovery Programs

**Fair Housing:** Because federal funds are being used for these programs, the federal Fair Housing Act requirements apply. This means these funds may not be used to promote housing discrimination; in fact, they must be used to “affirmatively further fair housing,” i.e. to promote diverse, inclusive communities. Subprime and other toxic mortgages, and the foreclosures they have caused, have been heavily concentrated in African-American and Hispanic communities, with devastating effects.

**Homeownership Preservation:** The government’s foreclosure response must include both real relief via systemic loan modifications and authority for judicial modification of loans in bankruptcy. The response must also do everything possible to establish servicers’ authority to modify loans when that is a least cost alternative to foreclosure, and thus in the best interest of the investors as a whole. In addition, the tax consequences of loan modifications for borrowers must be addressed.

- **Some elements of successful loan modifications:** Loan modifications should be permanent - not short term, truly affordable, and use reduced interest rates and principal reductions as necessary to achieve long-term affordability.
- **Pro-consumer practices:** Institutions receiving federal assistance should be required to adopt specific pro-consumer and fair housing practices. Treasury and the federal financial regulators should make civil rights compliance and consumer protection as high a priority as safety and soundness. Treasury should form a consumer advisory body to help address policy matters and develop proposals to reform the financial regulatory structure.



- **Assisting troubled homeowners:** To more quickly stabilize the financial markets, remaining TARP funds should focus on homeownership preservation and providing assistance to troubled borrowers.
- **Foreclosure moratorium:** A moratorium should be placed on foreclosures long enough to resolve the enormous backlog of loans currently in default.

### **Fixing the System**

**Substantive Mortgage Reform:** It is clear, more than ever, that this nation needs substantive mortgage reform that provides effective rights and remedies for borrowers; a prohibition against steering; a suitability standard; a definition of “high-cost” that includes all loan fees; no federal preemption; and advance disclosure of costs and fees.

**Effective Regulatory Reform:** As we move into a period examining our financial regulatory system, Treasury should reach out to civil rights and consumer protection organizations for substantive contributions. The Secretary should form an advisory body composed in large part of these organizations.

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