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Report to Congressional Committees

March 2016

TROUBLED ASSET RELIEF PROGRAM

Treasury Should Estimate Future Expenditures for the Making Home Affordable Program

GAO-16-351

GAO Highlights

Highlights of GAO-16-351, a report to congressional committees

March 2016

TROUBLED ASSET RELIEF PROGRAM

Treasury Should Estimate Future Expenditures for the Making Home Affordable Program

Why GAO Did This Study

Since 2009 Treasury has obligated $27.8 billion in TARP funds through its MHA program to help struggling homeowners avoid foreclosure. The Emergency Economic Stabilization Act of 2008 includes a provision for GAO to report every 60 days on TARP activities. This report examines the extent to which Treasury is reviewing unexpended balances and cost projections for the MHA programs. To do this work, GAO used 2015 mortgage and other data from a private vendor and Treasury to help illustrate potential future costs of MHA/HAMP, reviewed internal Treasury documents, and interviewed relevant federal agency officials.

What GAO Recommends

GAO is making two recommendations to Treasury and has one matter for congressional consideration. Treasury should (1) estimate future expenditures for the MHA program and any unexpended balances and (2) deobligate funds that its review shows will likely not be expended and move up to $2 billion of such funds to the TARP-funded Hardest Hit Fund as authorized. Congress should consider permanently rescinding any deobligated MHA funds that are not moved to the Hardest Hit Fund and make them available for other priorities. Treasury agreed with our recommendations and indicated that it has updated its cost estimates and subsequently deobligated $2 billion of MHA funds on February 25, 2016.

View GAO-16-351. For more information, contact Mathew Scire at (202) 512-8678 or sciremj@gao.gov

What GAO Found

The U.S. Department of the Treasury (Treasury) monitors activity and aggregate expenditures under its Troubled Asset Relief Program (TARP)-funded Making Home Affordable (MHA) program, but it has not instituted a system to review the extent that it will use the full available program balance ($7.7 billion as of October 16, 2015). In a July 2009 report, GAO found that Treasury's estimates of program participation may have been overstated, reflecting uncertainty caused by data gaps and assumptions that had to be made, and recommended that Treasury periodically review and update its estimates.

In response, Treasury started performing periodic estimates of the eligible HAMP population. Treasury officials previously told GAO that they could not reliably estimate future participation levels due to data limitations and that they assumed that all available MHA funds would be spent. GAO recognizes that no estimate of future participation and expenditures can be made with certainty. But prior GAO work has concluded that reviewing unexpended balances, including those that have been obligated, can help agencies identify possible budgetary savings. Moreover, Congress's recent action to limit entry into the MHA programs after December 31, 2016, and to allow Treasury to obligate up to $2 billion in TARP funds, including MHA funds, to the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets (Hardest Hit Fund), provides Treasury with greater certainty and opportunity with respect to estimating and reprogramming excess MHA fund balances. Since then, the President's 2017 Budget identified $4.7 billion in potential excess funds, and Treasury has announced its intention to transfer $2 billion of these funds to the Hardest Hit Fund. Officials said that deobligating additional amounts would present undue risk of having insufficient funds, and that further estimates of excess funds should await the completion of all new activity.

GAO performed its own analysis of September 2015 mortgage data to estimate potential future HAMP participation and costs. This analysis resulted in estimates of MHA program balances as of October 16, 2015, that ranged from using all available funds to a surplus of $2.5 billion. In preparing these estimates, GAO attempted to provide a wide range of possible outcomes and generally used inclusive assumptions. Thus the actual number of eligible loans is likely to be lower and the unexpended balances higher than GAO's estimates. Taking action to estimate likely MHA expenditures allows Treasury to deobligate excess funds and, as appropriate, move funds to the Hardest Hit Fund. To the extent that additional funds may be deobligated, Congress may then have the opportunity to use those funds on other priorities.

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Abbreviations

2MP	Second Lien Modification Program
CBO	Congressional Budget Office
DTI	debt-to-income
EESA	Emergency Economic Stabilization Act of 2008
FHA	Federal Housing Administration
HAFA	Home Affordable Foreclosure Alternatives Program
HAMP	Home Affordable Modification Program
HCAI	Housing Credit Availability Index
LTV	loan-to-value
MHA	Making Home Affordable program
NPV	net present value
OCC	Office of the Comptroller of the Currency
PRA	Principal Reduction Alternative
RHS	Rural Housing Service
TARP	Troubled Asset Relief Program
Treasury	Department of the Treasury

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Congressional Committees

Since 2009, the U.S. Department of the Treasury (Treasury) has been using funds under the Troubled Asset Relief Program (TARP) authorized by the Emergency Economic Stabilization Act of 2008 (EESA) to address weaknesses in the U.S. housing market.[1] Treasury initially announced that up to $50 billion would be used to help as many as 3 million to 4 million struggling homeowners avoid potential foreclosure but subsequently reduced the amount to $37.5 billion. Of that amount, Treasury has obligated $27.8 billion in TARP funds for the Making Home Affordable (MHA) program. The cornerstone program under MHA is the Home Affordable Modification Program (HAMP), which provides financial incentives for eligible borrowers, servicers, and mortgage holders/investors to modify first-lien mortgages. These modifications are intended to prevent foreclosure by reducing homeowners' monthly mortgage payments to affordable levels.[2]

Treasury has made extensive modifications to MHA programs, including HAMP, since their introduction. These modifications include expanding HAMP to cover additional homeowners and investors, providing additional payment relief, and granting underwater borrowers principal reduction. The modifications could result in additional expenditures of program funds in the billions of dollars. However, billions of dollars obligated under the MHA program remain unexpended, and GAO and the Congressional

[1]Pub. L. No. 110-343, tit. I, 122 Stat. 3765, 3767-3800 (codified at 12 U.S.C. §§ 5201-5241). EESA provided Treasury with authority to purchase up to $700 billion worth of troubled assets. The Dodd-Frank Wall Street Reform and Consumer Protection Act (1) reduced Treasury's authority to purchase or insure troubled assets to a maximum of $475 billion and (2) prohibited Treasury, under EESA, from incurring any obligations for a program or initiative that was not initiated prior to June 25, 2010. Pub. L. No. 111-203, § 1302, 124 Stat. 1376, 2133 (codified at 12 U.S.C. § 5225(a)).

[2]Treasury has also allocated $7.6 billion in TARP funds to state housing finance agencies to help borrowers in the areas most affected by the housing crisis and $100 million to support the Department of Housing and Urban Development's Federal Housing Administration refinance program for borrowers in negative equity positions. Treasury also plans to allocate an additional $2 billion in TARP funds to the state housing finance agencies in 2016.

Budget Office (CBO) have raised questions about the potential for excess funds.

In previous reports, we looked at Treasury's design and implementation of HAMP and other TARP-funded housing programs and made several recommendations to improve Treasury's oversight of the programs.[3] This 60-day report examines the extent to which Treasury has conducted reviews of unexpended balances of MHA program funds. To address this objective, we reviewed Treasury data and reports on program expenditures and participation, CBO reports, and TARP documentation related to the housing programs. We also analyzed MHA program documentation, including supplemental directives for recent MHA program changes and the MHA Program Handbook, and Treasury memorandums and other internal documents.

To assess changes in mortgage performance since 2009 and the state of the loan modification market, we analyzed summary data from (1) the Mortgage Bankers Association, CoreLogic, Inc., and the Urban Institute

[3]EESA includes a provision for GAO to report at least every 60 days on findings resulting from the oversight of, among other things, TARP's performance in meeting the purposes of the act, the financial condition and internal controls of TARP, the characteristics of both asset purchases and the disposition of assets acquired, the efficiency of TARP's operations in using appropriated funds, and TARP's compliance with applicable laws and regulations. Pub. L. No. 110-343, § 116(a), 122 Stat. 3765, 3783-85 (codified at 12 U.S.C. § 5226(a)). Under this statutory mandate, we have reported on Treasury's use of TARP funds to preserve homeownership and protect home values. See GAO, *Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable*, GAO-09-837 (Washington, D.C.: July 23, 2009); *Troubled Asset Relief Program: Further Actions Needed to Fully and Equitably Implement Foreclosure Mitigation Programs*, GAO-10-634 (Washington, D.C.: June 24, 2010); *Troubled Asset Relief Program: Treasury Continues to Face Implementation Challenges and Data Weaknesses in Its Making Home Affordable Program*, GAO-11-288 (Washington, D.C.: Mar. 17, 2011); *Troubled Asset Relief Program: Further Actions Needed to Enhance Assessments and Transparency of Housing Programs*, GAO-12-783 (Washington, D.C.: July 19, 2012); *Troubled Asset Relief Program: More Efforts Needed on Fair Lending Controls and Access for Non-English Speakers in Housing Programs*, GAO-14-117 (Washington, D.C.: Feb. 6, 2014); *Troubled Asset Relief Program: Treasury Could Better Analyze Data to Improve Oversight of Servicers' Practices*, GAO-15-5 (Washington, D.C.: Oct. 6, 2014); and *Troubled Asset Relief Program: Treasury Could More Consistently Analyze Potential Benefits and Costs of Housing Program Changes*, GAO-15-670 (Washington, D.C.: July 6, 2015). We also issued an additional report on foreclosure mitigation efforts, including Treasury's TARP-funded housing programs; see GAO, *Foreclosure Mitigation: Agencies Could Improve Effectiveness of Federal Efforts with Additional Data Collection and Analysis,* GAO-12-296 (Washington, D.C.: June 28, 2012).

on mortgage delinquencies, negative equity, and credit availability, and (2) the HOPE NOW Alliance and the Office of the Comptroller of the Currency (OCC) on mortgage loan modifications completed between January 1, 2009, and September 30, 2015.[4] At our request, OCC provided us with data summaries not published in the Mortgage Metrics reports, such as analyses of the Mortgage Metrics portfolio by date of origination of the modified loans.[5] While we did not independently confirm the accuracy of these summary data that we obtained, we took steps to ensure that the data were sufficiently reliable for our purposes, such as reviewing the data with officials familiar with generating the data and reviewing related documentation. We found that the data were sufficiently reliable for our purposes.

To illustrate a range of possible funding needs for MHA and HAMP, we analyzed summary data on active first-lien mortgages as of September 30, 2015 that we obtained from a private data vendor—Black Knight Data & Analytics LLC (Black Knight).[6] We used those data to (1) estimate the likely universe of residential mortgage loans potentially eligible for a HAMP loan modification, (2) estimate the proportion of potentially eligible loans that are likely to need and qualify for a HAMP loan modification using factors which we first developed in our 2012 report in which we evaluated the at-risk mortgage universe, and (3) estimate potential future HAMP expenditures on the basis of average estimated life-time costs for

[4]The Mortgage Bankers Association (MBA) is a national organization representing the various facets of the real estate finance industry—including originators, servicers, underwriters, compliance personnel, and information technology professionals in the residential, commercial, and multifamily arenas—that publishes various mortgage market data. CoreLogic, Inc. is a private company that provides data, analytics, technology, and services related to the mortgage industry, among other things. The Urban Institute is a Washington, D.C.-based organization that carries out economic and social policy research. HOPE NOW is an alliance between counselors, mortgage insurers, investors, and mortgage servicers.

[5]The OCC Mortgage Metrics Report provides performance data on first-lien residential mortgages.

[6]Black Knight Data & Analytics LLC is a private data vendor that provides property, multiple listing service, and mortgage performance data. According to Black Knight Data & Analytics LLC, there were about 30 million active first-lien mortgages in its mortgage performance database, which they estimated to cover about 60 percent of the total mortgage universe.

the various HAMP loan modification types using various scenarios.[7] We took a number of steps to ensure the reliability of the data and analyses we purchased from Black Knight. For example, we discussed with Black Knight officials the company's internal procedures for ensuring data reliability and the process used to complete the work we requested. We reviewed information about its quality control process. We also conducted reasonableness checks on data elements through electronic data testing by comparing the Black Knight data to that of other publicly available data. We determined that the data were sufficiently reliable for our purposes. We also interviewed Treasury officials on program activities and future plans. For additional information on our scope and methodology, see appendix I.

We conducted this performance audit from August 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Treasury's Office of Homeownership Preservation within the Office of Financial Stability, which administers Treasury's TARP-related efforts, is tasked with finding ways to help prevent avoidable foreclosures and preserve homeownership. The $27.8 billion in TARP funds that Treasury has obligated for MHA is to be used to encourage the modification of eligible mortgages and to provide other relief to distressed borrowers. Only loans that were originated on or before January 1, 2009 and that meet other requirements are eligible for assistance under the MHA program. In December 2015, Congress mandated that the MHA program be terminated on December 31, 2016, with an exemption for HAMP loan modification applications made before that date.[8] Congress also provided Treasury with the authority to extend its authority under EESA with

[7]See GAO, *Foreclosure Mitigation: Agencies Could Improve Effectiveness of Federal Efforts with Additional Data Collection and Analysis*, GAO-12-298 (Washington, D.C.: June 28, 2012) for the factors and criteria used to identify loans at risk of potential foreclosure.

[8]See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Div. O. tit. VII. § 709, 129 Stat. 2242.

respect to the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets (Hardest Hit Fund) to December 31, 2017 for current program participants and to obligate up to $2 billion of TARP funds to that program.[9]

Status of Making Home Affordable Program Funding Balance

Treasury uses contracts with its servicers to establish the amount of funds that each servicer may receive under MHA for incentives or other payments. Treasury initiated HAMP and the other TARP housing programs using its authority under EESA and authorized Fannie Mae to act as a financial agent. At Treasury's request, Fannie Mae signed contracts with banks and other mortgage servicers. As prescribed by EESA, the contracts took the form of agreements to purchase financial instruments from the servicers.[10] For the MHA program, in these contracts, known as servicer participation agreements, Treasury, through Fannie Mae, committed to pay servicers for completing modifications of mortgage loans according to the terms of HAMP and other MHA programs. Each of these contracts establishes a maximum amount that Treasury, through Fannie Mae, is obligated to pay the servicer.[11]

Each of the contracts established a maximum amount that Treasury would have to pay, and Treasury recorded these amounts for each

[9]First announced in February 2010, the Hardest Hit Fund provides $7.6 billion in TARP funds to 18 states, plus the District of Columbia, to develop locally tailored programs to assist struggling homeowners in their communities. Treasury plans to obligate an additional $2 billion to the Hardest Hit Fund in 2016.

[10]As noted above, the act authorized Treasury to purchase troubled assets from financial institutions. See Pub. L. No. 110-343, § 101(a)(1), 122 Stat. 3765, 3767 (codified at 12 U.S.C. § 5211(a)(1)). The act defines troubled assets to include both certain residential or commercial mortgages and securities based on such mortgages, and any other financial instrument that the Secretary determines needs to be purchased to promote financial market stability. § 3(9), 122 Stat. at 3767. Under HAMP, Treasury, acting through its financial agent, enters into contracts with servicers that are financial institutions to purchase financial instruments under which the servicers commit to modify mortgages and to receive and make payments in accordance with specified criteria. To participate in HAMP, the servicer is required to enter into a Commitment to Purchase Financial Instrument and Servicer Participation Agreement with Fannie Mae, acting as a financial agent of the United States.

[11]In federal budgeting, an obligation is a commitment that creates a legal liability for the payment of goods and services. See GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: September 2005). Payment may be made immediately or in the future. Obligations that are not liquidated during the fiscal year in which they are incurred carry over as unexpended balances in the authorizing account.

contract as obligations, for a total of approximately $27.8 billion.[12] All of the contracts were signed and the corresponding funds obligated in fiscal years 2009 and 2010. Treasury has not obligated any new funds for MHA since the end of 2010 but has made many adjustments to the amounts originally set out in the contracts, pursuant to provisions set forth in the contracts. The contracts do not require upfront payments of the full maximum amounts; Treasury expends funds as servicers enroll borrowers in modifications and complete other activities.

As of October 2015, $12.6 billion had been expended for all the MHA programs, leaving $17.2 billion in obligated but unexpended funds. Of this $17.2 billion, according to Treasury's estimate, a maximum of $9.5 billion could be expended through future payments to servicers for HAMP loan modifications completed before October 2015 and for other activities that servicers have already initiated. The remaining $7.7 billion in obligations represents the amounts potentially available to servicers for future HAMP modifications and other MHA transactions, as established in the original contracts. Due to restrictions imposed by the Dodd-Frank Act, Treasury may obligate TARP funds only for programs that were initiated prior to June 25, 2010.

Making Home Affordable Program Components

MHA consists of several programs designed to help struggling homeowners and prevent avoidable foreclosures.

- *HAMP first-lien modifications.* The largest component of MHA is the first-lien modification program. The program was intended to help eligible borrowers stay in their homes and avoid potential foreclosures by reducing the amount of their monthly payments to affordable levels. Modifications are available for single-family properties (one to four units) with mortgages no greater than $729,750 for a one-unit property.[13] Borrowers are eligible only if companies servicing their

[12]The original amount of MHA obligations arising from servicer participation caps was approximately $29.9 billion. After adjusting for reductions in obligations resulting from the termination of certain contracts with servicers, and $2 billion in de-obligations made in February 2016, the total amount of MHA obligations now stands at approximately $27.8 billion.

[13]Unpaid principal balance limits (prior to modification) are $729,750 for a one-unit building; $934,200 for a two-unit building; $1,129,250 for a three-unit building; and $1,403,400 for a four-unit building.

mortgages have signed program participation agreements.[14] Participating loan servicers use a standardized net present value (NPV) model to compare a modified loan's expected cash flows to the cash flows that would be expected from the same loan with no modifications, using certain assumptions. If the expected cash flow with a modification is positive (i.e., more than the estimated cash flow of the unmodified loan), the participating loan servicer is required to offer the loan modification. HAMP provides both one-time and ongoing incentives to mortgage investors, loan servicers, and borrowers for up to 6 years after a loan is modified. These incentives take into consideration the servicers' and investors' costs for making the modifications and are designed to increase the likelihood that the program will produce successful modifications over the long term. They include principal balance reductions for borrowers who make payments on time and incentives for servicers tied to the amount by which a modification reduces the borrower's monthly payment.

The HAMP first-lien modification program has three components—the original HAMP (Tier 1), an additional first-lien modification known as HAMP Tier 2, and a modification with reduced borrower documentation requirements known as Streamline HAMP. Announced in March 2009, HAMP Tier 1 is generally available to qualified borrowers who occupy their properties as their primary residence and whose first-lien mortgage payments are more than 31 percent of their monthly gross income, as calculated using the front-end debt-to-income (DTI) ratio.[15] HAMP Tier 2, which was announced in January 2012, is available for both owner-occupied and rental properties, and borrowers' monthly mortgage payments prior to modification may be less than 31 percent DTI. Streamline HAMP, which was announced in July 2015 and requires servicers to have an implementation policy in place as of January 2016, offers modification terms and eligibility

[14]Only financial institutions that signed a Commitment to Purchase Financial Instrument and Servicer Participation Agreement on or before October 3, 2010, are eligible to receive TARP financial incentives under the MHA program. Treasury pays the incentives for HAMP modifications for loans not owned or guaranteed by the housing enterprises Fannie Mae or Freddie Mac. With some exceptions, Fannie Mae and Freddie Mac bear the cost of HAMP modifications for loans they own or guarantee.

[15]For first-lien mortgages, the front-end DTI ratio under HAMP is the percentage of a borrower's gross monthly income that is required to pay monthly housing expenses (mortgage principal, interest, taxes, insurance, and, if applicable, condominium or cooperative fees or homeowners associations dues).

criteria similar to those of HAMP Tier 2 but does not require documentation (or verification) of borrower income.[16]

As part of the HAMP Tier 1 modification, servicers reduce a borrower's interest rate until the DTI is 31 percent or the interest rate reaches 2 percent.[17] The new interest rate is fixed for the first 5 years of the modification. It then gradually increases by increments of no more than 1 percent per year until it reaches the cap, which is the Freddie Mac Primary Mortgage Market Survey rate at the time of the modification agreement. The interest rate is then fixed at that rate for the remaining loan term. In contrast, under HAMP Tier 2 and Streamline HAMP, the interest rate is adjusted to a rate that remains fixed for the life of the loan. The fixed rate is set using the weekly Freddie Mac Primary Mortgage Market Survey Rate at the time of the modification agreement.[18]

- For HAMP Tier 1, HAMP Tier 2, and Streamline HAMP, borrowers must demonstrate their ability to pay the modified amount by successfully completing a trial period of 3 months or more before a loan is permanently modified and any government payments are made. When a borrower defaults—misses three consecutive monthly mortgage payments—after the loan has been permanently modified,

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[16]However, Streamline HAMP does require documentation in the form of a hardship affidavit, Dodd-Frank certification, and an executed mortgage modification agreement. The Dodd-Frank Certification is required under section 1481 of the Dodd-Frank Act, which prohibits the extension of TARP-funded mortgage assistance to borrowers who have been convicted within the last decade of certain crimes in connection with a mortgage or real estate transaction. Pub. L. No. 111-203, § 1481(d), 124 Stat. 1376, 2202 (2010) (codified at 12 U.S.C. § 5220b(d)).

[17]Servicers are not required to reduce interest rates below 2 percent. Interest rate reduction is one step in the HAMP Tier 1 standard modification waterfall. Under the waterfall, servicers must first capitalize accrued interest and certain expenses paid to third parties and add this amount to the loan balance (principal) amount. Next, servicers must reduce the interest rate until the 31 percent DTI target is reached or the interest rate is reduced to 2 percent. If the interest rate reduction does not result in a DTI ratio of 31 percent, servicers must then extend the maturity and/or amortization period of the loan up to 40 years. Finally, if the target DTI ratio is still not reached, the servicer must forbear, or defer, principal until the payment is reduced to the 31 percent target, subject to an excessive forbearance cap.

[18]The interest rate is rounded up to the nearest 0.125 percent and then modified by a risk adjustment established by Treasury. Before July 1, 2014, this risk adjustment added 50 basis points to the rate. Between July 1, 2014, and January 1, 2015, the risk adjustment was zero basis points. Effective January 1, 2015, the risk adjustment subtracts 50 basis points from the rate.

Treasury stops paying financial incentives to the borrower, servicer, and investor for that modification. Borrowers who have received a HAMP Tier 1 modification may be eligible for a HAMP Tier 2 or Streamline HAMP modification under certain conditions. These include having undergone a change in circumstances, having entered into a permanent HAMP Tier 1 loan modification at least 12 months earlier, or having defaulted on the HAMP Tier 1 modification (referred to as redefault). In all cases, borrowers must otherwise meet HAMP eligibility criteria, such as having a financial hardship.

- *The Second Lien Modification Program (2MP).* 2MP is designed to work in tandem with HAMP modifications to provide a comprehensive solution to help borrowers afford their mortgage payments. Under 2MP, when a borrower's first lien is modified under HAMP and the servicer of the second lien is a 2MP participant, that servicer must offer a modification and/or full or partial extinguishment of the second lien.[19] Treasury provides incentive payments to second lien mortgage holders in the form of a percentage of each dollar in principal reduction on the second lien. Treasury has doubled the incentive payments offered to second lien mortgage holders for 2MP permanent modifications that include principal reduction and have an effective date on or after June 1, 2012.

- *Principal Reduction Alternative (PRA).* In October 2010, PRA took effect as a component of HAMP to give servicers more flexibility in offering relief to borrowers whose homes were worth significantly less than their mortgage balance. Under PRA, Treasury provides mortgage holders/investors with incentive payments in the form of a percentage of each dollar in principal reduction. Treasury has tripled the PRA incentive amounts offered to mortgage holders/investors for permanent modifications with trial periods effective on or after March 1, 2012. Participating servicers of loans not owned by the housing enterprises (Fannie Mae or Freddie Mac) must evaluate the benefit of principal reduction for mortgages with a loan-to-value (LTV) ratio that is greater than 115 percent when evaluating a homeowner for a HAMP first-lien modification.[20] Servicers must adopt and follow PRA

[19]Servicers that hold the second lien do not need to be servicers for the related first lien to participate in 2MP.

[20]An LTV ratio for a mortgage is the ratio of the mortgage amount to the value of the home.

policies that treat all similarly situated loans in a consistent manner but are not required to offer principal reductions, even when the NPV calculations show that the expected value of the loan's cash flows would be higher with a principal reduction than without it. When servicers include principal reduction in modifications under PRA, the reduction is initially treated as noninterest-bearing principal forbearance. If the borrower is in good standing on the first, second, and third anniversaries of the effective date of the modification's trial period, one-third of the principal reduction amount is forgiven on each anniversary.

- *Home Affordable Foreclosure Alternatives (HAFA) Program.* Under this program, servicers offer foreclosure alternatives (short sales and deeds-in-lieu of foreclosure) to borrowers who meet the basic eligibility requirements for HAMP and do not qualify for a HAMP trial modification, do not successfully complete a HAMP trial modification, default on a modification (miss three or more consecutive payments), or request a short sale or deed-in-lieu.[21] The program provides incentive payments to investors, servicers, and borrowers for completing these foreclosure alternatives.

- *Home Affordable Unemployment Program.* This program offers assistance to borrowers who are suffering financial hardship due to unemployment. Borrowers are eligible for a 12-month forbearance period during which monthly mortgage payments are reduced or suspended. Servicers can extend the forbearance period at their discretion if the borrower is still unemployed after the 12-month period. Borrowers who later find employment or whose forbearance period expires should be considered for a HAMP loan modification or a foreclosure alternative, such as the HAFA program. No TARP funds are provided to servicers under this program.

- *Federal Housing Administration (FHA) and Rural Housing Service (RHS) modification programs (FHA-HAMP and Rural Development, or*

[21]In a short sale, a homeowner sells a house rather than going into foreclosure. Proceeds from short sales are generally less than the mortgage amount, so the homeowner must have the lender's permission for the sale. Under a HAFA short sale, a lender must forgive the shortfall between the loan balance and net sales proceeds and release the lien on the subject property. Under a deed-in-lieu of foreclosure, the homeowner voluntarily conveys all ownership interest in the home to the lender as an alternative to foreclosure proceedings. Under HAFA, a deed-in-lieu must satisfy the borrower's entire mortgage obligation in addition to releasing the lien on the subject property.

RD-HAMP, respectively). These programs are similar to HAMP Tier 1 and cover FHA-insured and RHS-guaranteed mortgage loans. If a modified FHA-insured or RHS-guaranteed mortgage loan meets Treasury's eligibility criteria, the borrower and servicer can receive TARP-funded incentive payments from Treasury.[22]

In 2009, Treasury entered into agreements with Fannie Mae and Freddie Mac to act as financial agents for MHA. Fannie Mae serves as the MHA program administrator and is responsible for developing and administering program operations, including registering, executing participation agreements with, and collecting data from servicers and providing ongoing servicer training and support. Freddie Mac serves as Treasury's compliance agent and has a designated independent division, Making Home Affordable Compliance, which is responsible for assessing servicers' compliance with program guidelines, including conducting on-site and remote servicer loan file reviews and audits.

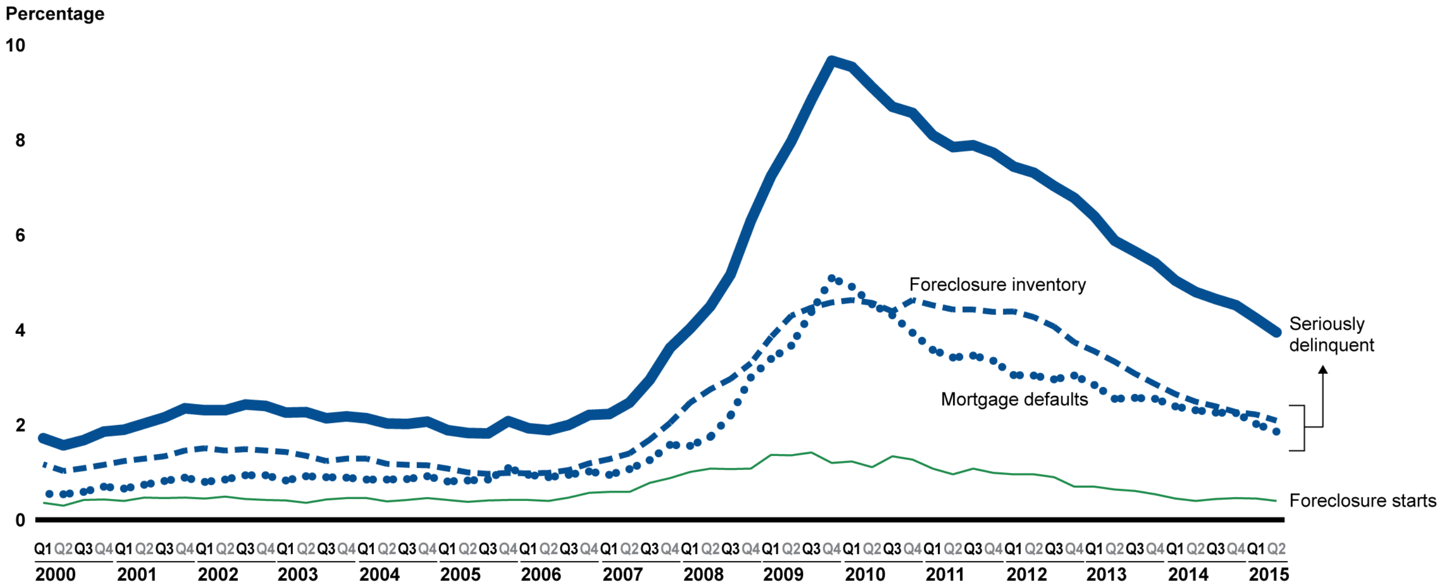
Changes in Mortgage Performance Since 2009

Several indicators of distress among homeowners with mortgages have shown improvements since the height of the housing crisis, and evidence suggests that recent loans are less risky than those originated before the crisis. As shown in figure 1, the percentage of mortgages in default—delinquent 90 days or more—is lower than it was when HAMP was introduced in 2009, according to data published by the Mortgage Bankers Association.[23] The percentage of mortgages that are seriously delinquent (those in default or foreclosure) has declined from a peak in 2009 but remains elevated relative to the period from 2000 to 2007.

[22]If a borrower's monthly mortgage payment is reduced by 6 percent or more through FHA-HAMP or RD-HAMP and the loan is in good standing, a servicer will receive an annual pay-for-success incentive for a period of 3 years and a borrower will receive a pay-for-performance payment annually for the first 6 years after the first trial loan payment due date. All borrowers, including those whose payment was not reduced by at least 6 percent, receive a one-time incentive payment after the sixth year if the loan remains in good standing and has not been paid in full.

[23]There is no uniform definition of default across the lending industry. For purposes of this report, we use the definition provided above.

Figure 1: Percentage of Mortgages Seriously Delinquent, 1st Quarter 2000 through 2nd Quarter 2015

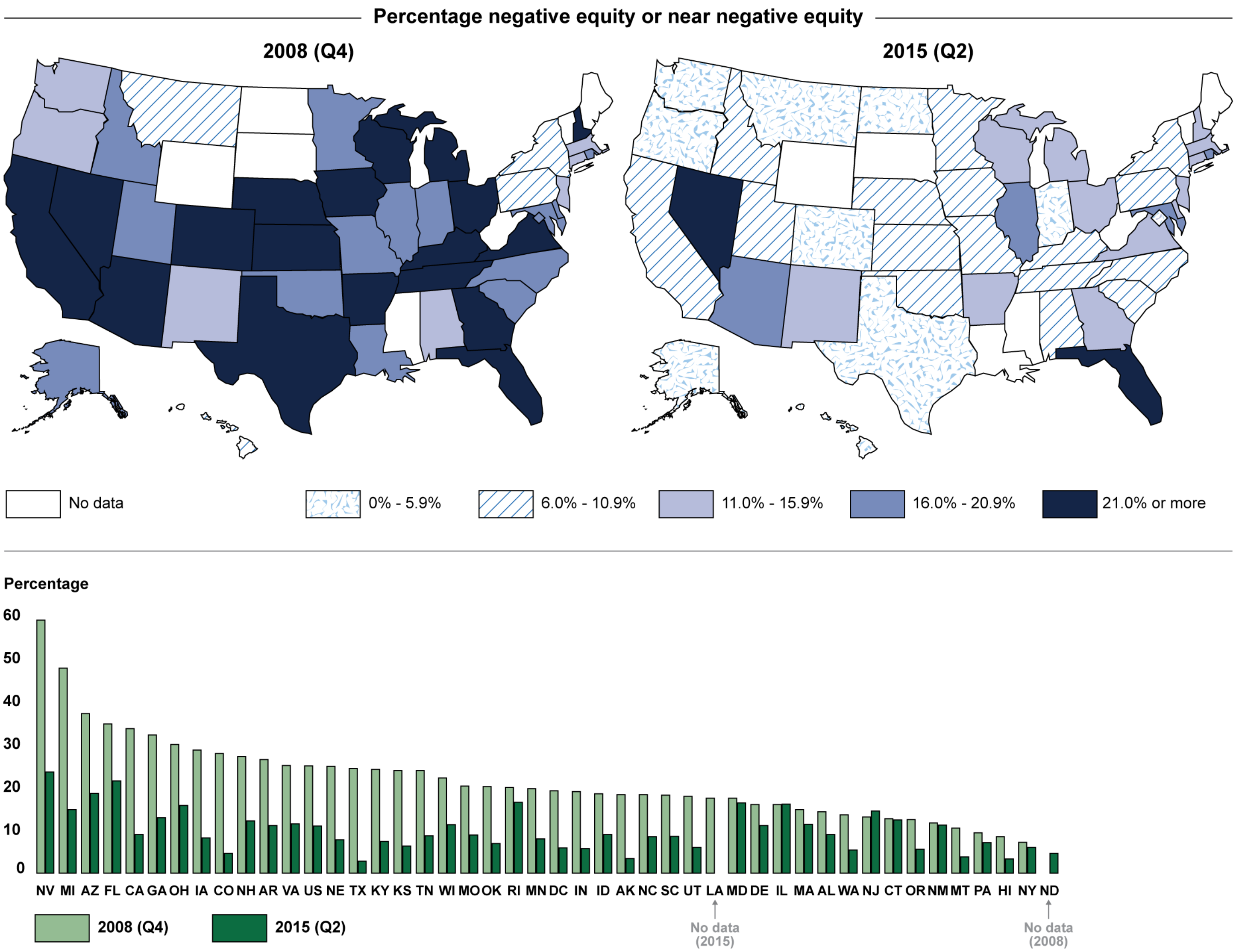


Source: GAO analysis of Mortgage Bankers Association data. | GAO-16-351

In most parts of the country, a smaller proportion of homeowners owed 95 percent or more of their home's value on a mortgage in 2015 than in 2008. According to published data from CoreLogic, the percentage of properties with mortgages that are in negative equity or near negative equity has declined in most states since 2008, but several states have seen little improvement (see fig. 2).[24] In two states, Nevada and Florida, 20 percent or more of homes that have mortgages fell into the negative equity or near negative equity category as of the second quarter of 2015. In other states—Rhode Island, Maryland, Illinois, New Jersey, Connecticut, and New Mexico—the percentage of homes with mortgages that fall into this category was not substantially lower in 2015 than in 2008.

[24]Negative equity means that a borrower's mortgage balance exceeds the current value of the home. For purposes of this report, we define the category of negative equity or near negative equity to include all properties for which the mortgage balance is equal to or greater than 95 percent of the current value of the home.

Figure 2: Percentage of Loans with Negative Equity or Near Negative Equity, 4th Quarter 2008 and 2nd Quarter 2015



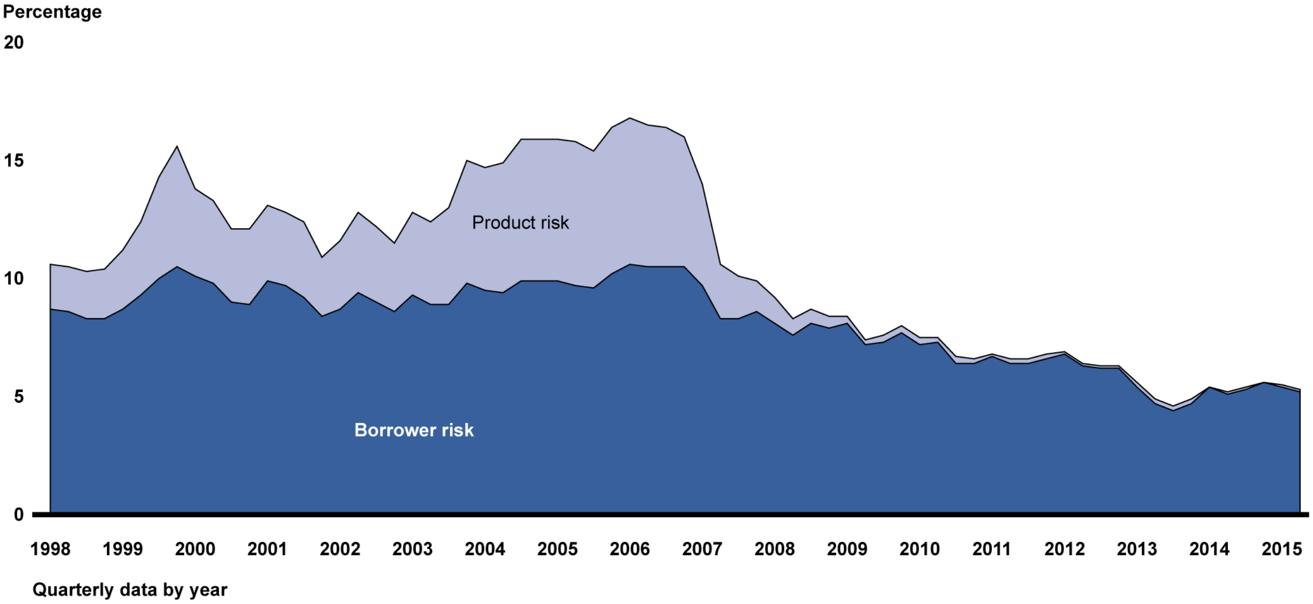
Source: GAO analysis of data from CoreLogic Equity Reports, 2008 and 2015. | GAO-16-351

Note: The data in the figure only include properties with a mortgage. Data not available for North Dakota for 2008. Data not available for Louisiana for 2015. Data for the following states not available for either 2008 or 2015: Maine, Mississippi, South Dakota, Vermont, West Virginia, Wyoming.

According to the Housing Credit Availability Index (HCAI) developed by the Urban Institute, the expected default risk of mortgages at origination has declined since 2006. The HCAI is based on the historical default rates of loans originated in selected years, for categories of loans defined by borrower characteristics (such as credit scores and debt-to-income ratios) and loan characteristics (such as the presence or absence of prepayment penalties or adjustable interest rates). The historical default rates, combined with data about loan terms and borrower characteristics at origination, are used to generate a measure of expected default risk at origination. The HCAI presents this measure in terms of the percentage of loans originated in a given quarter that will probably default, that is, become 90 or more days delinquent. This overall percentage is the sum of product risk (risk due to characteristics of loans) and borrower risk (risk due to characteristics of borrowers). When few loans with risky characteristics are originated, the product risk will be low.[25] As shown in figure 3, the overall index remained between 10 and 17 percent for almost a decade (from 1998 through the 3rd quarter of 2007) and was below 6 percent as of the 2nd quarter of 2015. By the 2nd quarter of 2015, the index had increased from a low in 2013, but by less than 1 percentage point. This change over time in the HCAI may also suggest that mortgage credit is not as easily available as it was before the financial crisis.

[25]The HCAI identifies the characteristics that create product risk as follows: "Loans without risky features include fixed-rate mortgages and all hybrid adjustable-rate mortgages with an initial fixed-interest-rate period of five years or longer, without any of the following features: prepayment penalty, balloon terms, interest-only terms, and negative amortizations. All other loans are loans with risky features." Wei Li and Laurie Goodman, *Measuring Mortgage Credit Availability Using Ex-Ante Probability of Default* (Washington, D.C.: Urban Institute, 2014), p. 6.

Figure 3: Changes in the Urban Institute Housing Credit Availability Index and its Risk Components, 1998 through 2nd Quarter 2015



Source: Urban Institute. | GAO-16-351

Changes in the Volume of Mortgage Loan Modifications Since 2009

According to HOPE NOW, nearly 1.8 million mortgage loan modifications were completed in 2010, and this number has steadily decreased since that time, to a total of about 330,000 modifications in the first 3 quarters of 2015. The HOPE NOW estimate includes both HAMP and non-HAMP modifications and is based on data from Treasury as well as data from mortgage servicers, extrapolated to produce an estimate of the entire U.S. mortgage market.[26] According to the HOPE NOW data, in 2009, the first year in which HAMP modifications were available, HAMP Tier 1 permanent modifications accounted for about 5 percent of the total number of modifications completed that year. However, HAMP was not in place for the full year, and servicers did not report the first permanent HAMP modifications until the latter part of 2009. According to the HOPE

[26]HOPE NOW surveys participating servicers and publicly reports data on modifications of first-lien loans derived from the survey results. HOPE NOW estimated that the 16 servicers reporting data to its survey represented about 56.2 percent of the estimated residential mortgage loan universe (prime and subprime loans combined) as of September 30, 2015.

NOW data, HAMP permanent modifications (Tier 1 and Tier 2 combined) have accounted for between 22 and 34 percent of the total number of modifications completed each year since 2010.[27] The same data indicate that HAMP's percentage of the total number of modifications decreased in 2012 and 2013 over the previous years, increased in 2014, and remained above the 2012 level through the first 3 quarters of 2015.

Regarding the vintage of loans being modified, OCC data suggest that pre-2009 loans represented the majority of modifications completed in the first half of 2015 and in earlier years. OCC data, which are based on loans serviced by national banks that report to OCC for its quarterly Mortgage Metrics report, show that loans originated before 2009 represent the vast majority of all modifications performed since HAMP was introduced in 2009, but the share represented by pre-2009 loans has been decreasing.[28] In the first 3 quarters of 2015, modifications of pre-2009 loans represented 68 percent of the total number of modifications in OCC's Mortgage Metrics Report portfolio.

HAMP Modifications' Effect on Borrowers' Monthly Payments

According to the OCC Mortgage Metrics data, HAMP modifications have resulted in greater payment reductions than non-HAMP modifications.[29] As described above, HAMP modifications are designed to help borrowers stay in their homes by reducing monthly payments. Figure 4 compares modifications under one of the HAMP programs—including FHA-HAMP and enterprise HAMP modifications—with modifications performed outside of HAMP. In both cases, only modifications of mortgages originated before 2009 are included. As shown in figure 4, modifications

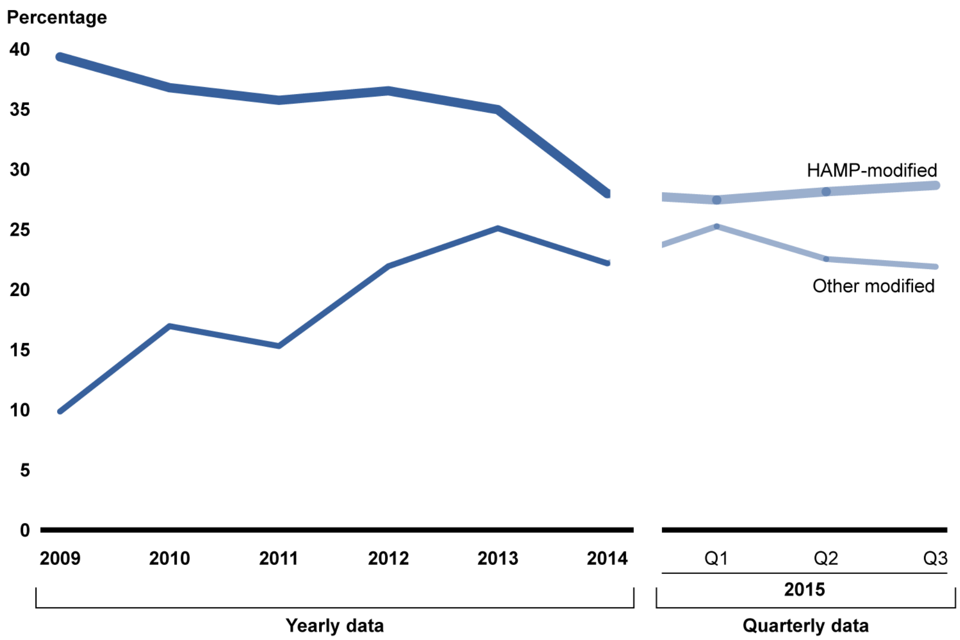
[27]HOPE NOW does not define FHA-HAMP, RD-HAMP, Fannie Mae, or Freddie Mac loan modifications as HAMP modifications. Therefore, these data are not directly comparable to the data described in the following section and in figure 4.

[28]The OCC Mortgage Metrics Report for the third quarter of 2015 provides performance data on first-lien residential mortgages serviced by eight national banks. The report states that the mortgages in this portfolio comprise 42 percent of all first-lien residential mortgages outstanding in the United States—21.8 million loans totaling $3.7 trillion in unpaid principal—as of September 30, 2015. Treasury officials noted that one important limitation of the OCC's Mortgage Metrics data is that those data do not include data from non-bank mortgage servicers, which they noted make up a majority of recent HAMP activity, setting aside the government-sponsored-enterprise HAMP modifications.

[29]The definition of "HAMP modifications" in the OCC data we used to compare payment reductions under HAMP and non-HAMP modifications (see figure 4) includes FHA-HAMP modifications and modifications completed by Freddie Mac or Fannie Mae.

performed outside of HAMP in 2009 resulted in an approximately 10 percent median payment reduction, while modifications performed in one of the HAMP programs resulted in an approximately 39 percent median payment reduction. These two numbers have gradually converged over time, and, by the third quarter of 2015, non-HAMP modified mortgages received a median 22 percent payment reduction, while HAMP-modified mortgages received a median 29 percent payment reduction.[30]

Figure 4: Median Percentage Reduction in Borrower's Monthly Payment for Home Affordable Modification Program (HAMP) and Other Modifications (Loans Originated before January 2009), 2009-2015



Source: GAO analysis of data from the Office of the Comptroller of the Currency. | GAO-16-351

[30]According to Treasury officials, some of this convergence in median payment reductions might be explained by the inclusion of non-Treasury-funded modifications in the 'HAMP' category, and there has likely been less convergence in recent years between Treasury-funded HAMP modifications and all other modifications.

Between 2009 and 2015, Treasury Did Not Assess Potential Unexpended MHA Balances Using an Estimate of Likely Expenditures Arising from Future Participation

Treasury did not update its original estimate of borrower participation in the Making Home Affordable program between 2009 and 2015. Our prior work has concluded that conducting reviews of unexpended balances can help agencies identify funds that are not likely to be used. Treasury officials previously indicated that they cannot reliably estimate future borrower participation and likely program expenditures due to inherent limitations of the available data. While no estimate of future participation and expenditures can be made with complete certainty, our own analysis of data from Treasury and a private vendor resulted in estimates of borrower participation and cost projections that ranged from Treasury using all available MHA funds to an estimated surplus of $2.5 billion.[31] By assessing likely future program participation and related expenditures, Treasury could create opportunities for it and Congress to identify and use any likely unexpended funds for other priorities. In providing technical comments to this report, Treasury officials provided us with analysis of expected future program participation and related expenditures for the MHA program as a whole—the first such analysis since 2009.

Without Periodic Reviews of Unexpended Balances, Treasury May Miss Opportunities to Achieve Budgetary Benefits

Agencies Can Identify Opportunities for Budgetary Benefits by Reviewing Unexpended Balances

Prior GAO work has concluded that conducting reviews of unexpended balances can help agencies identify opportunities to achieve budgetary benefits.[32] This work identified four key questions to consider when evaluating unexpended balances.

1. What mission and goals is the account or program supporting?
2. What are the sources and fiscal characteristics of the funding?

[31]Our analysis is based on MHA program balances as of October 16, 2015, prior to the $2 billion deobligation taken by Treasury on February 25, 2016.

[32]GAO, *Budget Issues: Key Questions to Consider When Evaluating Balances in Federal Accounts*, GAO-13-798 (Washington, D.C.: Sept. 30, 2013).

3. What factors affect the size and composition of the unexpended balance?
4. How does the agency estimate and manage unexpended balances?

This last question has particular relevance for the MHA program given the approaching deadline of December 31, 2016, for entry into the program.

Understanding an agency's processes for estimating and managing carryover balances provides information that can be assessed to determine how effectively the agency anticipates program needs and helps ensure the most efficient use of resources. In our September 2013 report on evaluating account balances in federal accounts, we identified several things to consider when attempting to understand how an agency estimates and manages carryover balances, as the following examples illustrate.

1. What assumptions or factors did the agency incorporate into its estimate of the account's carryover balance (e.g., historical experience, demand models)?
2. Does the agency have a routine mechanism for reviewing its obligations and determining whether there are opportunities to deobligate funds (e.g., written procedures or ad hoc processes)?
3. What is the agency's timeline for obligating and expending funds in the account?
4. What is the spendout rate after funds have been obligated?

We also found in our 2013 report that if an agency does not have a robust strategy in place to manage carryover balances or is unable to adequately explain or support the reported carryover balance, balances may either fall too low to efficiently manage operations or rise to unnecessarily high levels. This produces potential opportunities for those funds to be used more efficiently elsewhere. For example, if Treasury were to identify and deobligate any MHA funds that are likely to not be expended, these funds may then be available for Congress to permanently rescind and use elsewhere for other priorities.

Treasury Did Not Update Its Estimate of MHA Program Participation and Costs between 2009 and 2015

In 2009, Treasury announced that as many as 3 million to 4 million borrowers who were at risk of default and foreclosure could be offered a loan modification under HAMP. In our July 2009 report, which reviewed these estimates, we found that Treasury's estimate may have been overstated, reflecting uncertainty resulting from data gaps and the numerous assumptions that had to be made.[33] In addition, we noted that documentation of the many assumptions and calculations necessary for the analysis was incomplete and that Treasury had not specified its plans for systematically updating key assumptions and calculations. We concluded that to improve the validity of the projection, the process would need to be supported by detailed information and complete documentation and the key assumptions and calculations would need to be regularly reviewed and updated. Based on those findings, we recommended that Treasury institute a system to routinely review and update key assumptions and projections about the housing market and the behavior of mortgage holders, borrowers, and servicers, revising the projections as necessary to assess the program's effectiveness and structure.

To address our recommendation, Treasury began obtaining information from the Mortgage Bankers Association to update its estimate of the number of HAMP-eligible borrowers. In August 2009 Treasury began publicly reporting monthly data on the estimated eligible loans and in January 2010 began publicly reporting data on the estimated eligible borrowers for the HAMP Tier 1 program. However, Treasury subsequently discontinued that practice after its February 2014 MHA Program Performance Report, moving instead to quarterly reporting.

Treasury Cites Challenges in Estimating Future Participation and Related Expenditures

Instead of producing updated estimates of future program participation and related expenditures, Treasury historically had assumed that all funds obligated for MHA would be spent. Officials said that they focus on monitoring the housing market and the behavior of its participating loan servicers. For example, Treasury has been using a monthly report based on servicer-reported data of individual transactions to monitor expenditures in the aggregate and at the individual servicer level across all MHA programs.[34] In addition to Treasury's monitoring reports, Fannie Mae, in its role as financial agent, provides Treasury with a consolidated estimate of potential future HAMP participation based on survey data that

[33]GAO, *Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable*, GAO-09-837 (Washington, D.C.: July 23, 2009).

[34]This includes monitoring future expenditures associated with existing MHA transactions (for example, HAMP incentive payments can occur up to 6 years after the modification becomes effective), which is separate from estimating future participation and the potential future costs associated with loan modifications not yet made.

it receives from MHA servicers. Additionally, Fannie Mae continues to provide Treasury with an internal estimate of potentially eligible HAMP Tier 1 borrowers based on a combination of industry data and information received from MHA servicers (known as a “waterfall”).

Treasury officials have indicated that they have historically assumed that all funds obligated for MHA would be spent under that program, and, therefore, had not been analyzing likely unexpended or excess MHA funds that could potentially be deobligated. Additionally, Treasury officials previously indicated that they had not found the servicer survey data to be reliable predictors of future participation. Instead, Treasury uses the servicer surveys to look for trends in the HAMP modification activity data and as a vehicle for discussions with servicers on their approaches to the MHA program. Treasury officials also questioned the utility of the waterfall, given several limitations. First, it may not be possible to acquire a full knowledge of the factors that would make a borrower eligible, such as current income, the current occupancy/use of the property, any financial hardship, the borrower’s ability to meet applicable underwriting criteria, and the modified loan’s net present value status from available industry data sources.[35] Second, estimating the potentially eligible population for HAMP Tier 2, which the waterfall does not attempt to do, is difficult because (1) all borrowers are first considered for HAMP Tier 1, raising the possibility of double counting; (2) non-owner-occupied units are only eligible if they are used for rental purposes; (3) each servicer determines its own DTI range within Treasury’s established parameters; and (4) servicers have limited historical data for HAMP Tier 2 on which to base estimates. Third, Treasury officials noted that Fannie Mae’s waterfall is only a point-in-time estimate and does not account for borrowers who might become eligible in the future (a number that depends on a variety of changing economic and market factors).

Instead, as we found in our July 2015 report, Treasury has focused on identifying ways to increase the reach and effectiveness of MHA programs by making program changes and modifications.[36] For example,

[35]The net present value status is generated using a net present value test that compares the expected cash flow from the loan if a modification were to be made using program guidelines against the expected cash flow from the loan if no modification were to be made and the loan remained in default or became current again

[36]GAO-15-670.

Treasury's internal Action Memorandums that describe program changes and modifications, including its Streamline HAMP modification process, for senior management indicate that Treasury has assumed that all funds obligated for MHA would be spent. Over the course of the MHA program, Treasury has extended program deadlines and introduced new features designed to increase program participation and program expenditures. However, as previously noted, in December 2015 Congress mandated that the MHA program be terminated on December 31, 2016. Treasury has stated that any program expansions or modifications resulting in additional expenditures would remain within the amount obligated to the MHA program. Treasury's Action Memorandum that discussed Streamline HAMP also explained that the amount that would ultimately be expended in connection with the program change was difficult to estimate and would depend on a number of factors that Treasury could not predict at that time (e.g., national mortgage delinquency rates and other economic conditions, borrower application rates, and the performance of modified loans over time). Treasury officials previously told us that Treasury's mandate is to help as many struggling homeowners as possible. Treasury officials also told us that the MHA Program Administrator will be conducting program readiness assessments for Streamline HAMP starting in January 2016 and will request the servicers' Streamline HAMP policies at that time.[37] However, Treasury officials indicated that they would not require servicers to report estimates of the population eligible for Streamline HAMP as they do for HAMP Tier 1 and Tier 2. Given the common eligibility criteria, Treasury expects that the potentially eligible population for Streamline HAMP will significantly overlap with that of HAMP Tier 1 and HAMP Tier 2. Estimating the potentially eligible population for Streamline HAMP is challenging, in part because servicers can tailor the eligibility criteria to their unique loan portfolios.

Treasury May Be Missing Opportunities to Achieve Budgetary Benefits

Because Treasury has not routinely estimated expenditures associated with estimated likely future MHA program participation, it may not have identified in a timely manner whether it is retaining funds that may not be needed. Estimating likely future participation and associated expenditures would provide Treasury greater assurance that the funds it has obligated are necessary. As previously stated, as of October 2015, Treasury had

[37]Treasury uses its financial agents to perform onsite readiness reviews intended to assess servicers' preparedness for complying with new or future MHA requirements. According to Treasury, the reviews are performed as needed, determined by frequency of new program additions.

$7.7 billion in unexpended obligations representing the amounts potentially available to servicers for future MHA transactions, including, but not limited to, HAMP modifications. The President's fiscal year 2017 budget submission indicates that Treasury is now estimating a $4.7 billion reduction in total outlays for the MHA program. This estimate is based on analysis Treasury prepared assuming that future activity will be similar to recent activity. Treasury deobligated $2 billion of this $4.7 billion on February 25, 2016. Treasury officials told us that deobligating all MHA funds in excess of the current cost estimate would unduly increase the risk of insufficient funding for future program expenditures. Additionally, Treasury has indicated it plans to evaluate whether to deobligate additional funds after the complete universe of MHA transactions (i.e., modifications, short sales, and deeds-in-lieu of foreclosure) is known, sometime after entry into the MHA program is complete in late 2017.

In our 2012 assessment of federal grant programs, we found that deobligating excess funds helps ensure that federal agency resources are not improperly spent and helps agencies maintain accurate accounting of their budgetary resources.[38] Further, by preparing such estimates on a periodic basis, Treasury can achieve greater certainty over time and provide Congress with the opportunity to use those funds more efficiently elsewhere.

Some of Our Estimates of Future MHA Program Activity and Costs Suggest That Treasury May Not Use All Funds

Because prior to the President's 2017 budget submission Treasury had not projected expenditures associated with likely future MHA participation or the likely resulting unexpended balances, we performed our own analysis to illustrate the potential range of estimated future participation in the various HAMP programs and generate cost projections from those estimations. These estimates are derived from data provided by a vendor and are based on the vendor's two datasets, for which it had September 30, 2015, loan-level information, and an extrapolation to the remaining

[38]GAO, *Grants Management: Action Needed to Improve the Timeliness of Grant Closeouts by Federal Agencies*, GAO-12-360 (Washington, D.C.: April 16, 2012).

universe of loans for which the vendor had no data.[39] We limited the analysis to loans that were determined by the vendor to be originated prior to January 2009 that were not owned by the housing enterprises or insured or guaranteed by the government.[40] These are just two of the criteria for determining whether a loan meets basic eligibility criteria for the MHA program. We also limited the analysis to reflect other program requirements, as discussed further below.[41] Based upon these estimates of potential eligibility and program data on the typical costs of modifications, we produced estimates of potential future costs. We compared these estimates of future cost with available, but unused, funds as of October 16, 2015, to produce estimates of potential excess funds. For a complete description of our methodology, see appendix II.

Our results provide a range of potential future costs and excess funds using various assumptions for three important factors—the extent to which potentially eligible loans are serviced by HAMP-approved servicers, whether the loan had been previously modified, and whether the loan was 60 or more days delinquent or otherwise met certain measures of risk that might indicate that the loan was in imminent danger of default.[42] Specifics of each of the three factors follow.

1. We prepared higher and lower estimates of costs and excess funds assuming for the higher estimate that 62 percent of loans were

[39]The vendor is Black Knight Data & Analytics. The first of the data sets, which includes only data reported by HAMP-approved servicers, includes loans for which loss mitigation actions are known (loss mitigation known). The second dataset includes loans for which loss mitigation actions are not identified (loss mitigation unknown). These data were provided to the vendor by a variety of loan servicers, the majority of which were approved for HAMP, according to the vendor. Based on known factors such as loan type and vintage, the vendor extrapolated to the remaining universe of loans for which it had no loan specific data to create the third data set.

[40]HAMP loan modifications of enterprise and government insured/guaranteed loans were excluded from our analysis.

[41]For example, some of the additional HAMP requirements our analysis attempted to take into account included the borrower experiencing a financial hardship (e.g., being 60-plus days delinquent or in imminent danger of default) and the loan being serviced by a MHA-approved servicer.

[42]As a proxy for imminent default loans, we used mortgages that were less than 60 days delinquent and had two or more risk factors (high mortgage interest rate, significant negative equity, high unemployment area, and loan origination features such as low borrower credit score or high loan-to-value ratios).

serviced by HAMP-approved servicers, and for the lower estimate that 57 percent of loans were serviced by HAMP-approved servicers.

2. Within the higher and lower estimates, we projected estimated future program costs for (a) loans that were 60 or more days delinquent that met the basic HAMP eligibility criteria and (b) loans that were 60 or more days delinquent combined with loans that were in imminent danger of default. Loans that are 60 or more days delinquent are potentially eligible for all three HAMP loan modification categories (HAMP Tier 1, Tier 2, and Streamline HAMP). Loans in imminent danger of default are potentially eligible for HAMP Tier 1 and Tier 2 modifications.
3. Also within the higher and lower estimates, we estimated future costs based on two different assumptions—that 25 percent of the at-risk loans were currently in a loan modification (HAMP or non-HAMP) and that none of the at-risk loans were currently in a loan modification.

Our analysis found that when considering the most inclusive of the assumptions—that more loans are serviced by HAMP-approved servicers, that both loans that are 60 or more days delinquent and loans that might be at risk of default would be eligible, and that no loans are already in modification—results in an estimate of Treasury using all available funds.[43] Conversely, using the least inclusive assumptions—that fewer loans are serviced by HAMP-approved servicers, that only loans that are currently 60 or more days delinquent would be eligible, and that 25 percent of loans are already in modification—results in an estimated surplus of $4.8 billion, not considering other non-HAMP MHA costs. (See table 1.)

[43]This estimate resulted in a deficit of $0.9 billion, but Treasury has established individual servicer participation limits or caps that would effectively not allow a servicer to commit to a HAMP loan modification that would exceed its cap or collectively the amount of MHA funds available.

Table 1: Estimated Potential Unused (Excess) Funds Related to the Home Affordable Modification Program (HAMP) for At-Risk Loans (Dollars in Billions)

	Funds available for future activities, as of October 16, 2015	Assumes that 25 percent of the at-risk loans are currently in modification		Assumes that 0 percent of the at-risk loans are currently in modification	
		Estimated future cost	Estimated excess funds[a]	Estimated future cost	Estimated excess funds[a]
Higher estimate of HAMP-approved servicer loans[b]					
Mortgages 60 or more days delinquent	$7.7	$3.1	$4.5	$4.2	$3.5
Mortgages 60 or more days delinquent plus imminent default loans[c]	$7.7	$6.4	$1.2	$8.6	0[d]
Lower estimate of HAMP-approved servicer loans[e]					
Mortgages 60 or more days delinquent	$7.7	$2.9	$4.8	$3.9	$3.8
Mortgages 60 or more days delinquent plus imminent default loans[c]	$7.7	$5.9	$1.8	$7.9	0[d]

Source: GAO analysis of Black Knight data. | GAO-16-351

Note: Numbers may not add up due to rounding.

[a]Estimated unused funds does not include likely future expenditures for the non-HAMP Making Home Affordable (MHA) programs (i.e., Second-lien Modification Program, Home Affordable Foreclosure Alternative, Federal Housing Administration/Rural Development HAMP, etc.).

[b]Higher estimates assume HAMP servicers represent 67 percent of all loans that are 60 days-plus delinquent and 65 percent of all imminent default loans .

[c]For purposes of this analysis, we define imminent default loans as mortgages that are less than 60 days delinquent but have two or more risk factors (high mortgage interest rate, significant negative equity, high unemployment area, and loan origination features such as low borrower credit score or high loan-to-value ratio).

[d]Two of our estimates resulted in a projected MHA fund deficit ($0.2 billion in the lower estimate of HAMP-approved servicer loans and $0.9 billion in the higher estimate of HAMP-approved servicer loans). However, Treasury has established individual servicer participation limits or caps that would effectively not allow a servicer to commit to a HAMP loan modification that would exceed its cap or collectively the amount of MHA funds available.

[e]Lower estimates assume HAMP servicers represented 62 percent of all loans that are 60 days-plus delinquent and 60 percent of all imminent default loans.

Our high and low estimates of potential unused or excess funds are based upon assumptions that generally would result in higher expected eligibility and participation, higher overall costs and, therefore, lower unused or excess funds, than might actually be realized. In particular, for all scenarios, we assumed a borrower participation rate of 100 percent. That is, we assumed that all borrowers that are eligible for modification are offered and accept the modification. We also assumed that all borrowers offered a trial modification would successfully complete their trial and convert the modification into a permanent one, which is not likely to be the case. In some scenarios we also established measures of mortgage risk to approximate a definition of loans that are not 60 or more days delinquent, but in imminent danger of default—a potential eligibility qualification for modification under the Tier 1 and Tier 2 programs. Based upon our analysis of at-risk loans, we assumed an approximate equal split between the modifications for the 60 days or more delinquent and the imminent default loans. According to Treasury data, approximately 20 percent of HAMP loan modifications went to borrowers that servicers determined were in imminent danger of default. If instead one assumed that loans that are in imminent danger of default would comprise 20 percent of the loans receiving a modification, then even our most inclusive estimate of future cost would be $5.3 billion (versus $8.6 billion) and the estimate of unused or excess funds would be much higher—$2.4 billion (versus a deficit of $0.9 billion).

Not shown in table 1 are estimates for program costs related to the non-HAMP programs of MHA. Treasury officials told us these non-HAMP MHA programs are important because servicers can use the funds obligated under the participation agreement for MHA programs other than HAMP.Therefore, funds that are not used for HAMP loan modifications could be used for non-HAMP MHA programs, such as the Home Affordable Foreclosure Alternative and the FHA/RD HAMP programs. According to Treasury, it expended approximately $467 million for the non-HAMP programs during fiscal year 2015. Extrapolating that amount over an additional 6 years (entry into the MHA programs ends on December 31, 2016, and incentive payments can extend up to 5 years after entry, as in the case of the 2MP program) would result in an additional $2.3 billion in MHA expenditures.[44] Together with our lowest estimate of HAMP program costs, total MHA program costs could therefore be $5.2 billion, which would leave an estimated $2.5 billion in potentially excess funds. In contrast, our high estimate resulted in all available MHA program funds being spent.[45] Also, as previously noted,

[44]Unlike the other non-HAMP MHA programs, HAFA does not entail annual incentive payments—all incentives are paid at closing of the short sale or deed-in-lieu transaction. According to Treasury, it paid $194.3 million in HAFA incentive payments in fiscal year 2015.

[45]Together with our highest estimate of HAMP program costs, total MHA program costs for future program activity could be $10.9 billion, which would exceed the available MHA balance of $7.7 billion by $3.2 billion. However, servicer participation agreements limit Treasury's ability to spend beyond the available balance of the MHA program.

our analysis does not include estimates for HAMP modification of loans owned by the housing enterprises or insured or guaranteed by the government.

CBO has also conducted analysis that illustrates the uncertainty about whether or not Treasury will likely spend all the funds allocated to the MHA programs. CBO's most recent analysis, published in March 2015, projected a $9 billion surplus (with Treasury estimating full use of $37 billion in funds and CBO estimating use of $28 billion) over the amount that Treasury has estimated, because CBO anticipated that fewer households would participate in housing programs.[46] CBO had increased its estimate of likely expenditures of TARP-funded housing programs by $2 billion from its previous year's estimate, primarily because of Treasury's announcement in November 2014 of an additional $5,000 in principal reduction for participants in the sixth year of a mortgage modification. CBO's projections were made before Treasury's announcement of its Streamline HAMP program, which if taken into account will likely decrease CBO's estimated surplus.

Conclusions

Treasury has not consistently been estimating expenditures related to likely future program participation and the likely resulting funding balances for the MHA programs because of concerns about the inherent limitations of the available data. In addition, Treasury assumed that it would use all funds obligated for MHA. However, conducting reviews of unexpended balances, including those that have been obligated, can help agencies redirect resources to other priorities or identify opportunities to achieve budgetary benefits. Additionally, if Treasury were to deobligate MHA funds that it determines were likely to not be expended, this may provide Congress with the opportunity to use those funds for other priorities. Our eligibility estimates, cost projections, and estimated unexpended balance figures represent a wide range of possible future outcomes, including a potential surplus in some cases, even when including potential future costs of non-HAMP housing programs. Treasury, with the assistance of its program administrators and servicers, is in a better position to conduct its own estimates of the number of eligible borrowers, potential costs of the program, and any balances that

[46]Congressional Budget Office, *Report on the Troubled Asset Relief Program-March 2015* (Washington, D.C.: Mar. 18, 2015). Under EESA, as amended, CBO is required to prepare annual assessments of TARP's costs.

remain unexpended. We recognize that no estimate of future participation and expenditures can be made with complete certainty. However, Treasury has historically assumed that all MHA program funds will be spent and has instead focused on ways to expend the existing balance by making program changes and modifications. Congress recently enacted legislation that effectively terminates entry into the MHA programs after December 31, 2016, and authorized Treasury to move up to $2 billion in TARP funds to the Hardest Hit Fund. In February 2016, Treasury deobligated $2 billion and announced plans to move these funds to the Hardest Hit Fund. By taking action to estimate likely MHA expenditures and potential excess funds, Treasury could identify additional opportunities to deobligate those funds.

Matter for Congressional Consideration

To better ensure that taxpayer funds are being used effectively, Congress should consider permanently rescinding any Treasury-deobligated excess MHA balances that Treasury does not move into the Hardest Hit Fund.

Recommendations for Executive Action

To provide Congress and others with accurate assessments of the funding that has been and will likely be used to help troubled borrowers and to identify any potential obligations not likely to be used, the Secretary of the Treasury should (1) review potential unexpended balances by estimating future expenditures of the MHA program; and (2) deobligate funds that its review shows will likely not be expended and obligate up to $2 billion of such funds to the TARP-funded Hardest Hit Fund as authorized by the Consolidated Appropriations Act, 2016.

Agency Comments and Our Evaluation

We provided a draft of this report to Treasury, OCC, FHFA, Fannie Mae, and Freddie Mac for review and comment. OCC, FHFA, and Fannie Mae had no technical comments and did not provide written comments. Treasury provided written comments which are presented in Appendix III. In addition, Treasury and Freddie Mac provided technical comments that we incorporated as appropriate throughout the report. Additionally, Treasury provided information on recent analyses of MHA obligations and actions to deobligate funds, which are discussed below.

In its comment letter, Treasury agreed with our recommendations and stated that it had updated its cost estimates for MHA and planned to deobligate $2 billion from the program, which it did on February 25, 2016.

Treasury stated in its comment letter that it agreed with the statement in the draft report that the recent Congressional action to terminate MHA on December 31, 2016, provided Treasury with greater certainty and opportunity with respect to estimating and reprogramming excess MHA fund balances.

In addition, Treasury provided information related to actions to deobligate certain funds, which we have incorporated as appropriate. Specifically, Treasury noted that its updated cost estimates had identified an additional $2.7 billion in potential excess MHA funds but that deobligating all MHA funds in excess of the current cost estimate would unduly increase the risk of insufficient funding for future program expenditures. Instead, Treasury stated that it will evaluate whether to deobligate additional funds after the complete universe of MHA transactions is known in late 2017. According to Treasury, once servicers have reported all final transactions to the MHA system of record, they plan to calculate the maximum potential expenditures under MHA and deobligate excess funds, as appropriate. Given the uncertainties in estimating future participation and the associated expenditures, in particular the impact of the Streamline HAMP program, it will be important for Treasury to update its cost estimates as additional information becomes available and take timely action to deobligate likely excess funds. We have updated the relevant sections of the report to reflect these new developments and added language reflecting Treasury's planned actions.

We are sending copies of this report to the appropriate congressional committees. This report will be available at no charge on our website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or sciremj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

Mathew J. Scirè
Director
Financial Markets and
Community Investment

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Appendix I: Objectives, Scope, and Methodology

In response to a provision in the Emergency Economic Stabilization Act of 2008 that requires GAO to issue a report on TARP every 60 days, this report examines to what extent the Department of the Treasury (Treasury) is reviewing unexpended balances and cost projections for the Troubled Asset Relief Program (TARP)-funded Making Home Affordable (MHA) program.[1]

To assess changes in mortgage performance since 2009 and the state of the loan modification market, we analyzed summary data from (1) the Mortgage Bankers Association, CoreLogic, Inc., and the Urban Institute on mortgage delinquencies, negative equity, and credit availability, and (2) the HOPE NOW Alliance and the Office of the Comptroller of the Currency (OCC) on mortgage loan modifications completed between January 1, 2009, and September 30, 2015, by servicers that report data to the Department of the Treasury's Office of the Comptroller of the Currency (OCC) for OCC's Mortgage Metrics Report. [2] At our request, OCC provided us with data summaries not published in the Mortgage Metrics reports, such as analyses of the Mortgage Metrics portfolio by date of origination of the modified loans.[3] We also used data on negative equity on homes published by CoreLogic, Inc. and data on a measure of housing credit availability published by the Urban Institute.[4] While we did not independently confirm the accuracy of these summary data that we obtained, we took steps to ensure the data were sufficiently reliable for our purposes, such as reviewing the data with officials familiar with generating the data and reviewing related documentation. We found that the data were sufficiently reliable for our purposes.

[1]Pub. L. No. 110-343, § 116(a), 122 Stat. 3765, 3783-85 (codified at 12 U.S.C. § 5226(a)).

[2]The Mortgage Bankers Association (MBA) is a national organization representing the various facets of the real estate finance industry—including originators, servicers, underwriters, compliance personnel, and information technology professionals in the residential, commercial, and multifamily arenas—that publishes various mortgage market data. CoreLogic, Inc. is a private company that provides data, analytics, technology, and services related to the mortgage industry, among other things. The Urban Institute is a Washington, D.C.-based organization that carries out economic and social policy research. HOPE NOW is an alliance between counselors, mortgage companies, investors, and mortgage servicers.

[3]The OCC Mortgage Metrics Report provides performance data on first-lien residential mortgages.

[4]The Urban Institute is a Washington, D.C.-based organization that carries out economic and social policy research.

To assess the extent to which Treasury is reviewing unexpended balances and cost projections for the MHA program, we collected and reviewed internal Treasury memorandums on the purpose and justification of program changes made in 2014 and 2015. We reviewed Fannie Mae servicer survey results as well as Fannie Mae projections of eligible borrowers and loans to understand the factors that might affect program participation. We reviewed internal Treasury estimates of the average cost of modifications, and of obligations, future expenditures, and remaining funds for the MHA programs. We also reviewed a prior GAO report on best practices concerning reviews of unexpended balances and cost projections, which we used as criteria to evaluate the extent to which Treasury is reviewing unexpended balances and cost projections for the MHA programs.[5] In addition, we conducted our own analysis of potential future program participation and the likely associated costs to illustrate the potential for unexpended balances. To do so, we used analyses as of September 30, 2015, that we directed and that were prepared by a private vendor of mortgage data—Black Knight Data & Analytics, LLC (Black Knight)—as detailed in appendix II.[6] We took a number of steps to help ensure the reliability of the data and analyses we purchased from Black Knight. For example, we reviewed related documentation, such as Black Knight's technical quote in response to our solicitation. We discussed with Black Knight officials Black Knight's internal procedures for ensuring data reliability and the process by which they completed the work we requested. We reviewed information provided by Black Knight describing its quality control process. We also conducted reasonableness checks on certain data elements comparing the Black Knight data to that of other industry data sources, such as the Mortgage Bankers Association and CoreLogic, Inc. We determined the data were sufficiently reliable for our purposes. Further, we analyzed the Congressional Budget Office's (CBO) most recent published analysis of projected TARP spending. We had previously spoken to CBO officials about their cost estimates for the MHA program. We confirmed that they had not changed how they calculated their cost estimates. We also conducted interviews and

[5]GAO, *Budget Issues: Key Questions to Consider When Evaluating Balances in Federal Accounts*, GAO-13-798 (Washington, D.C.: Sept. 30, 2013).

[6]Black Knight Data & Analytics, LLC is a private data vendor that provides property, multiple listing service, and mortgage performance data. According to Black Knight Data & Analytics, there were about 30 million active first-lien mortgages in its mortgage performance database, which they estimated to cover about 60 percent of the total mortgage universe.

reviewed past records of interviews with Treasury officials about the status of the programs, including any future program changes, and their projections for completing expenditure of TARP-housing funds.

We conducted this performance audit from August 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.

Appendix II: Technical Discussion of GAO Analysis of Potential Home Affordable Modification Program Unexpended Balances

We performed our own analysis to illustrate the potential range of estimated future participation in HAMP and generate cost projections. These estimates are derived from September 30, 2015, summary data provided by a vendor and are based on the vendor's two datasets and an extrapolation to the remaining universe of loans for which the vendor had no data.[1] The first of the datasets, which includes only data reported by HAMP-approved servicers, includes loans for which loss mitigation actions are known (loss mitigation known). The second dataset includes loans for which loss mitigation actions are not identified (loss mitigation unknown). These data were provided to the vendor by a variety of loan servicers, the majority of which were approved for HAMP, according to the vendor. Based on known factors such as loan type and vintage, the vendor extrapolated to the remaining universe of loans for which it had no loan-specific data.

Likely Universe of Loans Meeting Certain HAMP Eligibility Requirements

The first part of our analysis was estimating the likely universe of outstanding mortgages that meet certain basic eligibility requirements for modification under the HAMP program. These requirements are that the loan is a nonjumbo loan originated prior to January 2009 that is not owned by Fannie Mae and Freddie Mac (the enterprises) or insured/guaranteed by the federal government and is serviced by a HAMP-approved servicer.[2] To account for differences in representation of HAMP-approved servicers in the vendor's data, we provide a high and low range of servicer representation. In brief, the vendor's results may be divided into three groups. The first is based on a dataset that is based upon primarily HAMP-approved servicers and for which the loan modification status of the mortgage is known; the vendor estimated that the share of the HAMP servicer loans in that dataset ranged from 95 percent to 100 percent. The second is based on a dataset that the vendor estimates comprised loan data of which 90 percent to 95 percent was from HAMP-approved servicers, but for which the modification status of the mortgage was unknown. Finally, we estimated that for the remaining

[1]Black Knight Data & Analytics LLC is a private data vendor that provides comprehensive property, multiple listing service, and mortgage performance data. According to Black Knight Data & Analytics LLC, there were a total of 29.6 million active first-lien mortgages in its mortgage performance database, which they estimated to cover about 60 percent of the total mortgage universe.

[2]HAMP loan modifications of enterprise and government insured/guaranteed loans were excluded from our analysis.

group of loans for which the vendor had no loan-level data and for which the results required extrapolation, the likely representation of HAMP-approved servicers was estimated to be between 9 percent and 14.8 percent.[3] As shown in table 3, the range for the estimated number of loans meeting the basic HAMP eligibility requirements and serviced by a HAMP-approved servicer ranged from about 3.7 million to 4.0 million loans, and the estimated HAMP-approved servicers share of the loans range from 57 percent to 62 percent.

Table 2: Estimated Number of Loans Meeting Certain Eligibility Requirements for Home Affordable Modification Program (HAMP) Modification

First-lien mortgages for the purchase or refinancing of single-family residential properties (1-4 units) (active as of September 30, 2015)	Loan originated before January 1, 2009, nonjumbo, and non-enterprise or non-government guaranteed	
	All loans	HAMP-approved servicers loans
High estimate of HAMP-approved servicer loans		
Loss mitigation known loans—100 percent HAMP servicers	1,816,831	1,816,831
Loss mitigation unknown Loans—95 percent HAMP servicers	1,865,032	1,771,780
Extrapolated loans—14.8 percent HAMP servicers	2,781,690	411,690
Total loans	6,463,553	4,000,302
HAMP—approved servicers share of market		62%
Low estimate of HAMP-approved servicer loans		
Loss mitigation known loans—95 percent HAMP servicers	1,816,831	1,725,989
Loss mitigation unknown loans—90 percent HAMP servicers	1,865,032	1,678,529
Extrapolated loans—9.5 percent HAMP servicers	2,781,690	250,352
Total loans	**6,463,553**	**3,654,870**
HAMP-approved servicers share of market		57%

Source: GAO analysis of Black Knight data. I GAO-16-351

[3]We estimated the HAMP-approved shares using the vendor's estimates of the HAMP servicers' shares in the full universe of loans (without exclusions of the basic eligibility requirements for HAMP modification) for the loss mitigation known data, loss mitigation unknown data, and extrapolated loans,

Estimated At-Risk Mortgages Eligible for HAMP Modification

The second part of our analysis estimated the potentially at-risk mortgages (either 60 or more days delinquent or otherwise at risk of default) eligible for a HAMP modification. To estimate loans that are at risk of default, we relied upon definitions of at-risk loans developed in prior work.[4] Under the HAMP Tier 1 and HAMP Tier 2 programs, servicers may offer loan modifications to borrowers who are current on their mortgages but in imminent danger of default. In recent years, about 20 percent of all HAMP modifications were made to such borrowers. There is no single definition of "imminent danger of default," and the measure we used to identify potentially at-risk borrowers who fell into this category was far more inclusive than the definition servicers have used (mortgages that were less than 60 days delinquent that had two or more high-risk factors—high interest rate, significant negative equity, high unemployment area, and loan origination features such as low borrower credit scores or high loan-to-value ratios).[5] As shown in table 4, of the 802,193 loans that were 60 days delinquent, we estimated that between 494,715 to 538,265 loans were serviced by HAMP servicers (representing 62 percent to 67 percent of these loans, respectively). We estimated a similar number of additional mortgages were less than 60 days delinquent (including current loans) and had two or more risk factors—i.e., in imminent danger of default. This resulted in an almost equal split between the 60 day or more delinquencies and the imminent default number of loans. This far exceeded the ratio 80/20 split (60 days delinquent versus imminent default) Treasury has experienced thus far for borrowers that have received a HAMP modification. Also, the newly introduced Streamline HAMP program focuses on borrowers that are 90 days or more delinquent. We would expect, therefore, that the number of borrowers who receive HAMP modifications going forward would likely comprise more of those already in default (60 days or more delinquent), rather than those in imminent danger of default. But to better illustrate the

[4]GAO, *Foreclosure Mitigation: Agencies Could Improve Effectiveness of Federal Efforts with Additional Data Collection and Analysis*, GAO-12-296 (Washington, D.C.: June 28, 2012).

[5]The additional risk factors are: (1) high interest rate (150 basis points or 1.5 percentage points or higher above the current market rate, using the Freddie Mac's Primary Mortgage Market Survey); (2) negative equity (current loan-to-value at 125 percent or greater, using a home price index at the zip code or state level); (3) high local unemployment area (local unemployment at 10 percent or greater at the county level), and (4) high risk loan origination features (credit score of 619 or below or loan-to-value ratio of 100 percent or higher at origination).

greatest potential of future activity, we included the more inclusive assumption of eligibility based on imminent danger of default.

Table 3: Potentially At-Risk Loans for Home Affordable Modification Program (HAMP) Modification

First-lien mortgages of single-family residential properties (1-4 units) (active as of September 30, 2015)	Mortgages 60 or more days delinquent		Mortgages less than 60 or more days delinquent (including current loans) *and* two or more risk factors[a]	
	Loans at risk	Loans at risk: HAMP servicers	Loans at risk	Loans at risk: HAMP servicers
High estimate of HAMP-approved servicer loans				
Loss mitigation known loans—100 percent HAMP servicers	168,181	168,181	212,311	212,311
Loss mitigation unknown loans—100 percent HAMP servicers	321,301	321,301	258,761	258,761
Extrapolated loans—15.6 percent HAMP servicers	312,711	48,783	330,790	51,603
Total loans	**802,193**	**538,265**	**801,861**	**522,675**
HAMP-approved servicers share of market		67%		65%
Low estimate of HAMP-approved servicers loans				
Loss mitigation known loans—95 percent HAMP servicers	168,181	159,772	212,311	201,695
Loss mitigation unknown loans—95 percent HAMP servicers	321,301	305,236	258,761	245,823
Extrapolated loans—9.5 percent HAMP servicers	312,711	29,708	330789	31,425
Total loans	**802,193**	**494,715**	**801,862**	**478,943**
HAMP-approved servicers share of market		62%		60%

Source: GAO analysis of Black Knight data. | GAO-16-351

[a]Risk factors included high mortgage interest rate, significant negative equity, high unemployment area location, and loan origination features such as low borrower credit score or high loan-to-value ratio.

Estimated Future HAMP Expenditures and Unused Funds

The third part of our analysis estimated future HAMP expenditures and potential unexpended balances for the MHA program using estimated costs for the various HAMP loan modification types and various exclusion scenarios. To perform this analysis, we first assumed that modifications of potentially eligible loans that were 60 or more days delinquent would be split between HAMP Tier 1 and HAMP Tier 2/Streamline HAMP modifications at a ratio of 24.5 percent to 75.5 percent. This assumption was based on the expectation that Streamline HAMP is expected to have similar participation rates based on current trends reported by the enterprises and the increases in HAMP Tier 2 relative to HAMP Tier 1 observed during 2015. We further assumed that modifications of potentially eligible loans that were not 60 days delinquent and had two or more risk factors would be split between HAMP Tier 1 and HAMP Tier 2 at a ratio of 50 percent and 50 percent (loans that are not 90 days-plus delinquent are not eligible for Streamline HAMP) based on the split between new HAMP modifications made during calendar year 2015.

We then reduced the estimate of potentially at-risk eligible loans to account for various exclusions or reasons that a loan modification may not be offered. Depending on the particular modification program, these exclusions can include such things as unemployed borrower, property being vacant, debt-to-income ratio of less than 31 percent, negative net present value test results, and investor restrictions. Overall, based on servicer survey data provided by Treasury, we assumed that the combined exclusions would be about 50 percent for HAMP Tier 1 and 42 percent for both HAMP Tier 2 and Streamline. The estimate further accounted for two scenarios—one in which 25 percent of the at-risk loans were assumed to currently be in modification, and one in which we assume that no at-risk loans were currently in modification—of loans that would not be offered further modification. Finally, we applied the average expected cost of a HAMP Tier 1 modification and the average expected cost of HAMP Tier 2 modifications to both HAMP Tier 2 and Streamline modifications. Our analyses resulted in a range of estimated unused or excess funds, from a surplus of $4.8 billion to Treasury using all available funds depending on the share of the HAMP-approved servicers represented in the data, the definition of the at-risk borrowers, and the percentage of loans that are currently in modification (see table 5).[6]

Table 4: Estimated Potential Unused (Excess) Funds Related to the Home Affordable Modification Program (HAMP) for At-Risk Loans (Dollars in Billions)

	Funds available for future activities, as of October 16, 2015	Assumes that 25 percent of the at-risk loans are currently in modification		Assumes that 0 percent of the at-risk loans are currently in modification	Estimated excess funds[a]
		Estimated future cost	Estimated excess funds[a]	Estimated future cos	
Higher estimate of HAMP-approved servicer loans[b]					
Mortgages 60 or more days delinquent	$7.7	$3.1	$4.5	$4.2	$3.5
Mortgages 60 or more days delinquent plus imminent default loans[c]	$7.7	$6.4	$1.2	$8.6	0[d]
Lower estimate of HAMP-approved servicer loans[e]					
Mortgages 60 or more days delinquent	$7.7	$2.9	$4.8	$3.9	$3.8
Mortgages 60 or more days delinquent plus imminent default loans[c]	$7.7	$5.9	$1.8	$7.9	0[d]

Source: GAO analysis of Black Knight data. | GAO-16-351

Note: Numbers may not add up due to rounding.

[a]Estimated unused funds does not include likely future expenditures for the non-HAMP MHA programs (i.e., Second-lien Modification Program, Home Affordable Foreclosure Alternative, Federal Housing Administration/Rural Development HAMP, etc.).

[b]Higher estimates assume HAMP servicers represented 67 or 65 percentage of all loans, 60 days-plus delinquent and imminent default loans respectively.

[c]For purposes of this analysis, we define imminent default loans as mortgages that are less than 60 days-plus delinquent plus 2 or more risk factors (high mortgage interest rate, significant negative equity, high unemployment area location, and loan origination features such as low borrower credit score or high loan-to-value ratio).

[6]While two of our estimates resulted in a projected MHA program deficit (of $0.2 in the lower estimate and $0.9 in the higher estimate) in some scenarios, Treasury has established individual servicer participation limits or caps that would not permit a servicer to commit to a HAMP loan modification that would exceed its cap or collectively the amount of MHA funds available.

[d]While two of our estimates resulted in a projected Making Home Affordable (MHA) program deficit (of $0.2 in the lower estimate and $0.9 in the higher estimate) in some scenarios, Treasury has established individual servicer participation limits or caps that would effectively not allow a servicer to commit to a HAMP loan modification that would exceed its cap or collectively the amount of MHA funds available.

[e]Lower estimates assume HAMP servicers represented 62 percent or 60 percent of all loans, 60 days-plus delinquent and imminent default loans respectively.

It is important to recognize that these high and low estimates of potential unused or excess funds are based upon assumptions that generally would result in higher expected eligibility and participation, higher overall costs and, therefore, lower unexpended balances, than might be realized. In particular, we assume a borrower participation rate of 100 percent. Furthermore, according to Treasury, approximately 20 percent of HAMP loan modifications are imminent default borrowers. In our calculations shown in table 5, the analysis had an approximate equal split between the modifications for the 60 days-plus delinquent and the imminent default loans. If instead one assumed that loans that are in imminent danger of default would comprise 20 percent of the at-risk loans, then the estimated future cost of low estimates of participation would only be $5.3 billion (versus $8.6 billion) and the estimate of unused or excess funds would be much higher—$2.4 billion (versus -$0.9 billion).

Not shown in the table are estimates for program costs related to the non-HAMP programs of MHA. These non-HAMP MHA programs are important because servicers can use the funds obligated under the participation agreement for MHA programs other than HAMP, and therefore funds that are not needed for HAMP loan modifications could be used for non-HAMP MHA programs, such as the Home Affordable Foreclosure Alternative and the FHA/RD HAMP programs. According to Treasury, it expended approximately $467 million for the non-HAMP programs during fiscal year 2015. Extrapolating that amount over an additional 6 years (entry into the MHA programs ends on December 31, 2016, and incentive payments for certain non-HAMP programs can extend up to 5 years after entry) would result in an additional $2.3 billion in MHA expenditures.[7] Together with our lowest estimate of HAMP program costs, total MHA program costs could therefore be $5.2 billion, which would leave an estimated $2.5 billion in potentially excess funds. In contrast, our high

[7]Unlike the other non-HAMP MHA programs, HAFA does not entail annual incentive payments—all incentives are paid at closing of the short sale or deed-in-lieu transaction. According to Treasury, it paid $194.3 million in HAFA incentive payments in fiscal year 2015.

estimate resulted in all available MHA program funds being spent.[8] Also, as previously noted, our analysis does not include estimates for HAMP modification of loans owned by the housing enterprises or insured or guaranteed by the government.

[8]Together with our highest estimate of HAMP program costs, total MHA program costs could be $10.9 billion, which would exceed the available MHA balance of $7.7 billion by $3.2 billion. However, servicer participation agreements limit Treasury's ability to spend beyond the available balance of the MHA program.

Appendix III: Comments from the Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 22, 2016

Mathew J. Scirè
Director
Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Scirè:

The Department of the Treasury (Treasury) appreciates the opportunity to review a draft of the GAO's latest report on the Troubled Asset Relief Program (TARP), entitled "Treasury Should Estimate Future Expenditures for Making Home Affordable Program" (Draft). Treasury established the Making Home Affordable (MHA) Program in 2009, to help at-risk homeowners avoid foreclosure and stabilize the housing market. Since then, more than 2.5 million homeowner assistance actions have been completed under MHA.

The Draft provides a helpful review of the challenges associated with estimating future expenditures under MHA, an unprecedented and dynamic program which, until recently, had a flexible term. The number of homeowners assisted through MHA—and by extension, the related costs—depends on a number of factors. These include, for example, the rate of mortgage delinquencies over time and other economic factors, as well as homeowner interest in applying for the program. We appreciate GAO's own analysis of potential expenditures, demonstrating outcomes that range from a surplus to the exhaustion of all funds obligated for MHA.

Historically, Treasury assumed that all funds obligated for MHA would be spent in furtherance of Congress's mandate to preserve homeownership and protect home prices. On December 18, 2015, Congress passed the Consolidated Appropriations Act, 2016, P.L. 114-113 (the Act), which impacted Treasury's cost assumptions. The Act terminates MHA on December 31, 2016, and authorizes Treasury to commit up to $2 billion in additional funds to the Housing Finance Agency Innovation Fund for Hardest Hit Markets (the Hardest Hit Fund), another foreclosure prevention program funded through TARP.

As noted in the Draft, the Act "provides Treasury with greater certainty and opportunity with respect to estimating and reprogramming excess MHA fund balances." [1] Accordingly, GAO recommends that Treasury estimate future expenditures for the MHA program, de-obligate funds not likely to be expended and move up to $2 billion of such funds to the Hardest Hit Fund. We agree. Treasury recently updated its cost estimate for MHA and is planning to de-obligate $2 billion from the program. Treasury will also commit an additional $2 billion to the Hardest Hit Fund, to be used for foreclosure prevention and stabilization of state housing markets.

[1] P.1.

Treasury appreciates GAO's analysis of our efforts to monitor expenditures under MHA. We look forward to continuing to work with you and your team.

Sincerely,

Mark McArdle
Deputy Assistant Secretary for Financial Stability

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Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Mathew J. Scirè, (202) 512-8678 or sciremj@gao.gov

Staff Acknowledgments

In addition to the contact named above, John A. Karikari and Harry Medina (Assistant Directors), Jon D. Menaster, (Analyst-in-Charge), Theodore Alexander, Bethany M. Benitez, Emily R. Chalmers, William R. Chatlos, Lynda E. Downing, Carol M. Henn, Marc Molino, Oliver M. Richard, Estelle M. Tsay-Huang, James D. Vitarello, and William T. Woods made key contributions to this report.

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