

HUD & GSE Nonperforming Loan Sales: Are Further Improvements Necessary?

Laurie Goodman, director, Housing Finance Policy Center, Urban Institute
Erik Cribbs, senior adviser, U.S. Department of Housing and Urban
Development
Eric Stein, special adviser, Federal Housing Finance Agency
Don Mullen, founding partner, Pretium Partners
Julia Gordon, executive vice president, National Community Stabilization

May 18, 2016

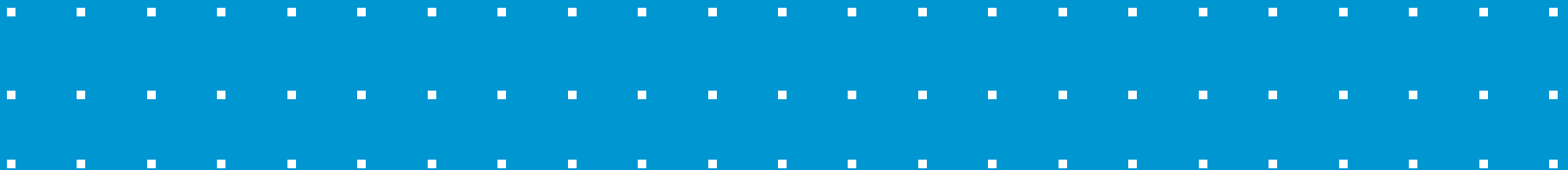




HUD and GSE Nonperforming Loan Sales: Are Further Improvements Necessary?

May 18, 2016

Laurie Goodman, Director
Housing Finance Policy Center
Urban Institute



HUD and GSE NPL Sales- A Brief Overview

2010-HUD Pilots NPL Sales Program

2012-HUD Program renamed the Distressed Asset Stabilization Program (DASP).

In addition to national pools, HUD begins sale of Neighborhood Stabilization Pools in which loans are concentrated in designated areas. Investors who purchase NSO pools must ensure at least 50 percent of the loans achieve one of the approved outcomes

2013-Pace of HUD loan sales accelerates

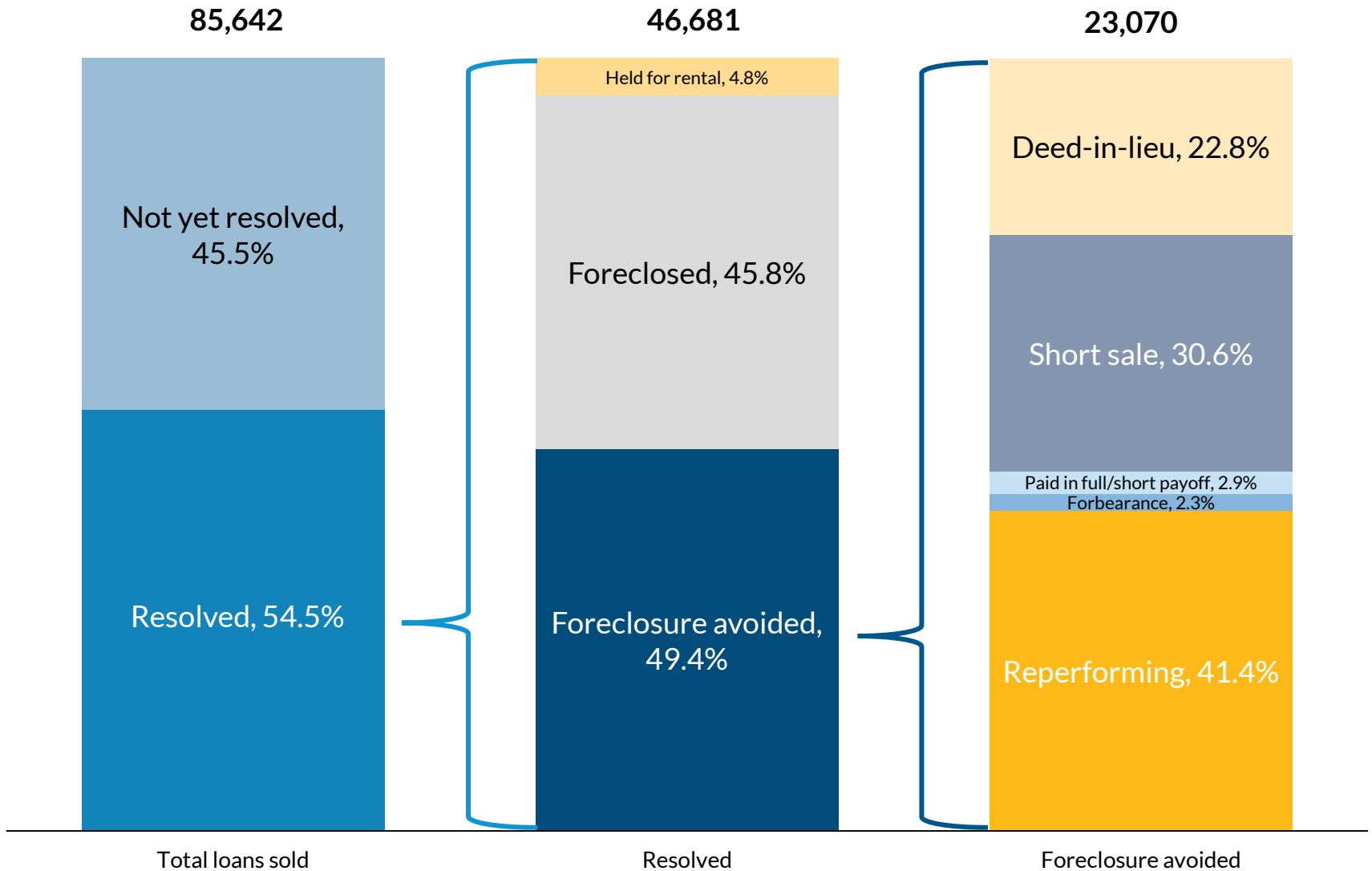
2014-Freddie Mac Pilot program

2015-HUD offers nonprofit pools for the first time

2015-Freddie Mac offers first NPL pool; Fannie Pilot and launch

Today-HUD offers first sale of very delinquent loans (at least 48 months DQ) ³

Outcomes for Nonperforming Loans in HUD Loan Sales, 2010-14



Source: HUD (2015d).



FHA's Single Family Loan Sale Distressed Asset Stabilization Program (DASP)

May 2016



DASP OVERVIEW





Mission

The DASP is one of a suite of disposition programs that aids in fulfilling the Secretary's fiduciary responsibility to ensure the Mutual Mortgage Insurance (MMI) fund remains financially sound.

DASP maximizes recoveries through competitive auctions that :

- reduce claim costs,
- minimize the time that assets are held in FHA's portfolio,
- creates opportunities for severely delinquent borrowers to stay in their homes.



Loan Eligibility

Defaulted loans are sold via DASP only after FHA's loss mitigation options were deployed and

- either failed to correct the default, or the
- borrower was ineligible for any loss mitigation.

Without DASP these loans most likely would have completed the foreclosure process ending with the borrower losing their home and properties conveying to FHA.

On average, loans are 29 months delinquent at the time of sale.





Loan Pools

DASP loans are competitively auctioned to qualified bidders in two offering types defined by geography and loan sale restrictions.

National Pools

- geographically dispersed,
- 12-month foreclosure moratorium period, and
- Home Affordable Modification Program (HAMP) evaluation requirements.

Neighborhood Stabilization Outcome (NSO) Pools

- introduced in FY 2013,
- geographically targeted,
- 12-month foreclosure moratorium period,
- HAMP evaluation requirements, and
- neighborhood stabilizing outcome requirements.

Since 2010, over 105,000 distressed loans with an approximate aggregate unpaid principal balance of \$18B have been sold in over 175 pools (90 National/75 NSO)



Auction and Reserve Pricing

DASP loan pools are competitively auctioned under a sealed bid process. Bids are accepted from qualified teams who meet numerous requirements including:

- net worth,
- business experience,
- debarment status,
- Servicer is FHA/GSE approved, and
- compliance with our prior reporting requirements if prior purchaser.

NSO pools require the submission of additional information demonstrating servicing and property management experience necessary to fulfil the foreclosure avoidance outcomes.

Bids are evaluated against HUD's reserve price. Reserve prices are calculated to ensure loans are sold at or near market value thus fulfilling the fiduciary duty to ensure the Mutual Mortgage Insurance (MMI) fund remains financially sound.





NSO Sale Terms

Loans sold under the NSO pools include restrictions requiring at least 50% of the loans avoid foreclosure for 4 years after purchase or the purchaser faces significant financial penalties.

NSO Foreclosure avoidance alternatives include:

- mortgage modification (principal reduction, rate, term, forgiveness of arrearages) to re-performance,
- short sales or deed-in-lieu with sales to owner occupants,
- holding and renting the property, or
- sale to a non-profit or NSP grantee.





Post Sale Reporting Requirements

Purchasers are required to provide Post-Sale Reporting on a quarterly basis for four years on all loans, including the achievement of NSO results.

Outcomes are monitored and penalties for non-NSO dispositions will be enforced.

Non-NSO dispositions in excess of the allowable 50% are subject to liquidated damages.

- If excess is 10% or less – purchaser remits net sales proceeds to FHA.
- If excess is 10% or more – purchaser remits gross sales proceeds to FHA or fair market value at sale date.
- Future participation in DASP is denied.





Key Findings

Area	Findings (Data compiled Jan 2016)
Foreclosure Avoidance	<p>The DASP provides an opportunity for borrowers to avoid foreclosure.</p> <ul style="list-style-type: none">• Approximately 36% of loans sold under the SFLS program remain in delinquent servicing.• Of the 64% that have been resolved, 43% have successfully avoided foreclosure, whereas the anticipated alternative for these borrowers – where their property becomes REO – would have led to foreclosure.<ul style="list-style-type: none">• Overall, approx. 10,000 of resolved loans are re-performing as of the latest reporting period.• And approx. 15,000 borrowers successfully avoided foreclosure with deed-in-lieu and short sale transactions.
Minimizes Losses	<p>The DASP is meeting intended goals contributing to minimizing losses to the MMI Fund and reducing risk to taxpayers:</p> <ul style="list-style-type: none">• Overall loss rates to the Fund declined from 63.5% in the first quarter of 2010 to 51.3% in the fourth quarter of 2015





RECENT ENHANCEMENTS





Post Sale Purchaser Requirements

12 Month Foreclosure Moratorium:

- Expanded the foreclosure moratorium (barring exigent circumstances) from 6 to 12 months, and added a requirement that purchasers document outreach efforts.

Minimum Threshold for Loss Mitigation Offerings:

- Evaluate the borrower for loss mitigation in a manner equal or in excess of the terms of the Home Affordable Modification Program (HAMP) during the initial twelve (12) month period unless the borrower no longer resides in the property or fails to participate. Efforts and outcome must be documented.





Nonprofit Enhancements

DASP Training Seminars for non-profits and CDFIs

Nonprofit Only Competitive Pools

- FHA is offering loans exclusively to Nonprofit Organizations using the same criteria as the Neighborhood Stabilization Outcome (NSO) pools.
- Only Nonprofit groups and Units of Local Governments are eligible to bid.

Earlier sale announcements and Due Diligence period extensions





Nonprofit Enhancements (continued)

First Look for Nonprofits:

- Purchasers must offer Nonprofit Organizations a first look at the property before the sale of vacant REO to an owner-occupant to qualify for NSO credit.

Sale Or Transfer to Nonprofits:

- The sale or transfer of assets to an FHA-approved Nonprofit will qualify for NSO credit. This provision was previously limited to NSP grantees.

Sale to a Owner-Occupant Provision:

- Sale of vacant REO to an owner-occupant after the First Look period is now eligible for NSO credit is a new enhancement. This NSO was previously limited to a sale after a Short Sale, Deed in Lieu or sale to a rental tenant.





**FHFA REQUIREMENTS FOR NON-
PERFORMING LOAN SALES BY FANNIE MAE
AND FREDDIE MAC**



ERIC STEIN, SPECIAL ADVISOR, FHFA

May 18, 2016

NPL STANDARDS IN CONTEXT

- FHFA's goal is to achieve more favorable outcomes for the Enterprises and for borrowers by providing alternatives to foreclosure wherever possible.
- The new enhanced NPL sale requirements draw upon the experiences over the past year, when FHFA announced its existing standards for NPL sales.
- Since early 2015, Fannie Mae and Freddie Mac have sold close to 39,000 mortgages with a total unpaid principal balance of \$8.2 billion.
 - In addition to national, geographically-diversified pools, both Enterprises have sold six smaller, geographically-concentrated NPL pools.
- Loans already sold have been, on average, three years delinquent.

ENHANCED NPL SALES STANDARDS

- On April 14, 2016, the Federal Housing Finance Agency (FHFA) announced additional enhancements to its requirements for sales of non-performing loans (NPLs) by Freddie Mac and Fannie Mae that build on the requirements originally announced in March 2015. These additional requirements:
 - **Principal and/or Arrearage Forgiveness:** establish that NPL buyers must evaluate borrowers whose MTMLTV ratio exceeds 115 percent for modifications that include principal reduction and/or arrearage forgiveness
 - **No walkaways:** forbid NPL buyers from unilaterally releasing liens and “walking away” from vacant properties; and,

ENHANCED NPL SALES STANDARDS

- **Proprietary modification standards:** establish more specific proprietary loan modification standards for NPL buyers.
- Together with the enhanced standards announced in March 2015, the requirements include:
 - Bidder qualifications
 - Loss mitigation requirements
 - Modification requirements
 - Prohibition on walkaways
 - REO sale requirements
 - Subsequent servicer requirements
 - Bidding transparency
 - Small pool offerings
 - Reporting requirements

BIDDER QUALIFICATIONS

- Bidders will be required to identify their servicing partners and must complete a servicing questionnaire to demonstrate a record of successful resolution of loans through alternatives to foreclosure.

LOSS MITIGATION WATERFALL REQUIREMENTS

- Servicers must apply a waterfall of resolution tactics that includes evaluating borrower eligibility for a loan modification (HAMP and/or proprietary modification), a short sale, and a deed-in-lieu of foreclosure.
- Foreclosure must be the last option in the waterfall.
- The waterfall may consider net present value to the investor.

MODIFICATION REQUIREMENTS

- The new servicer will be required to evaluate all pre-2009 borrowers (other than those whose foreclosure sale date is imminent or whose property is vacant) for Treasury's MHA programs, including HAMP.
- All post-January 1, 2009 borrowers (other than those with an imminent foreclosure sale date or vacant property) must be evaluated for a proprietary modification.
- For borrowers with a MTMLTV above 115 percent, servicers will be required to evaluate these borrowers for loan modifications (HAMP or proprietary) that include principal and/or arrearage forgiveness.

MODIFICATION REQUIREMENTS

- Proprietary modifications must not include an upfront fee or require prepayment of any debt, and must provide a benefit to the borrower with the potential for a sustainable modification.
- They must either be fixed rate for the term of the modification or offer an initial period of reduced payments with limits on subsequent increases consistent with HAMP requirements – the initial period must last for at least 5 years and interest rate increases may not exceed 1 percent per year thereafter.

PROHIBITION ON WALKAWAYS

- If a property securing a loan is vacant, buyers and servicers may not abandon the lien and “walk away” from the property. Instead, if a foreclosure alternative is not possible, the servicer must complete a foreclosure or must sell or donate the loan, including to a government or non-profit entity.

REO SALE REQUIREMENTS:

- Servicers are encouraged to sell properties that have gone through foreclosure and entered Real Estate Owned (REO) status to individuals who will occupy the property as their primary residence or to non-profits.
- Therefore, for the first 20 days after any NPL that becomes an REO property is marketed, the property may be sold only to buyers who intend to occupy the property as their primary residence or to non-profits.

SUBSEQUENT SERVICER REQUIREMENTS

- Servicing transfers from the initial servicer are permitted, but subsequent servicers must assume all of the responsibilities of the initial servicer.

BIDDING TRANSPARENCY

- To facilitate transparency and encourage robust participation by all interested participants, each Enterprise has developed processes for announcing upcoming NPL sale offerings.
- These include an NPL webpage on the Enterprise's website; email distribution to small, non-profit and minority – and women owned business (MWOB) investors; and proactive outreach to potential bidders.
- Additionally, each Enterprise has hosted training sessions for interested non-profit and MWOB investors to facilitate better understanding of the NPL sales process.

SMALL POOL OFFERINGS

- The Enterprises offer small, geographically concentrated pools of NPLs, where feasible, to maximize opportunities for nonprofit organizations and MWOBs to purchase NPLs. The Enterprises actively market such offerings to nonprofits and MWOBs and provide additional time for buyers to complete the transaction.
- New Jersey Community Capital has purchased five of the six small, geographically concentrated pools that have settled so far. For the sixth pool, NJCC was engaged by the for-profit winner as an outreach service provider. These pools have been geographically concentrated in Miami and Tampa, FL.

REPORTING REQUIREMENTS

- NPL buyers and servicers, including subsequent servicers, are required to report detailed loan resolution results and borrower outcomes to the Enterprises for four years after the NPL sale.
- These reports will help inform whether the NPL buyer and NPL servicer continue to be eligible for future sales based on pool level borrower outcomes, adjusted for subsequent market events.
- Consistent with applicable law, FHFA and/or the Enterprises will provide public reports on aggregate borrower outcomes at the pool level.
- FHFA anticipates releasing its first public report by the end of the second quarter 2016.

HUD & GSE Nonperforming Loan Sales: Are Further Improvements Necessary?

Laurie Goodman, director, Housing Finance Policy Center, Urban Institute
Erik Cribbs, senior adviser, U.S. Department of Housing and Urban
Development
Eric Stein, special adviser, Federal Housing Finance Agency
Don Mullen, founding partner, Pretium Partners
Julia Gordon, executive vice president, National Community Stabilization

May 18, 2016

