

United States Senate

WASHINGTON, DC 20510

March 24, 2010

The Honorable Timothy F. Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Geithner,

We write today to express our serious concerns about protections for homeowners under the Home Affordable Modification Program (HAMP), and to request that you immediately move forward on creating an Office of the Homeowner Advocate to protect homeowners who are seeking mortgage modifications.

Initially, Treasury set a goal of helping 3 to 4 million homeowners avoid foreclosure through HAMP.¹ Unfortunately, it looks increasingly unlikely that this goal will be met, given that the program has resulted in only about 540,000 active permanent modifications through January 2011.² Meanwhile, we continue to hear numerous disturbing reports from homeowners, housing counselors, and attorneys in our states and nationwide about the failures of mortgage servicers to treat our constituents fairly and work in good faith to keep them in their homes.

Our constituents describe to us in detail how their efforts to seek mortgage modifications are repeatedly obstructed or delayed by their servicers. They are given incorrect or conflicting information about whether they are eligible for a mortgage modification. Their servicers lose their paperwork, or claim it was never received. Some are told by their servicers that they should stop making their payments, only to be foreclosed on, whereas others are foreclosed on despite making all of their trial payments on time. When our constituents are presented with incorrect information, told that their modification was wrongfully denied, or unjustly foreclosed on, they have no meaningful recourse. In fact, many homeowners are worse off as a result of their participation in HAMP—often as a result of receiving a trial modification that is later cancelled.

This situation is unacceptable, and has gone on for too long. It is hard to say how many borrowers have wrongfully been denied assistance under HAMP. However, these failures on the behalf of servicers who are unwilling to fulfill their responsibilities under HAMP have undoubtedly resulted in numerous families losing their homes to foreclosure. Sadly, many of these homeowners are victims of job losses or serious illnesses, and are already facing more than their share of challenges.

Even worse is the fact that there appears to be no penalty for poor behavior by servicers. According to the most recent report by the Special Inspector General for the Troubled Asset

¹ U.S. Department of the Treasury, "Making Home Affordable - Summary of Guidelines," March 4, 2009.
http://www.treasury.gov/press-center/press-releases/Documents/guidelines_summary.pdf

² Making Home Affordable Program, "Servicer Performance Report Through January 2011," March 2, 2011.
http://www.treasury.gov/initiatives/financial-stability/results/MHA-Reports/Documents/Jan_2011_MHA_Report_FINAL.PDF

Relief Program, despite the fact that servicers have received more than \$870.6 million in incentives for performing mortgage modifications under HAMP,³ the Treasury has imposed no financial penalties when they have failed to live up to their obligations.⁴

We are encouraged by attempts to handle homeowner complaints through the implementation of escalation processes, including the HAMP Solution Center. However, according to the Government Accountability Office, “[i]t is unclear whether the HOPE Hotline and escalation processes are effective mechanisms for resolving concerns about potentially incorrect HAMP denials.”⁵ Given what we continue to hear from our constituents on a regular basis, it is abundantly clear that the escalation procedures currently in place are wholly inadequate. Instead, the existence of a specific office with authority to assist homeowners, resolve disputes, and hold servicers accountable is necessary.

For that reason, we strongly urge you to immediately begin implementing the provisions of the “Office of the Homeowner Advocate” amendment that passed the Senate on June 15, 2010 by a vote of 63-33 as an amendment to the American Workers, State, and Business Relief Act of 2010. This legislation would create an “Office of the Homeowner Advocate” modeled after the successful Office of the Taxpayer Advocate at the Internal Revenue Service. It would empower staff to assist individual homeowners who believe that they are being treated unfairly as they seek modifications through HAMP. This office would have the authority to apply appropriate remedies if homeowners’ complaints are well-founded, and would give homeowners who are the victims of erroneous information or inequitable treatment a meaningful opportunity to have their concerns resolved.

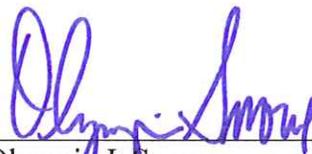
As you know, this amendment enjoyed broad bipartisan support in the Senate, the endorsement of the Treasury, and support from the White House.⁶ While we continue to pursue legislation to reinforce your authority to create the Office of the Homeowner Advocate, we believe that the Treasury can fully implement its provisions without further action by Congress. Indeed, we believe that the Treasury has an obligation to act immediately to protect homeowners from mistreatment in a program of its own design.

We look forward to a prompt response describing the actions the Treasury will take to move forward with these provisions.

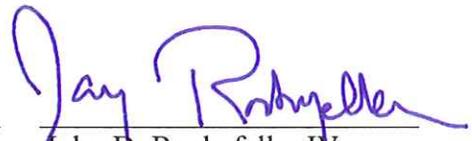
Sincerely,



Al Franken
United States Senator



Olympia J. Snowe
United States Senator



John D. Rockefeller IV
United States Senator

³ SIGTARP Quarterly Report to Congress, January 26, 2011, p. 68, Table 2.10.

⁴ *Id.* at p. 81.

⁵ Government Accountability Office, “Troubled Asset Relief Program: Further Actions Needed to Fully and Equitably Implement Foreclosure Mitigation Programs,” June 2010, p. 25-26.

⁶ “The Good Guys,” The White House Blog, May 5, 2010. <http://www.whitehouse.gov/blog/2010/05/05/good-guys>