SECTION 3

TAXPAYERS ON THE HOOK FOR BILLIONS OF TARP DOLLARS TO BE PAID TO OCWEN, WELLS FARGO, BANK OF AMERICA, NATIONSTAR & OTHERS WHO KEEP ABUSING HOMEOWNERS AND BREAKING FEDERAL RULES IN HAMP

TARP's signature foreclosure prevention program the Home Affordable Modification Program ("HAMP") is not over. HAMP, a $27.8 billion TARP program, is far from over, as only $14.8 billion has been spent, leaving $13 billion left to be spent over the next 7 years.[1,i] Treasury will pay most of these TARP dollars to bank and nonbank servicers as well as those who own the mortgages ("investors" some of which are the same entity as the servicers).[2] It can be easy to think of HAMP as ending, because the homeowner application deadline ends December 30, 2016.[3] But that view could lead to decreased Federal oversight, which would be a dire mistake given the fact that billions in Federal dollars will continue to pay mortgage servicers over the next 7 years under their contract with Treasury for HAMP – a contract which many of these servicers have failed to comply with by breaking Treasury's rules.[4]

That HAMP has fallen well short of helping the 3 to 4 million homeowners envisioned for the program, and that mortgage servicers' misconduct in HAMP have been the subject of homeowner complaints and enforcement actions is well known.[5,ii] The 7 mortgage servicers that have received, and are slated to receive the most TARP dollars include Ocwen Loan Servicing, LLC ("Ocwen"), Wells Fargo Bank, N.A. ("Wells Fargo"), JPMorgan Chase Bank, N.A. ("JPMorgan"), Bank of America, N.A. ("Bank of America"), Nationstar Mortgage LLC ("Nationstar"), Select Portfolio Servicing, Inc. ("SPS"), and CitiMortgage Inc. ("CitiMortgage").[6] Known rule breaking by servicers include: (1) wrongfully denying homeowners admission to HAMP; (2) miscalculating a homeowners' income; (3) failing to honor a HAMP modification or application for a mortgage transferred to them; (4) lost paperwork; (5) lengthy wait times to make a decision on homeowners' HAMP applications (homeowners who did not have the luxury of time); (6) causing errors in calculating TARP payments by Treasury; and (7) wrongfully terminating people out of HAMP.[7]

Each year, continuing this year, Treasury finds that many of these large mortgage servicers have broken Treasury's rules with regard to actual homeowners' HAMP files.[8] Those who contract with the Federal Government have to comply with Federal rules every time if they want to be paid because noncompliance risks abusing individual homeowners or wasting federal funds. Mortgage servicers hide behind a contention that Treasury's finding of violations are statistically insignificant. First, Treasury's sample size of homeowner files (2, 25, typically no more than 150) is not based on statistical significance. More importantly, it is not acceptable for anyone to break Federal rules, or abuse any homeowner.

Given the known history or servicer misconduct in this program, Treasury's findings of servicers who break HAMP's rules in its small samples may be indicative of a larger problem that often goes unchecked until there is a major enforcement action. These are not mortgage servicers that have a clean slate. Every isolated violation of HAMP rules found in a homeowner complaint, in an enforcement action, or in a Treasury compliance review in the last two years, adds to a history of

[i] Unless otherwise noted, all figures in this section of the report are as of 6/30/2016.
[ii] The deadline for homeowners to apply to HAMP is December 30, 2016. Banks and non-bank mortgage servicers have until September 2017 to make a decision.

abuse of homeowners in a federal foreclosure rescue program that should have zero abuse. The consequences of servicers breaking the Federal rules governing HAMP have been very real to homeowners and to taxpayers funding this program.

There is an opportunity now, with 7 years left for Federal payments in HAMP, to establish additional controls to stop abuse to homeowners who have no voice to effect institutional change, to prevent waste to taxpayers, by stronger controls to make servicers follow existing Federal rules in HAMP. The answer lies in strong Federal oversight that includes: (1) Treasury implementing important controls recommended by SIGTARP to prevent servicers from breaking the rules and creating additional rules, and (2) Treasury taking stronger action when it finds mortgage servicers breaking HAMP's rules. Treasury should enlarge the size of its sample review every time violations are found. Treasury should require servicers to do lookbacks to self-report on additional violations. Treasury should require additional controls to prevent further violations. Ultimately, Treasury should withhold federal dollars where Treasury finds the same type of violation by the same servicer in multiple quarters.

Taxpayers remain on the hook to pay billions of TARP dollars to these bank and non-bank mortgage servicers and investors (including some of these same companies), and Treasury should not pay for non-compliance with federal HAMP rules. Treasury describes HAMP as a "pay-for-success" program, and so it should not pay for banks and non-bank servicers who break Federal rules, because rule breaking is not success. Taxpayers will be at risk of wasted dollars and homeowners at risk of mistreatment and further abuse if servicers continue to break these HAMP rules over the next 7 years. With 1.1 million homeowners already in or seeking help through HAMP, the decisions these banks and non-banks make going forward in HAMP will have a profound impact on the lives of many homeowners for years, which can impact the state of housing in the nation.[9,iii] There is time for HAMP to be a turnaround story; but that requires a turnaround.

[iii] As June 30, 2016, there are 168,400 HAMP homeowner applications outstanding, another 26,719 homeowners in trial HAMP mortgage modifications (trial periods are supposed to be 3 months), and 969,081 homeowners in permanent HAMP Tier 1 and Tier 2 modifications.

MORTGAGE SERVICERS WHO HAVE RECEIVED MORE THAN $3.2 BILLION FROM TAXPAYERS SO FAR, ARE SLATED TO RECEIVE BILLIONS MORE OVER THE NEXT 7 YEARS, EVEN THOUGH SOME OF THESE SERVICERS CONTINUE TO BREAK HAMP RULES, ABUSE HOMEOWNERS AND WASTE TAX DOLLARS

The largest seven banks and non-banks that service mortgages under HAMP account for 85% of all funds set aside for HAMP and HAMP-related programs ($27.8 billion) including:

TARP FUNDS FOR LARGEST 7 HAMP MORTGAGE SERVICERS/INVESTORS

OCWEN	$2.9 Billion *TARP paid*	+	$2.6 Billion *Available*
WELLS FARGO	$1.8 Billion *TARP paid*	+	$1.5 Billion *Available*
JPMorganChase	$1.9 Billion *TARP paid*	+	$1.1 Billion *Available*
Bank of America	$1.4 Billion *TARP paid*	+	$964 Million *Available*
Nationstar MORTGAGE	$656.1 Million *TARP paid*	+	$876.4 Million *Available*
SPS SELECT Portfolio SERVICING, INC.	$637.8 Million *TARP paid*	+	$751 Million *Available*
citimortgage	$500 Million *TARP paid*	+	$244 Million *Available*

Source: SIGTARP Analysis of Treasury HAMP data.

Although these large servicers receive millions of tax dollars, many have failed to devote the resources needed to perform all of their obligations under Treasury's contract. This risks wasted tax dollars and abuse to homeowners. The Government Accountability Office ("GAO") defines waste as "the act of using or expending resources carelessly, extravagantly, or to no purpose", or when "…taxpayers do not receive reasonable value for money in connection with any government-funded activity due to inappropriate acts or omissions by officials with control over or access to government resources."[10] Taxpayers do not get what they bargained for if those administrating HAMP refuse to follow its rules. Abuse is defined by GAO as behaving improperly or unreasonably, or misusing one's position or authority.[11] Treasury has put mortgage servicers in the position and authority to make decisions in HAMP that impact homeowners. Homeowners not fairly evaluated for HAMP or not given the best chance of success once in the program, through no fault of their own, but instead the fault of the servicer suffer from abuse.

TAXPAYERS ARE NOT GETTING THEIR BARGAIN — ABUSE TO HOMEOWNERS AND WASTE OF TARP DOLLARS DUE TO SERVICER MISCONDUCT

Seven years into the program the seven large mortgage servicers that play the most critical role in HAMP continue to mistreat homeowners and waste tax dollars. Over the last year, each of these servicers has been found deficient in complying with the HAMP program's rules to protect homeowners and tax dollars.

Ocwen is the largest receiver of federal funds in HAMP, but also has one of the worst track records in foreclosure mitigation, including HAMP. In December 2013, the Consumer Financial Protection Bureau ("CFPB") and authorities in all 50 states brought an action against Ocwen for significant and systemic misconduct of taking advantage of borrowers. This was based on Ocwen's "deception and shortcuts in mortgage servicing", which included improperly denying homeowner's a loan modification and failing to properly apply a homeowner's payment, both of which are extremely relevant to oversight over Ocwen in HAMP.[12] Knowing these previous findings, during the last two years, Treasury has found that Ocwen wrongfully denied homeowners admission to HAMP and wrongfully terminated homeowners out of HAMP.[13] Either one of these decisions can have a devastating impact on a homeowner denied help. The Federal rules that govern these decisions are the most fundamental for a mortgage servicer to get right.

- ***Wrongfully terminating homeowners out of HAMP:*** Treasury continues to find in 2014 through 2016 that Ocwen wrongfully terminated homeowners out of HAMP.[14] A homeowner falls out of HAMP when they missed three modified mortgage payments (referred to by Treasury as a "redefault.").[15] Redefaults are a significant problem in HAMP for homeowners and taxpayers, as 35% of all homeowners who started a HAMP permanent mortgage modification fell out of the program, amounting to $2.1 billion in wasted tax dollars paid for these HAMP modifications that prematurely ended.[16] Unfortunately, about 36% of all homeowners who fall out of HAMP either go into foreclosure or lose their home through a short sale or deed in lieu of foreclosure.[17]

  A servicer's wrongful termination of homeowners out of HAMP undermines the effectiveness of the program, which was designed to provide permanent and sustainable relief to struggling homeowners, and puts a homeowner at great risk of losing their home.[18] Treasury has found that 6 of the largest 7 servicers in HAMP have wrongfully terminated homeowners out of the program.[19] More than 115,000 homeowners who were in a HAMP modification with Ocwen have fallen out of HAMP.[20] That means that 37% of all homeowners in HAMP through Ocwen fell out of the program. Taxpayers paid servicers a total of $2.1 billion on redefaulted mortgage modifications. Ocwen received in excess of $651 million through HAMP on these redefaulted mortgage modifications.[21] Almost one third of these homeowners went into foreclosure or otherwise lost their home. More than 20,000 (20,387) of these homeowners went into foreclosure, and another 8,186 lost their homes through a short sale or deed in lieu of foreclosure. Another third of these homeowners were placed in an alternative mortgage modification.[22] The Office of the Comptroller of the Currency ("OCC") has reported that alternative modifications are less advantageous to a homeowner than a HAMP modification.[23] Therefore, it is critical that a homeowner complying with the rules of HAMP not be forced out because their servicer is not complying with those same rules.

  Treasury has found that Ocwen wrongfully terminated people out of HAMP based on Ocwen's own misconduct. Ocwen has improperly held a homeowner's mortgage payment in suspense by not applying it to the mortgage timely. Ocwen has improperly reversed and later reapplied a homeowner's mortgage payment. Ocwen has incorrectly found that a homeowner had missed three payments when it fact they had missed one only or two. Ocwen has not timely posted a payment that a homeowner made to an Ocwen lockbox.[24] This is exactly the type of activity that was the subject of the enforcement action by CFPB and the 50 states.

  Treasury does not know how many homeowners Ocwen has wrongfully terminated out of HAMP. While even one homeowner who falls out of HAMP due to servicer misconduct should be unacceptable, the extent of servicer misconduct that contributes to homeowner redefaults out of HAMP is unknown and may be far greater than it appears, because Treasury only looks at a sample size of 100 loans per quarter. Treasury does not take any action unless it rises to the level of what it determines to be systemic, not even increase its sample size. For example, in its latest review for the second quarter 2016, Treasury again found that Ocwen had wrongfully terminated two homeowners out of the program when the homeowners had made the payments, but Ocwen did not timely and accurately post the payment. Because it was only two homeowners, Treasury determined that it was "not indicative of a systemic condition" and therefore required no remediation.[25] That quarter's sample cannot be viewed in isolation. The CFPB and all 50 states brought the action in December 2013, in part for Ocwen "Failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements."[26,iv] From 2014 through 2016, Treasury found that Ocwen misapplied homeowners' payments.[27] That is exactly the activity that leads to wrongful terminations of homeowners out of HAMP. Treasury looking at each one of these violations of Federal HAMP rules in isolation ignores the past major enforcement action brought against Ocwen by the CFPB and all 50 states and the fact that Ocwen is operating under a consent order.

Greater action is needed by Treasury to stop Ocwen from wrongfully terminating any homeowner out of HAMP. When a servicer known to have improperly applied homeowner payments by their regulator is found by Treasury to have wrongfully terminated people out of HAMP repeatedly over several years, it must be stopped every time and Treasury should require additional controls. While Treasury makes a servicer reinstate the wrongfully terminated homeowner that was found in the sample, there may be other wrongfully terminated homeowners not so lucky as to be included in Treasury's small sample (100 per quarter).[28] Any time a homeowner was wrongfully forced out of the program by a servicer with a known history of this type of misconduct, it is cause for greater alarm that should require Treasury to conduct an even bigger and deeper dive into the problem far beyond its sample.

Wrongfully denying homeowners admission in HAMP: Ocwen has a history of wrongfully denying homeowners for mortgage modifications. The enforcement action by the CFPB and all 50 states found that Ocwen "improperly denied loan modifications." This included: Failing to provide accurate information about loan modifications and other loss mitigation services; Failing to properly process borrowers' applications and calculate their eligibility for loan modifications; Providing false or misleading reasons for denying loan modifications; Failing to honor previously agreed upon trial modifications with prior servicers; and Deceptively seeking to collect payments under the mortgage's original unmodified terms after the consumer had already begun a loan modification with the prior servicer.[29]

[iv] http://www.consumerfinance.gov/about-us/newsroom/cfpb-state-authorities-order-ocwen-to-provide-2-billion-in-relief-to-homeowners-for-servicing-wrongs/

In the last two years, Treasury has also found in certain compliance reviews that Ocwen denied homeowners for HAMP that should have been admitted to the program and/or failed to offer homeowners a HAMP modification. Treasury found more instances of Ocwen wrongfully denying homeowners into HAMP or failing to offer HAMP in 2015 than in 2014. In the first two quarters of 2016, Treasury did not find this in its sample, which could signal an improvement.[30] But given Ocwen's past history of violations, the only way for Treasury to determine if it is true improvement is to increase its sample size of 150 files per quarter.

Servicers have until September of 2017 to get homeowners into HAMP trials.[31] The HAMP decisions servicers make over the next year will impact tens of thousands of families for decades. It is critical that servicers devote the resources necessary to get these decisions right, but some servicers have failed to do so.

Taxpayers are on the hook to pay up to another $2.6 billion to Ocwen under HAMP as a servicer and/or investor. Treasury should not pay this if Ocwen continues breaking these fundamental rules, putting this program, homeowners, and Federal funds at risk.

WELLS FARGO

Wells Fargo is the second largest receiver of TARP funds under the HAMP program. Wells Fargo has continued to break HAMP's rules by kicking people out of HAMP who were making their payments on time (although now less so than Ocwen), and by failing to notify homeowners in HAMP on a timely basis that their mortgage payment was going to increase.[32]

- ***Wrongfully terminating homeowners out of HAMP:*** More than 62,000 homeowners with their mortgage serviced by Wells Fargo have fallen out of HAMP – 29%.[33] Taxpayers paid $268 million through HAMP to Wells Fargo on these redefaulted mortgage modifications.[34] Treasury does not know how many homeowners Wells Fargo wrongfully terminated out of the program because of Treasury's small sample size of 100 files reviewed per quarter. However, even with its limited sample size, Treasury found that Wells Fargo wrongfully terminated at least 16 people out of HAMP in the last year and a half.[35] Treasury found that in most cases, Wells Fargo terminated the person out of HAMP when the fault was due to Wells Fargo misapplying the homeowner's payment.

- ***Failing to notify homeowners timely that their mortgage was increasing:*** Wells Fargo failed to notify homeowners of upcoming increase to their mortgage payments in accordance with Federal rules.[36] The principal benefit to most HAMP mortgage modifications is that the interest rate on the mortgage is lowered, making monthly payments more affordable. After five years, the interest rate would rise, which means the homeowner's mortgage payment would also rise, increasing by as much as $1,788 per month.[37] In 2013 and 2014, SIGTARP warned Treasury that nearly one million homeowners in HAMP would start to see their mortgage payment increase, which could lead to homeowner difficulties in making increased payments. As a result, to minimize the disruption caused by these payment increases, Treasury put in place Federal rules for the servicer to provide the homeowner two separate notifications of these payment increases in the months prior to the increases taking place, letting them know the new payment amount and the timing of the increase.[38] The first notice goes out at least 120 days before the payment increase. The second notice goes out 60 days before the payment increase. Both notices are crucial because they give a homeowner an opportunity to find additional income if needed, or other means to pay their mortgage.[39] An unknown hike in a payment or one with limited notice could impair homeowners' ability to stay in HAMP, and ultimately keep their homes. Failure to provide these notices on a timely basis may result in homeowners underpaying their mortgages and incurring late fees risking the homeowner falling out of HAMP and having negative credit reporting. If they fall out of HAMP, taxpayers will have wasted TARP dollars for a mortgage modification that was not sustainable.

  Wells Fargo has failed to notify, or failed to give timely notice to, homeowners that their mortgage payment was going to increase. Treasury even found this in its small sample of 50 homeowner files in its most recent compliance visit to Wells Fargo. Treasury has asked Wells Fargo for an action plan with implementation dates to change their process to prevent incorrect and untimely reporting.
- ***Failure to notify homeowners that they can lower their mortgage payment after 6 years in HAMP:*** Wells Fargo also failed to notify on a timely basis homeowners that had successfully made their HAMP payment for six years that the homeowner could lower their mortgage payment by re-amortizing (recasting) their unpaid principal balance.[40] A re-amortization of a HAMP modification reduces the homeowner's monthly payment. The principal balance is reduced. Without a re-amortization these homeowners will not see reduced monthly payments, only a shortened payoff period. Treasury reviewed a small sample of 25 homeowner files, and found problems with Wells Fargo's handling of four of those loans.[41] The ability of successful HAMP homeowners to re-amortize their mortgage after six years is a major push made by Treasury to curb redefaulted HAMP modifications based on SIGTARP's recommendations. Wells Fargo's failure to timely notify these homeowners of their right to re-amortize

their loan may result in the homeowner paying a higher monthly principal and interest payment over the remaining term of the mortgage. Treasury has asked Wells Fargo for an action plan with implementation dates to change their process to prevent this breaking of rules from occurring again.[42]

These violations of Federal rules should not be looked at in isolation. Treasury does not know how many other homeowners did not receive timely notice that their mortgage payment would increase or that they could re-amortize their mortgage given Treasury's small sample size. Given the fact that Treasury is requesting an action plan from Wells Fargo, it should go farther and increase its sample size to see if there are other homeowners impacted. It should also require Wells Fargo to self-report these same violations with other homeowners.

Taxpayers have paid Wells Fargo a lot of money, and could pay up to another $1.5 billion to Wells Fargo.[43] Taxpayers are entitled to require that Wells Fargo follow Federal rules.

JPMorganChase

According to Treasury in its compliance reviews, JPMorgan went from a history of one of the worst offenders of breaking Federal rules governing HAMP, to recently improving. If this is the case, it shows that it is possible for a large bank or non-bank servicer to follow federal rules governing HAMP. For example, Treasury did not find that JPMorgan miscalculated homeowner income over the past year, showing that it is possible for a large bank to put controls in place to get income correct.[44]

Treasury's most recent reports should not be viewed in isolation. For example, JPMorgan has one of the highest denial rates for homeowners in HAMP, having denied 84% of all homeowners who applied.[45] This extremely high denial rate requires deeper scrutiny on whether JPMorgan is properly evaluating homeowners for admission to HAMP, such as Treasury increasing its sample size in its on-site reviews.

One rule that JPMorgan has been breaking is the rule to provide homeowners who have successfully stayed in HAMP for six years the opportunity to re-amortize their mortgage which could lower their mortgage payment. In Treasury's most recent visit to JPMorgan, Treasury found in its small sample of 25 homeowner files that JPMorgan did not give any of those homeowners the notice that they had an opportunity to re-amortize their mortgage.[46] Most importantly, when a homeowner re-amortizes their mortgage, their monthly payment goes down. In addition, according to Treasury, the re-amortization of HAMP modifications are critical to the success of HAMP as it is designed to *"motivate homeowners in MHA to continue making their mortgage payments on-time, strengthen the safety net for those facing continuing financial hardships, and help homeowners in MHA programs build equity in their homes, an important factor in stabilizing neighborhoods."*[47]

JPMorgan also has the third lengthiest delay in reviewing homeowners' applications for HAMP out of the largest 7 HAMP servicers. It will take up to about 5 months for a homeowner applying to HAMP through JPMorgan to receive an answer. There is an easy answer, as this is really about money. JPMorgan only processes 3,509 HAMP applications a month, but it has a backlog of over 16,000 applications.[48] If JPMorgan does not commit the resources needed to process as many applications as come in each month, plus more to handle the backlog of applications, homeowners will not be fairly treated.

Bank of America.

Right now, Bank of America has the worst track record in HAMP, with Treasury reporting for more than a year that Bank of America needs substantial improvement in complying with HAMP's rules. This should be unacceptable given that Bank of America has already received more than $1 billion from Treasury for HAMP.

- ***Overcharging Treasury:*** Treasury most recently found that Bank of America has overcharged Treasury by hundreds of thousands of dollars found in Treasury's sample. Bank of America reported incorrect information about the delinquency status of several second liens that were extinguished through the HAMP Second Lien program, resulting in more than $400,000 in wasted tax dollars, including almost $150,000 on a single loan.[49] Treasury is requesting that Bank of America perform a lookback analysis to determine whether there were other instances of misreporting.
- ***Lengthy delays in reviewing HAMP applications:*** Bank of America has the second longest processing time of HAMP applications. Bank of America processes 3,104 applications a month, but there are 28,000 unprocessed homeowner applications.[50] Treasury requires that a servicer review a completed application within 30 days, but found that Bank of America violated that rule by taking 40 or 50 days, even 125 days to review a completed application.[51] Treasury also has no time table for a servicer to approve or deny an application that does not have all the supporting documentation. HAMP has a history of servicers saying that a homeowner has not completed its application because of missing paperwork, and a history of servicers losing the paperwork sent in by homeowners. It will take up to approximately 8 months for a homeowner who has applied for HAMP to get a decision on their application from Bank of America.[52] This is a clear sign of a bank that is not committing the resources needed to get the job done to review these applications despite being paid significant funds by Treasury.

- ***Wrongfully denying homeowners admission into HAMP:*** Bank of America has one of the highest denial rates for homeowners in HAMP, having denied 79% of all homeowners who applied.[53] Just like JPMorgan's higher denial rate, this extremely high denial rate requires deeper scrutiny on whether Bank of America is properly evaluating homeowners for admission to HAMP, such as Treasury increasing its sample size in its on-site review. Increasing Treasury's sample size is bolstered by the fact that even in its small sample, Treasury continues to find that Bank of America has wrongfully denied homeowners admission in HAMP. In Treasury's most recent visit, it found more instances of Bank of America wrongfully denying homeowners for HAMP than in the last two years.[54]
- ***Miscalculation of income:*** Bank of America has the worst track record of any large servicer regarding inaccurate homeowner income calculations.[55] HAMP is designed to provide assistance to homeowners who can't afford their current mortgage payment, but should be able to after their loan is modified. The calculation of homeowner income determines whether a homeowner gets into HAMP and sets their mortgage payment once in HAMP. Treasury normally reviews a sample of 100 homeowner files to determine whether income was calculated incorrectly. Over the past year, in its small samples of 100 files each quarter, Treasury found that Bank of America miscalculated 49 homeowners' income. Homeowners were required to pay a larger mortgage payment as a result of Bank of America's miscalculation. In one recent example, the servicer failed to even look at the tax returns provided by the homeowner, which showed the homeowners' self-employment income was about $1,000 per month. Instead, the servicer used $2,600, which would have nearly doubled the homeowner's monthly mortgage payment for years, if not corrected. In another example, Bank of America treated a homeowner's bi-weekly pay stubs as a weekly source of income, which is a careless mistake that carries consequences such as potentially a mortgage payment higher than it should have been. Another faulty income calculation by Bank of America resulted in Treasury overpaying the servicer by $320 a month, potentially wasting thousands of tax dollars.[56]
- ***Failing to reduce principal despite being paid by Treasury to do so:*** In the HAMP principal reduction program, Treasury pays servicers typically several thousand tax dollars per loan to reduce the outstanding balance of underwater mortgages. In 80% of these types of HAMP modifications that Treasury looked at in its 2nd quarter 2015 review of Bank of America, it found the servicer had failed to reduce the balance on time in 20 of 25 loans reviewed. These homeowners were to receive, on average, almost $50,000 in principal forgiveness. Treasury paid Bank of America about $4,500 on average to reduce the principal of each mortgage, but Bank of America did not do so. Bank of America took this taxpayer money and sat on it for months, failing to fulfill its obligation to reduce these homeowners' underwater balances until Treasury later inquired about the status of these loans.[57]

Nationstar's track record in HAMP is abysmal.[58]

- ***Wrongful denying or failing to offer homeowners HAMP admission:*** Of all large HAMP servicers, Nationstar has the worst recent track record in wrongfully denying or failing to offer homeowners admission into HAMP. Nationstar abused a number of potentially eligible homeowners for HAMP, by passing them over for HAMP and trying to shuffle them in to repayment plans instead that increase their mortgage payment.[59] Under these repayment plans, a homeowner pays more each month than in HAMP because they pay their normal monthly payment plus a portion of their past due balance.[60]
- ***Wrongful termination of homeowners out of HAMP:*** More than 52,000 homeowners whose mortgages are serviced by Nationstar have redefaulted out of HAMP.[61] Taxpayers paid $151 million to Nationstar through HAMP on these redefaulted mortgage modifications.[62] Nationstar has wrongfully terminated homeowners out of HAMP. This has serious consequences, as 47% of homeowners who have redefaulted out of HAMP through Nationstar have gone into foreclosure or otherwise lost their homes (32% through foreclosure and 15% through short sales or deed-in-lieu).[63] Nationstar claimed that homeowners in HAMP had missed three payments, when in reality, each homeowner had missed only 1 or 2 payments and should have been allowed to stay in HAMP. Treasury does not know how many homeowners Nationstar wrongfully terminated out of HAMP given their small sample size of 100 HAMP redefaults each quarter, however, Treasury keeps finding much of the same homeowner abuse, even this most recent quarter.[64]
- ***Misreporting of homeowner payments:*** Over the past year, Nationstar has, on numerous occasions, carelessly misreported homeowner payment information to Treasury that resulted in homeowner harm or wasted tax dollars.[65] One of the key features in HAMP is the homeowner incentive payment it provides, these reward homeowners with up to $10,000 over the first six years of the modification for making all their monthly payments on time.[66] In order to properly reward those homeowners that make their payments, Treasury requires that HAMP servicers send in each HAMP homeowner's payment information every month. If this information is wrong, it can result in homeowners missing out on the benefit they earned, or on the other hand provide benefits to those that did not earn them, resulting in wasted tax dollars.[67] During one recent review Treasury found that Nationstar had misreported monthly payment data on 14 of the 25 homeowner files sampled, and misreported multiple homeowners' payment data in several other recent reviews. In most cases,

Nationstar reported homeowners as delinquent when they had not missed payments.

- ***Overcharging Treasury:*** Over the past year, Treasury found homeowners in HAMP where Nationstar failed to obtain the documentation needed to determine HAMP eligibility. This resulted in Nationstar overcharging Treasury for thousands of tax dollars. Most recently, Treasury found that it overpaid Nationstar due to Nationstar's faulty reporting to Treasury.[68]
- ***Failure to notify homeowners on timely basis about increase in mortgage payment:*** Nationstar has also failed to timely notify homeowners in HAMP that their interest rate was rising and therefore their mortgage payment was also rising. Out of 50 homeowner files Treasury sampled, Nationstar did not follow the rules for 16 of those.[69]
- ***Failure to notify homeowners in their 6th year of HAMP about opportunity to re-amortize and lower their monthly payment:*** Treasury found that out of 25 homeowner files sampled, Nationstar had not informed 18 of the homeowners about their opportunity to lower their payment by re-amortizing their mortgage.[70]
- ***Miscalculation of income:*** Nationstar has miscalculated homeowner income. In one instance Nationstar used a bi-weekly pay period to calculate a homeowner's income when the homeowner was actually paid weekly.[71]

SPS SELECT Portfolio SERVICING, inc.

Of the 7 largest HAMP servicers, Select Portfolio has the lowest number of homeowners admitted into a HAMP trial modification. Select Portfolio is the only servicer out of the largest 7 servicers in HAMP that Treasury has not found to have wrongfully terminated homeowners out of HAMP.[72] It also is the only one of the 7 servicers who denied admission to less than half of all homeowners that applied to HAMP.[73] Treasury has found that SPS misreported information that impacts the TARP funds that investors receive for current homeowners. Treasury limited their testing to only two homeowner files, but found the problem in both.[74]

citimortgage

Besides, Bank of America, Treasury places CitiMortgage as needing the most improvement in following the Federal rules governing HAMP.

- ***Late reporting homeowners who fell out of HAMP/overcharging TARP***: For the second quarter of 2016, in its small sample of 100 homeowner files, Treasury found 19 times where CitiMortgage broke the rules when reporting a homeowner had missed its third mortgage payment triggering a redefault out of HAMP. One of these homeowners, who had not missed three payments, was wrongfully terminated out of HAMP. In the others, Treasury found that CitiMortgage delayed reporting the redefault to Treasury, delaying sometimes more than 100 days, in one case delaying reporting to Treasury for more than 2 years and in another case more than 5 years.[75] During this time, CitiMortgage would have received "pay for success" TARP payments, including $1,000 each year to put towards principal, servicer payments (if the HAMP modification was in its first three years), and investor payments.[76] Treasury also found other instances where CitiMortgage received TARP funds based on inaccurate reporting. Treasury is requiring CitiMortgage to identify the total population of loans that were part of misreporting related to redefaults.[77]

- ***Misapplication of investor payments:*** One year ago, CitiMortgage misapplied payments causing 9 out of 10 (tested) loans to be reported as 30 days delinquent when they were not.[78] This abuse continues today. This abuse of HAMP raises concerns about other times CitiMortgage may have misapplied payments.
- ***Lengthy delays in processing homeowner applications for HAMP:*** CitiMortgage has the lengthiest delays of any major servicer in reviewing HAMP applications. A homeowner who applies for HAMP through CitiMortgage faces 11 months before getting a decision.[79] Homeowners already needing help cannot afford that lengthy time. It is a sign of CitiMortgage not being willing to put the resources it needs to process the applications, despite being paid millions from Treasury.
- ***Highest denial rate of homeowners seeking help in HAMP:*** CitiMortgage has the highest denial rate of homeowners for admission to HAMP, denying 88% of all homeowners that applied through CitiMortgage.[80] The highest homeowner denial rate of any servicer in HAMP certainly should requires deeper scrutiny on whether CitiMortgage is properly evaluating homeowners for admission to HAMP, such as Treasury increasing its sample size in its on-site reviews. CitiMortgage, one of the top servicers, had not been participating in Streamline HAMP, until August 2016. Streamline HAMP is Treasury's attempt to open HAMP up to more people, the kinds of people denied by CitiMortgage.[81]

HAMP CAN BE A TURNAROUND STORY FOR THE NEXT 7 YEARS, BUT ONLY IF TREASURY TURNS AROUND SERVICER MISCONDUCT

Large servicers such as Ocwen, Wells Fargo, Bank of America and Nationstar should not continue to be paid significant TARP funds while they break Federal rules. Going forward, this program requires strong oversight to protect against abuse of homeowners and waste of Federal dollars.

SIGTARP has made many recommendations to Treasury for HAMP that Treasury has not implemented, but could still implement to ensure compliance. Some key recommendations aimed at preventing servicer misconduct include for example:

- SIGTARP recommended that Treasury ensure that all servicers comply with HAMP rules by vigorously enforcing the terms of Treasury contracts including withholding, permanently reducing, and clawing back TARP payments.
- SIGTARP recommended that Treasury ensure that servicers have sufficient staffing and other resources to review the number of HAMP applications submitted each month.
- SIGTARP recommended that Treasury analyze to what extent the conduct of servicers contribute to homeowner redefaulting. While Treasury's small sample starts that analysis, it does not determine how many homeowners were wrongfully terminated out of the program due to servicer misconduct.
- SIGTARP recommended that Treasury should publicly assess and report quarterly on the status of the ten largest HAMP servicers in meeting Treasury's benchmark for an acceptable homeowner redefault rate on HAMP permanent mortgage modifications, indicate why any servicer fell short of the benchmark, require the servicer to make changes to reduce the number of homeowners who redefault in HAMP, and use enforcement remedies including withholding, permanently reducing, or clawing back incentive payments for any servicer that fails to comply in a timely manner.
- SIGTARP recommended that Treasury increase its oversight of servicers to ensure they are following HAMP's rules for transferring a mortgage along with the HAMP application or modification.
- SIGTARP recommended that to ensure that more homeowners are aware of HAMP and have help in applying for HAMP so they are not denied given HAMP's high history of denying homeowners, that Treasury hold in-person homeowner outreach events and run TV and radio ads and public service campaigns in HAMP-underserved states of Alaska, Arkansas, Indiana, Iowa, Kansas, Michigan, North Dakota, Oklahoma, Tennessee, and Texas.[v]
- GAO has also recently issued a report on its unimplemented HAMP recommendations.[82]

[v] Refer to pp. 49-76 for a complete listing of SIGTARP recommendations.

Over the next year SIGTARP will continue to bring transparency when servicers are breaking Federal rules relating to applying for HAMP. Even with the application deadline coming up, tens of thousands of requests for assistance continue to pour in each month.[83] A servicer wrongfully denying homeowners admission to the program or miscalculating income that sets up a homeowner with a too-high mortgage payment can result in that homeowner losing their home, their family being uprooted, and years of financial distress. SIGTARP will also keep a close eye on improper reporting of information that Treasury uses to calculate the taxpayer funded payments that fuel the program, as misreporting can lead to waste of tax dollars. SIGTARP will continue to bring transparency to any servicer who wrongfully terminates a homeowner out of HAMP.

Treasury must also do more to turnaround servicers who break the rules. When servicers consistently get critical decisions wrong because they break HAMP's rules, as they have over the history of this program and even now, there must be zero tolerance because those violations can constitute abuse of homeowners and abuse of a TARP program. These are known violations of the rules by these large banks and non-bank servicers. Treasury should know more with the findings of its compliance review team as it is identifying either repeated violations or what could be new violations. However, that team is not at this time identifying the full impact of those violations, instead looking for violations that are systemic before requiring change. Treasury should not wait for systemic violations, much of which could require a significant law enforcement action. Abuse of any homeowner by these large servicers should be enough to spur greater action by Treasury to compel that servicer's compliance with HAMP's rules. Treasury pays these servicers far too much for the servicers to engage in abuse and violations of HAMP rules.