Initial Report of the Monitor for the Credit Suisse RMBS Settlement

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Monitor
for the Credit Suisse
RMBS SETTLEMENT

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EXECUTIVE SUMMARY

On January 18, 2017, Credit Suisse Securities (USA) LLC, together with its current and former U.S. subsidiaries and U.S. affiliates ("Credit Suisse"), entered into an agreement with the U.S. Department of Justice ("DOJ") to resolve claims related to Credit Suisse's alleged unlawful conduct in connection with the packaging and sale of residential mortgage-backed securities, or "RMBS," between 2005 and 2007 (the "Settlement Agreement").

The Settlement Agreement arises out of conduct in which Credit Suisse and other investment banks engaged in the run up to the financial crisis of 2008. During that time, Credit Suisse was one of several investment banks that packaged home mortgage loans into RMBS. When selling these securities to investors, Credit Suisse represented that it had rigorous procedures in place to ensure that borrowers could repay their loans, thereby giving comfort to potential investors about the relative safety of their investments. However, Credit Suisse knew that many of the loans included in these RMBS had been given to borrowers who likely could not afford them. When borrowers began to default in large numbers because they could not afford the loans, the investors that bought the securities suffered losses.

The conduct described in the Settlement Agreement was widespread throughout the financial industry in the run up to the financial crisis. As is now known, the effort by lenders and investment banks to create and sell more and more RMBS, notwithstanding the lack of quality of the underlying loans, became one of the root causes of the crisis. Many borrowers subsequently lost their homes through foreclosure. Others were able to stay in their homes, but were saddled with mortgage debt far in excess of what their homes were worth, and mortgage payments that they often could only barely afford.

As Acting U.S. Attorney for the District of Colorado Bob Troyer said when the Settlement Agreement was announced, "Credit Suisse's mortgage misconduct hurt people . . . . Unscrupulous lenders knew they could get away with shoddy underwriting when making mortgage loans, because they knew Credit Suisse would buy those defective mortgage loans and put them into securities. When those mortgages went into foreclosure, many people got hurt: families lost their homes, communities were blighted by empty houses, and investors who had put their trust in Credit Suisse's supposedly safe securities suffered huge losses. . . . Credit Suisse is paying a hefty penalty and acknowledging its misconduct, but that is not all. Years after the Great Recession, many families still struggle to afford a home, so we also crafted an agreement to bring needed housing relief to such families . . . ."[1]

Under the Settlement Agreement, Credit Suisse paid a civil penalty of $2.48 billion. But beyond simply paying a penalty for its misconduct, Credit Suisse also accepted certain forward-looking obligations. To

"remediate harms resulting from [the] alleged unlawful conduct of Credit Suisse," Credit Suisse agreed to provide consumer relief to distressed borrowers and others affected by the financial crisis.[2] Specifically, the Settlement Agreement provides that Credit Suisse must earn $2.8 billion in "credit" by providing various types of consumer relief. That does not mean, however, that Credit Suisse must spend $2.8 billion to meet its consumer relief obligation. Instead, under the terms of the Settlement Agreement, it can often earn more than one dollar of credit for each dollar of relief it provides, depending on the nature and timing of the specific credit. As a result, Credit Suisse will be able to meet its $2.8 billion obligation by spending less, potentially far less, than that amount.

The Settlement Agreement requires Credit Suisse to provide consumer relief in two main categories:

1. **Loan Modifications and Extinguishments**. Credit Suisse must provide loan modifications to homeowners who are having difficulty making their mortgage payments or who owe more than their homes are worth. Credit Suisse may earn credit by modifying residential mortgage loans through principal forgiveness (meaning that the borrower does not have to pay back the full amount of the loan) and principal forbearance (meaning that a portion of the amount the borrower has to pay back is delayed until the end of the loan). Credit Suisse may also earn credit by extinguishing, or erasing, mortgage debt for borrowers with second mortgages or more junior debt.

2. **Funding for Affordable Housing Projects.** Credit Suisse also agreed to provide funding to construct, rehabilitate, or preserve affordable housing developments for low-income residents. The Settlement Agreement sets forth requirements and incentives that are designed to ensure that Credit Suisse provides a portion of the funds for affordable housing developments in areas that have a critical need for such housing. Credit Suisse will receive a minimum of $3.25 in credit for every dollar it expects to lose by funding affordable housing. The Settlement Agreement increases this credit to $3.75 for every dollar it expects to lose by funding housing in critical need areas, and if Credit Suisse provides such funding pursuant to all of the available incentives set forth in the Settlement Agreement, the credit could be as high as $5.39 for every $1.00 of expected loss.

One of the conditions of the Settlement Agreement was that Credit Suisse engage an independent monitor to oversee and periodically report to the public on Credit Suisse's progress towards meeting its total

consumer relief obligation. The Settlement Agreement appointed Neil M. Barofsky of the law firm Jenner & Block LLP as independent monitor (collectively, the "Monitor"). This constitutes the Monitor's first report pursuant to the Settlement Agreement.

Credit Suisse's Consumer Relief Plan for Loan Modifications

Since its execution of the Settlement Agreement, Credit Suisse has worked diligently with the Monitor to craft a preliminary plan for fulfilling its consumer relief obligation under the Settlement Agreement. Credit Suisse's initial focus has been on completing first lien principal forgiveness and principal forbearance loan modifications, and this aspect of Credit Suisse's plan is the primary subject of this Report.

Credit Suisse's decision to focus on principal forgiveness and principal forbearance modifications at the outset of the monitorship is consistent with both the letter and the spirit of the Settlement Agreement, as both types of modifications provide significant benefits for struggling borrowers and others affected by the financial crisis. In particular, the loan modification relief currently contemplated by Credit Suisse will have the following benefits:

- **Loan Modifications Provided by Credit Suisse Will Help Borrowers To Better Afford Their Mortgage Loans.** In the lead up to the financial crisis, many borrowers were given mortgage loans that they could not afford. The principal forgiveness and principal forbearance modifications provided by Credit Suisse will reduce a borrower's monthly payment, thereby making the loan more affordable for the borrower. This type of relief helps a borrower make his or her monthly payments on time, so that the borrower may be able to stay in the home and avoid losing it through foreclosure.

- **Certain Loan Modifications Provided by Credit Suisse Will Help Borrowers Build Ownership in Their Homes.** During the financial crisis, home values dropped significantly, and many borrowers were stuck with homes that were worth less than they owed on their mortgages. For these so-called "underwater" borrowers, the principal forgiveness loan modifications provided by Credit Suisse will help them to build more ownership, or "equity," in their homes. As housing expert Josh Rosner has written: "A Home Without Equity Is Just a Rental With Debt."[3] To the extent that Credit Suisse's efforts focus on providing principal forgiveness loan modifications, it may help borrowers receiving such relief turn their homes from

being potentially crippling "rentals with debt" into meaningful assets.

Credit Suisse's mortgage servicer subsidiary, Select Portfolio Servicing, Inc. ("SPS"), is an important part of its plan. SPS will complete the principal forgiveness and principal forbearance loan modifications that Credit Suisse will submit for credit. The Settlement Agreement explicitly permits Credit Suisse to submit loan modifications performed by SPS for credit, but Credit Suisse's provision of relief through SPS does have certain consequences.

First, Credit Suisse will receive credit for loan modifications that, for the most part, almost certainly would have occurred even without the Settlement Agreement. SPS's role as a mortgage loan servicer includes performing principal forgiveness and principal forbearance loan modifications in the ordinary course of its business, and Credit Suisse will largely be submitting the "ordinary course of business" loan modifications completed by SPS for credit under the Settlement Agreement, as it is fully entitled to do.

In addition, Credit Suisse will receive credit for modifying loans where any potential economic cost of the loan modification is borne primarily by a third party. The overwhelming majority of the loans serviced by SPS are not owned by Credit Suisse, but rather by RMBS trusts and unrelated financial institutions. As a result, nearly all of the loan modifications SPS will complete for credit will be performed on loans owned by third parties, and to the extent those modifications result in any loss, it will be borne by the owner of the loan, and not Credit Suisse. This too is fully contemplated in the Settlement Agreement, and, of course, that others may bear the brunt of any loss does not detract in any way from the real and meaningful relief those modifications may provide affected homeowners.

Credit Suisse's Consumer Relief Plan for Affordable Housing

Credit Suisse has also made significant strides on its plan for funding affordable housing. Broadly, Credit Suisse will be providing no-interest loans, at a loss, to developers of affordable rental housing. The Settlement Agreement also permits Credit Suisse to meet its affordable housing consumer relief obligation by funding affordable for-sale housing; however, Credit Suisse does not plan to provide for-sale funding at this time, and is instead focused on rental housing. Credit Suisse has already started to identify projects for funding, and anticipates that it may be able to commit to a sufficient number of projects to meet its total affordable housing obligation by March 2018. Credit Suisse's efforts to fund affordable housing projects will be discussed in detail in a future Monitor's report.

The Monitor's Work to Date

Since the beginning of the monitorship, the Monitor has worked closely with Credit Suisse to evaluate its consumer relief plans and develop a framework for monitoring Credit Suisse's actions to satisfy its loan modification and affordable housing obligations. To this end, the Monitor has met with senior executives from both Credit Suisse and SPS numerous times, requested and reviewed hundreds of documents, and consulted with experts in the field. Among other things, the Monitor has worked with Credit Suisse to develop agreed-upon protocols for completing and submitting the various types of consumer relief for credit. Once finalized, these protocols will ensure that Credit Suisse only receives credit for consumer relief in accordance with the terms of the Settlement Agreement.

The Monitor has also established a website with information about the Settlement Agreement (www.creditsuisse.rmbsmonitor.com), including frequently asked questions and answers about the agreement and the Monitor's contact information. The website also provides a list of resources for distressed borrowers and homeowners facing foreclosure, including contact information for free or low-cost tax and legal services, as well as information about Credit Suisse-sponsored borrower outreach events. This Report, and all subsequent reports, will be posted on the Monitor's website. In the future, the Monitor's website will include additional content, including interactive heat maps depicting the geographic distribution of the numbers and types of loan modifications for which Credit Suisse has received credit toward its total consumer relief obligation.

To their credit, both Credit Suisse and SPS have acted with considerable diligence and care in their interactions with the Monitor, granting the Monitor regular access to senior executives within both organizations and promptly providing all documents and information requested by the Monitor, reflecting a commitment to transparency. The Monitor expects that Credit Suisse and SPS will continue to work cooperatively with the Monitor as the parties move into the next, critical phase of the monitorship – validating and testing Credit Suisse's consumer relief efforts.

Organization of the Report

This Report is organized into three Parts, as follows:

Part I ("**The Settlement Agreement**") provides a general overview of the Settlement Agreement. It introduces the interested parties, including DOJ, Credit Suisse, SPS, and the Monitor. It describes DOJ's allegations of misrepresentations by Credit Suisse as to the quality of mortgage loans included in RMBS that it packaged and sold to investors between 2005 and 2007, as well as Credit Suisse's related admissions. Part

I also generally describes the role and activities of Credit Suisse's mortgage servicer SPS, as well as SPS's relevance to the monitorship, and outlines the Monitor's role and responsibilities, including some of the actions that the Monitor has undertaken thus far in furtherance of the monitorship.

Part II ("**Credit Suisse's Consumer Relief Plan**") describes Credit Suisse's current plans for complying with its consumer relief obligation, focusing on Credit Suisse's plan for first lien principal forgiveness and principal forbearance modifications. Because Credit Suisse intends to rely on SPS to complete these modifications, this Part describes how SPS accomplishes principal forgiveness and principal forbearance loan modifications in the ordinary course of its business. This Part further discusses the types of principal forgiveness and principal forbearance loan modifications that qualify for credit under the Settlement Agreement, as well as the amount of credit Credit Suisse may earn for completing these types of loan modifications. Part II also discusses the other forms of consumer relief for which Credit Suisse may earn credit under the Settlement Agreement, including extinguishing second lien or more junior debt, and its efforts to develop a plan to provide affordable housing funding.

In addition, Part II discusses Credit Suisse's efforts to comply with other requirements of the Settlement Agreement, including its efforts to disclose to borrowers the potential income tax consequences of loan modifications; publish a plain-language document outlining the available types of consumer relief; hold borrower outreach events; and adhere to the Fair Housing Act and Equal Credit Opportunity Act.

Part III ("**Next Steps and Conclusions**") discusses the next steps that will be undertaken in connection with the Settlement Agreement, and provides the Monitor's conclusions to date. As explained in this Part, in the next phase of the monitorship, Credit Suisse and SPS will submit a representative sample of 100 completed principal forgiveness and principal forbearance loan modifications for review by the Monitor. The Monitor will perform a "deep dive" analysis of these 100 loans to confirm that they are eligible for credit and that the agreed-upon protocols are functioning as envisioned, with the goal of working through any issues that are identified as a result of that review as early as possible. Part III also provides the Monitor's assessment that at this point, Credit Suisse is in full compliance with the terms of the Settlement Agreement.

PART I:
THE SETTLEMENT AGREEMENT

A. Background

On January 18, 2017, DOJ entered into the Settlement Agreement with Credit Suisse to resolve potential claims related to Credit Suisse's alleged unlawful conduct in connection with the packaging, securitization, issuance, marketing, and sale of RMBS between 2005 and 2007.[4]

DOJ alleged that Credit Suisse misrepresented the quality of **mortgage** loans included in certain **RMBS** it sold to investors between 2005 and 2007, harming the investors that bought the securities.[5] Specifically, DOJ alleged that in the lead up to the 2008 financial crisis, Credit Suisse knew that lenders were giving mortgage loans to borrowers for homes they likely could not afford, but Credit Suisse bought these mortgage loans anyway and put them into RMBS for sale to investors.[6] This in turn incentivized lenders to continue to give such loans to borrowers, comfortable that Credit Suisse and others would be willing to purchase them to include in future RMBS.[7] When borrowers on the mortgage loans included in the RMBS started to default in large numbers because they were unable to make the necessary payments on their loans, the securities backed by these mortgage loans lost value, causing investors to lose billions of dollars.[8] At the same time, many borrowers, who could not afford their monthly payments, ultimately lost their homes through **foreclosure**.[9] Other borrowers were able to keep their homes, but were stuck with **"underwater"** mortgage loans, for which they owed more than their homes were worth, when home values dropped significantly during the financial crisis.[10]

In a press release on the Settlement Agreement, DOJ explained how "Credit Suisse's mortgage misconduct hurt people," in that "[u]nscrupulous lenders knew they could get away with shoddy underwriting when making mortgage loans, because they knew Credit Suisse would buy those defective mortgage loans and put them into securities," and "[w]hen those mortgages went into foreclosure, many people got hurt: families lost their homes, communities were blighted by empty houses, and investors who had put their trust in Credit Suisse's supposedly safe securities suffered huge losses."[11]

DOJ's potential claims against Credit Suisse arose under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), which authorizes DOJ to seek civil penalties for financial fraud.[12] Ultimately, DOJ released its potential claims against Credit Suisse with respect to any representations regarding the quality of mortgage loans included in 625 specific RMBS listed in the Settlement Agreement.[13] As noted above, to settle the potential FIRREA violations, the Settlement Agreement requires Credit Suisse to pay a civil penalty of $2.48 billion.[14]

Mortgage: When a person borrows money to buy a home, the bank receives an interest in the home called a mortgage. If the borrower does not repay the loan in a timely fashion, the mortgage gives the bank the right to obtain ownership of the home. The mortgage is said to "secure" repayment of the loan, and commonly that loan is called a "mortgage loan."

Residential Mortgage-Backed Security ("RMBS"): A type of debt security involving a collection of mortgage loans. An investor who owns an RMBS has the right to receive a portion of the monthly payments made under the mortgage loans. RMBS can be freely traded among investors. The process by which loans are packaged into these securities is called "securitization" and is explained in greater detail below, at pages 13-15.

Foreclosure: Legal process in which a borrower who has failed to make timely payments on a mortgage loan loses ownership of the home. It is not automatic, but must be initiated by the lender, and it may or may not require the lender to seek a court's approval. It may transfer ownership of the home to the lender or may allow the lender to auction the home and keep all proceeds up to the amount owed to the lender.

Underwater: A homeowner is said to be "underwater" when the amount owed on a mortgage loan is greater than the current market value of the home. Many homeowners found themselves underwater after home values fell significantly during the 2008 financial crisis.

B. Consumer Relief Provisions

In addition to this civil penalty, the Settlement Agreement requires Credit Suisse to earn $2.8 billion in consumer relief credit "to remediate harms resulting from alleged unlawful conduct of Credit Suisse."[15] However, unlike the civil penalty that Credit Suisse simply pays out, Credit Suisse need not spend $2.8 billion to meet this additional obligation.[16] Rather, Credit Suisse meets its $2.8 billion obligation in two ways.

First, Credit Suisse must achieve at least $1.75 billion in credit by providing mortgage assistance in the form of loan modifications to borrowers with underwater mortgages or who have fallen (or who are about to fall) behind on their mortgage payments.[17] These loan modifications are designed to change the terms of a borrower's loan to make the loan more affordable, and may result in the borrower not having to pay back the full amount of the loan, or delaying the repayment of some of the loan until a later date.[18] For certain types of loan modifications, Credit Suisse receives a dollar of credit for every dollar a borrower is relieved of paying back.[19] But Credit Suisse also has the opportunity to earn credit beyond a dollar-for-dollar match. For example, if Credit Suisse provides loan modification relief by a certain date, or if Credit Suisse provides a large enough amount of assistance so that borrowers who were previously underwater now owe less on their mortgages than their homes are worth, Credit Suisse can earn extra credit.[20] The specific formulas for calculating credit for the loan modifications outlined in the Settlement Agreement are discussed in more detail in Part II.A.2 below.

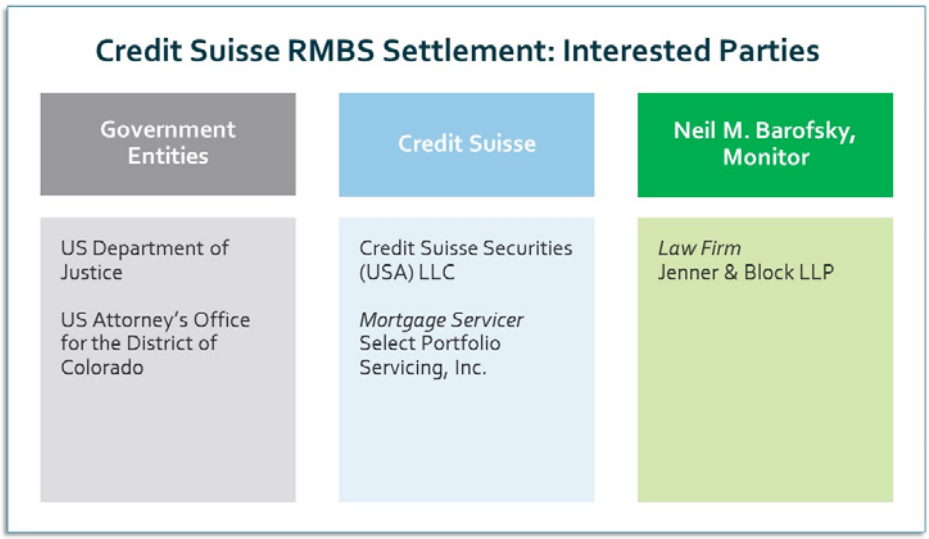
Importantly, Credit Suisse's provision of loan modification relief does not depend on whether a loan is contained in one of the 625 RMBS listed in the Settlement Agreement.[21] Although the Settlement Agreement's loan modification provisions are generally related to Credit Suisse's alleged unlawful conduct in that they require Credit Suisse to provide relief to struggling homeowners, these provisions are not in any way tied to the specific loans that were packaged into the RMBS listed in the Settlement Agreement.[22] As a result, Credit Suisse may receive credit for modifying a loan whether or not the loan is included in an RMBS on that list.[23] In other words, whether a borrower's loan is included within an RMBS listed in the Settlement Agreement (or, for that matter, included within any RMBS that Credit Suisse played a role in creating or marketing) is largely irrelevant to whether that borrower will receive relief as detailed below.[24]

Second, Credit Suisse must achieve at least $240 million in credit toward its $2.8 billion obligation by assisting in the development of affordable housing.[25] This credit will be earned based on the losses that Credit Suisse suffers from certain loans it will make to finance the construction and rehabilitation of affordable housing developments for low-income residents.[26] To earn credit, Credit Suisse will structure the

loans in a manner such that it expects not to be repaid.[27] By funding affordable housing in this manner, under the terms of the Settlement Agreement Credit Suisse will receive at least $3.25 in credit for every dollar that Credit Suisse expects not to be repaid on the loans.[28] Credit Suisse can earn more credit than this if it commits to provide these loans by a certain date, or if it funds developments in areas that have been identified as having a critical need for affordable housing.[29] The specific formulas for calculating credit for funding affordable housing are discussed in more detail in Part II.C below.

The start date for crediting purposes toward Credit Suisse's overall $2.8 billion obligation is January 1, 2017.[30] Credit Suisse has agreed to try to satisfy its consumer relief obligation by December 31, 2020.[31] If Credit Suisse fails to satisfy its consumer relief obligation by December 31, 2021, the outstanding amount of the obligation will increase at a rate of 5% per year until satisfied.[32]

C. Interested Parties



1. The Department of Justice

One of the parties to the Settlement Agreement is the U.S. Department of Justice.[33] DOJ is the principal federal law enforcement agency of the United States.[34] It has the authority to seek both civil and criminal penalties for violations of federal law.[35]

Since the 2007 collapse of the housing market that signaled the onset of the financial crisis, DOJ has sought to hold major financial institutions accountable for widespread fraud in connection with the sale of RMBS and other mortgage-related misconduct.[36] In November 2009, President Barack Obama established the Financial Fraud Enforcement

Task Force (the "Task Force"), composed of officials from DOJ and numerous other federal agencies, departments, and offices, to investigate and prosecute frauds related to the crisis.[37] The efforts of the Task Force's RMBS Working Group – which itself includes personnel from multiple federal and state agencies – have led to a series of settlements requiring banks and **mortgage servicers** to pay fines and provide tens of billions of dollars of relief to individuals affected by the housing crisis.[38]

Mortgage Servicer: A mortgage servicer is a company that serves an administrative function on behalf of lenders and owners of debt. Servicers typically do not originate or own the loans they service and are hired by owners of loans. A servicer's main duties are collecting payments, distributing those payments to the parties entitled to receive them, communicating with borrowers, and maintaining records. Servicers may also decide when to modify the terms of distressed loans in order to avoid foreclosure. Some owners of loans place express limits on the terms of any loan modification performed by a servicer in order to preserve the value of their investment. Mortgage servicers are paid a percentage of the unpaid principal balance of the loans under their management, earn interest on funds they hold or manage, and may also charge late fees and default fees to borrowers. Additionally, they may receive payments from the government under certain financial crisis era programs in exchange for modifying the terms of loans in an effort to help avoid future borrower default.

The first of these, announced in February 2012, was the National Mortgage Settlement, an agreement between the country's five largest mortgage servicers – Ally/GMAC, Bank of America, Citigroup, JPMorgan Chase, and Wells Fargo – and the federal government, forty-nine states, and the District of Columbia.[39] The National Mortgage Settlement resolved claims that mortgage servicers engaged in unfair and deceptive practices in the loan servicing process and wrongfully foreclosed on borrowers.[40] It required the servicers to provide some $17 billion worth of principal reduction and other loan modifications and $3 billion worth of refinancing at low interest rates; the servicers also paid roughly $1.5 billion directly to borrowers who had lost their homes in foreclosure and agreed to servicing standards designed to improve communication with borrowers and avoid improper fees and foreclosures.[41] Credit Suisse and SPS were not parties to the National Mortgage Settlement.[42]

Since the National Mortgage Settlement, the Task Force's RMBS Working Group has investigated allegations of misconduct in the sale of RMBS. In addition to Credit Suisse in 2017, these investigations have led to settlements between DOJ and several banks, including JPMorgan Chase (2013), Citigroup (2014), Bank of America (2014), Morgan Stanley (2016), Goldman Sachs (2016), and Deutsche Bank (2017).[43]

In 2012, the Task Force began investigating Credit Suisse.[44] Working with the U.S. Attorney's Office for the District of Colorado, which led the investigation into Credit Suisse's alleged unlawful conduct, the Task Force alleged that Credit Suisse made false representations about the quality and characteristics of loans it securitized between 2005 and 2007 when selling them to investors.[45]

2. Credit Suisse Securities (USA) LLC

The other party to the Settlement Agreement is Credit Suisse Securities (USA) LLC, together with its current and former U.S. subsidiaries and U.S. affiliates.[46] Credit Suisse Securities (USA) LLC ("Credit Suisse Securities") is a wholly owned subsidiary of Credit Suisse (USA), Inc., whose ultimate corporate parent is Credit Suisse Group AG.[47] Credit Suisse Securities operates within two of Credit Suisse Group AG's divisions – Global Markets and Investment Banking & Capital Markets – and raises capital and buys and sells securities for governments, financial institutions, and corporate clients.[48] Credit Suisse Securities also creates,

buys, and sells securities for its own account.[49] Among other activities, Credit Suisse Securities buys and sells residential mortgage loans, securitizes mortgage loans owned by itself and others, and underwrites and sells the resulting RMBS.[50]

What is Securitization?

Securitization is the process of taking a group of assets that generate a regular stream of payments, like a collection of residential mortgage loans, and transforming them into a security through financial engineering.[51] An example of securitization is a residential mortgage-backed security, or "RMBS," which is a type of security that is backed by a collection of residential mortgage loans.[52]

The process of transforming a collection of residential mortgage loans into an RMBS typically works as follows:

1. Borrowers take out individual mortgage loans with lenders to buy a home.[53]

2. Lenders then sell the individual loans on the secondary market to different buyers, including investment banks like Credit Suisse.[54] Lenders do this in part to free up capital so they can make more loans.[55] In other words, they receive money by selling the loan to an investment bank, and then use that money to make additional loans to borrowers.[56] The mortgage loans are then bundled together into a large collection, sometimes numbering in the tens of thousands.[57]

3. Buyers of the loans, such as Credit Suisse, review the collection of mortgage loans to make sure the loans are of the type and quality that the lender says they are.[58] For example, if the seller (which often originated the loan) says that a borrower has a certain credit rating, or that a loan has an interest rate that adjusts upwards after three years, the buyer will check to make sure that those representations are true.[59] The buyer then packages the loans into "securities" for sale to investors.[60] When doing so, based on its own diligence that it is supposed to undertake when buying the loans, the buyer makes certain representations about the quality of the loans and characteristics of the borrowers, so that investors can more properly gauge whether borrowers will pay back their loans or not.[61]

4. The buyer of the loans then markets and sells the RMBS to investors.[62] There might be many investors who buy securities in a particular RMBS.[63] Owning the security gives each of those investors the right to receive a portion of the monthly loan payments that each of the borrowers whose loans have been put together in the security pay on their loans.[64] Each month, borrowers make payments to their mortgage

servicer, which then forwards all of those individual loan payments to an administrator so that they can be distributed to the investors.[65]

Securitization can benefit borrowers, lenders, and investors. In the traditional, non-securitized system of mortgage lending, whatever entity owns a loan (typically the bank that originated the loan) retains the right to all of the monthly payments it generates.[66] The owner of the loan also bears all of the risk that the loan will not be repaid in full.[67] By giving many different investors the right to receive a portion of the loan payments generated by a large pool of loans, securitization distributes the potential harm that would result from a default on any particular loan and thereby may reduce risk to investors.[68] In other words, when only the bank owns a loan, if the borrower defaults, the bank bears all of the risk associated with potential losses on the loan.[69] With a securitized loan, if a borrower defaults, the losses associated with any single loan are distributed among a larger group of investors.[70]

Securitization may also make mortgage loans cheaper and easier to obtain for borrowers. First, selling loans to securities issuers rather than holding them and collecting periodic payments gives banks and other lenders cash that they can use to make new loans immediately.[71] In turn, borrowers may receive lower interest rates as a result of the greater supply of funds available for lending.[72] Second, because mortgage-backed securities are generally considered to be less risky to own than entire mortgages, they are also more liquid – that is, they are typically easier for investors to buy and sell to one another.[73] This combination of liquidity and relatively lower risk can draw more investors into the market, which in turn may increase the demand for mortgage-backed securities and make more money available to borrow.[74]

Notwithstanding these potential benefits, securitization played an important role in the financial crisis that began roughly a decade ago.[75] In the run up to the crisis, in order to generate more securitizations (and the fees and profits that they generated), lenders lowered their lending standards and offered higher-risk mortgage loans to **originate** the loans that were necessary to create RMBS.[76] Indeed, many of the loans being securitized prior to the crisis were subprime – that is, loans intended for borrowers who did not qualify for the best interest rates on account of low credit scores, prior bankruptcies, or other factors suggesting that they might have difficulty paying back their loans.[77] The buyers, in turn, did not conduct the proper underwriting, buying loans that were riddled with fraud, and including them in RMBS without accurately reporting all of the flaws with the loans.[78] Indeed, many loan originators, seeking to make ever more loans that they could then quickly sell to the investment banks and others who were putting together RMBS, began using practices designed to induce borrowers to buy houses with loans that the lenders knew the borrowers would likely never be able to repay, but they made

Origination: Process by which a loan is made. The lender that makes the loan is known as the originator of the loan. The originator may deal with borrowers directly or may contract brokers to find potential borrowers and evaluate loan applications.

them anyway, knowing that investment banks and other buyers of the loans would still purchase them.[79]

In addition to the fraudulent loans, another factor was that a high percentage of these securitized subprime mortgages – around 76% in 2004 for example – were adjustable-rate mortgages, in which borrowers were given low "teaser" rates for the first two or three years.[80] When these adjustable-rate mortgages began to reset at higher interest rates (causing higher monthly payments), mortgage delinquencies increased.[81] In turn, securities backed by subprime mortgages began to lose value and investors stopped buying them.[82] As losses in the mortgage market grew, investors gradually began avoiding risk, and those stuck holding the securities suffered substantial losses.[83] Global asset prices fell and liquidity dried up, causing a severe credit shortage.[84] The world's biggest banks, many of which had exposure to these securities – or got stuck holding large inventories of failing loans that they had hoped to sell to investors before the crisis took hold – took billions of dollars of losses.[85] Many of these banks (although not Credit Suisse) only averted failure when governments around the world bailed them out with taxpayer dollars.[86]

Example: Securitization of a Loan

Consider the case of Bob and Evelyn, a hypothetical couple living in Orlando, Florida. In February 2006, Bob and Evelyn decide to stop renting an apartment, and look to buy a home. They locate a three-bedroom house in a new development for $250,000. After working with their local bank, Bob and Evelyn obtain a 30-year, fixed-rate loan at a 6.25% interest rate. Bob and Evelyn buy the home, putting down $20,000 in cash (8%) and borrowing the rest, $230,000, from their bank. Given these terms, at the time of purchase they pay approximately $1,812 per month on the mortgage. Several months later, the local bank sells Bob and Evelyn's mortgage on the secondary market and their loan is securitized and becomes part of an RMBS. Bob and Evelyn receive a notice that their loan has been sold, their mortgage servicer has changed, and they should start sending their monthly payments to the mortgage servicer identified in the notice, which Bob and Evelyn do. Each month, the mortgage servicer collects Bob and Evelyn's monthly payments and forwards them so that they can be distributed to the investors who purchased the RMBS securities containing Bob and Evelyn's loan.

DOJ and Credit Suisse agreed to a statement of facts contained in the Settlement Agreement.[87] They agreed that between May 2005 and the end of 2007, Credit Suisse securitized hundreds of thousands of residential mortgage loans and sold the resulting RMBS to investors for tens of billions of dollars.[88] Many of these were loans Credit Suisse had bought in bulk

Due Diligence: Appropriate level of attention or care a reasonable person should take before entering into an agreement or a transaction with another party. In finance, often refers to the process by which one company conducts an investigation or review of an asset before buying the asset from another company.

Underwriting Guidelines: Guidelines used by originators of mortgage loans to decide whether a borrower should be given a loan to buy a home. The guidelines are intended to ensure, among other things, that a borrower has enough income to cover his or her monthly mortgage payment, and that in the event the borrower fails to repay the loan, the value of the property on which a mortgage is given is greater than the amount borrowed.

Rating Agency: In order for a debt security to be sold to a wide group of investors, a security generally receives a rating from a "rating agency." A rating agency is not part of the federal government, but instead is a company that analyzes the security to determine the risk that investors owning the security may suffer a loss. Investors frequently consider credit ratings when making investment decisions.

Compensating Factors: A borrower who otherwise may not qualify for a loan due to insufficient credit score or income, for example, may have "compensating factors" that outweigh the shortcoming and warrant issuance of the loan. Some common compensating factors are low non-housing debt, strong career growth potential, additional income sources, or exceptional credit history.

from third-party lenders, and a smaller number were loans it had made, or originated, itself.[89]

To create and sell the resulting RMBS, Credit Suisse engaged in **due diligence** to evaluate the quality and characteristics of the underlying loans.[90] This due diligence included reviewing a sample of loans to determine whether they complied with applicable **underwriting guidelines**, including whether borrowers had the ability to repay them, and also with all applicable federal, state, and local laws and regulations.[91] Credit Suisse then made representations to investors, **rating agencies**, and others regarding the results of its findings.[92] For each RMBS it offered to investors, Credit Suisse represented (with variations from securitization to securitization) that: the loans were originated generally in accordance with (or without materially varying from) applicable underwriting guidelines (with some exceptions for **compensating factors**); a determination had been made by the original lender that the borrower had the ability to repay the monthly obligation on the loan and other debts; each loan had been originated in compliance with all federal, state, and local laws and regulations, including predatory and abusive lending laws; and the loans had certain other characteristics, including that the adequacy of the mortgaged property as security for repayment generally had been determined by an appraisal and that the amount of the loan was not greater than the home's market value.[93]

As part of the Settlement Agreement, Credit Suisse acknowledged that, during its diligence process, it "repeatedly received information indicating that many of the loans reviewed did not conform to the representations that would be made by Credit Suisse to investors about the loans to be securitized."[94]

For instance, Credit Suisse represented that the loans it securitized were generally originated in accordance with applicable underwriting guidelines, but it repeatedly sold RMBS containing loans it had already identified as not meeting those standards.[95] In one example from 2006, Credit Suisse determined that certain loans it planned to place in a securitization did not meet the underwriting guidelines, including those governing a borrower's income and credit score.[96] Nevertheless, Credit Suisse included these loans in a securitization that was sold to investors.[97] On another occasion that same year, Credit Suisse attempted to sell eleven loans to another bank.[98] That bank rejected the loans because they violated the applicable underwriting guidelines; among these were a loan where the borrower listed two different income amounts, and another where the borrower provided altered bank statements.[99] Credit Suisse then included these already rejected loans in RMBS sold to investors.[100]

Credit Suisse represented that it had due diligence and quality control procedures in place to ensure that the loans it bought and securitized complied with the relevant underwriting guidelines and any

applicable laws.[101] Yet Credit Suisse admitted in the Settlement Agreement that in many instances these representations were not accurate. For example, in the first 2006 securitization example described above, the due diligence performed on a pool of loans indicated that roughly eighty-five percent of a sample of the loans violated the applicable underwriting guidelines, but Credit Suisse nevertheless securitized more than half of the loans into various RMBS.[102]

Credit Suisse was not alone in engaging in this type of misconduct. As noted above, DOJ has now settled with many of the major investment banks in connection with similar RMBS-related misconduct.[103] Ultimately, the misconduct described in these settlements led to heavy losses for investors and a wave of foreclosures, which in turn contributed to a severe shortage of credit and a housing crisis that damaged the national economy.[104]

3. Select Portfolio Servicing, Inc.

Select Portfolio Servicing, Inc. is a mortgage servicer owned by Credit Suisse.[105] SPS was not involved in any of the misconduct that led to the Settlement Agreement and is not a signatory to it.[106] Nonetheless, SPS is highly relevant because, as discussed below, Credit Suisse plans to rely on SPS to meet the bulk of its consumer relief obligation under the Settlement Agreement by having SPS complete loan modifications for struggling borrowers and submit those modifications for credit.

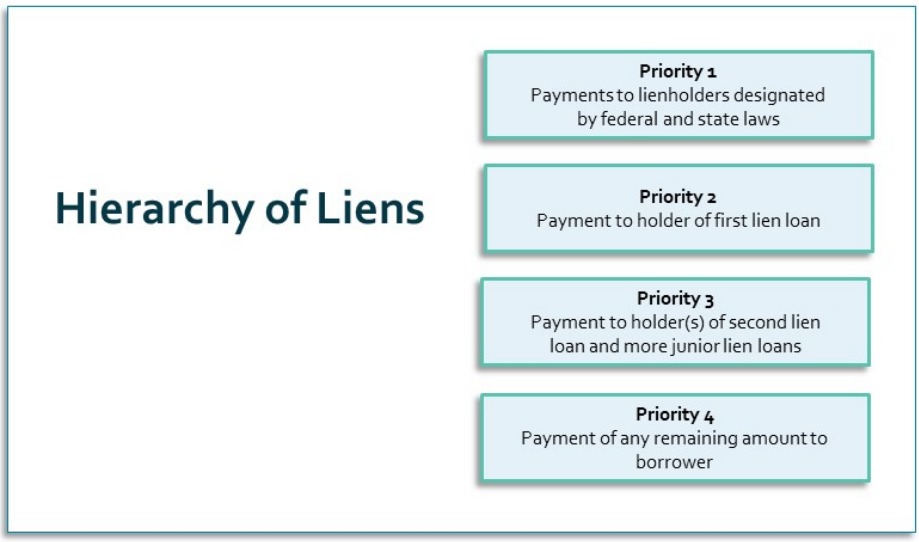
SPS specializes in servicing single-family residential mortgage loans for the **RMBS trusts** and financial institutions that own them.[107] SPS serviced 484,954 loans as of December 31, 2016.[108] The amount owed under all of these loans as of that date was approximately $92.6 billion.[109] Credit Suisse owns only a small fraction of the mortgage loans that SPS services.[110] The remaining loans are owned by RMBS trusts and unrelated financial institutions.[111] Given that SPS principally services mortgage loans that Credit Suisse does not own, the overwhelming majority of credit that Credit Suisse will earn will be on loans owned by RMBS trusts and unrelated financial institutions, and those modifications will not otherwise impact Credit Suisse.

RMBS Trust: Mortgage loans included in an RMBS are formally owned by a trust. The trust is set up during the securitization process for the purpose of holding the mortgage loans and administering payments in a particular RMBS. Each month, the mortgage servicer for the loans in the RMBS trust collects monthly payments from borrowers, and then remits those payments to the trust. The "trustee" for the trust is in charge of aggregating these monthly payments and then distributing them to investors in the RMBS.

The group of loans that SPS services, which is commonly called a "portfolio," has the following characteristics:

- Loan Type. SPS primarily services subprime loans.[112] As noted above, subprime loans are mortgages offered to borrowers with poor credit histories that carry higher interest rates than mortgages offered to more qualified borrowers.[113]

- Lien Position – First Lien Loans. Almost all of the loans serviced by SPS are first lien loans.[114] A "lien" is a general term that refers to an interest in property held by a creditor to secure payment of a debt.[115] A mortgage is a type of lien, and as discussed above, refers to the interest in the property that the bank receives to secure repayment of a loan.[116] Other types of liens are established by federal law (such as liens to secure repayment of unpaid federal taxes) or state law (such as liens to secure payment for work done on a property by a contractor).[117] For purposes of the Settlement Agreement, a first lien loan is a loan secured by a mortgage that has priority over all other liens or claims on a property to the maximum extent permitted under applicable law. As a general matter, the laws that establish the types of liens described above also state that those liens are "senior" to a first lien loan made by a bank.[118] That means that when the home is sold, the proceeds are used to pay the debts in the following order:



- Lien Position – Second Lien Loans. SPS services a much smaller amount of second lien loans.[119] A second lien loan is junior in priority to a first lien loan.[120] In the illustration above, the loan secured by the second lien would be paid from the home's sale proceeds before the borrower received any remaining amount.[121] An example of a second lien loan is a home equity line of credit on a home that already has a first lien mortgage.[122]

SPS describes itself as a "high-touch" servicer, meaning that it attempts to initiate and maintain contact with borrowers to discuss ways of avoiding foreclosure at the first sign that they may have trouble making

timely payments on their loans.[123] Avoiding foreclosure has obvious benefits for borrowers because they are able to stay in their homes. It also typically has significant benefits for the owners of the loans.[124] Foreclosure is often a long and costly process, and therefore it is typically a better financial outcome for the owner of a loan to continue to receive payments (even if reduced) from a borrower on a modified mortgage than to bear all of the expenses of a foreclosure and subsequent sale of a property.[125]

SPS offers different mortgage assistance options designed to help borrowers avoid foreclosure and stay in their homes, including loan modifications and certain types of special payment plans.[126] Of these, loan modifications are the most relevant to the monitorship, as they are the only type of mortgage assistance offered by SPS that Credit Suisse currently intends to submit for credit under the Settlement Agreement.[127]

Loan Modifications

SPS's loan modification program is designed to assist borrowers by permanently modifying the terms of a borrower's mortgage loan to cure past due payments and/or reduce the amount of the borrower's monthly mortgage payment.[128]

Loan modifications completed by SPS in the ordinary course of business can include one or more of the following types of relief.[129]

Type of Modification	Description of Modification
Principal Forgiveness	SPS permanently reduces all or part of the borrower's loan's balance, and agrees that the borrower never has to repay the amount by which the loan was reduced.
Principal Forbearance	SPS defers repayment of a portion of the borrower's loan until the end of the loan. SPS also agrees not to collect interest on the deferred portion of the loan. The principal forbearance amount is sometimes referred to as a "non-interest bearing balloon." *(continued on next page)*

Type of Modification	Description of Modification
Capitalization	SPS adds the borrower's missed payments and other unpaid costs (with the exception of late fees, which SPS waives) to the borrower's outstanding loan balance. SPS then re-calculates the borrower's monthly payments based on the new, higher loan balance, allowing the borrower to pay back the missed payments and other unpaid costs over the remaining term of the loan.
Interest Rate Adjustment	SPS adjusts the interest rate the borrower has to pay on the loan balance.
Term Extension	SPS extends the time period by the end of which the loan must be fully repaid, which results in a reduction in the monthly payment necessary to ultimately pay off the loan.

Example: Initiation of the Loan Modification Process

Recall Bob and Evelyn, homeowners that live in Orlando, Florida. In February 2006, Bob and Evelyn bought a three-bedroom house for $250,000. SPS now services their loan. Unfortunately, by February 2017, business at Bob's job has slowed down and his hours have been cut sharply. Because of this setback, Bob and Evelyn worry that they may not be able to keep their home. They struggle to make their monthly mortgage payments, which are due on the first day of each month, but which Bob and Evelyn typically pay by the 9th or 10th.

On February 11, 2017, Bob and Evelyn have not yet made their February 1, 2017 payment, and an SPS call center associate calls Bob and Evelyn's home phone number. Bob and Evelyn explain to the associate that they are having difficulty making payments because of the reduction in Bob's hours. The associate asks Bob and Evelyn if they would like to be evaluated for mortgage assistance options, such as a possible loan modification. They agree, and the associate opens an evaluation in SPS's system. Ultimately, Bob and Evelyn are offered a loan modification, which lowers their monthly payment sufficiently such that they are able to remain in their home. The process by which SPS evaluates Bob and Evelyn for the modification and the terms of their modification are discussed in further detail in the examples below.

As a mortgage servicer, SPS can only modify loans in accordance with rules that are set by the owner of the particular loan.[130] For example, if a particular borrower's loan is owned by an RMBS trust, SPS must follow any loan modification rules that are set out in the governing documents for that trust (typically a Pooling and Servicing Agreement).[131] Similarly, SPS must follow the modification rules set out in its servicing agreement with any financial institution that owns loans that it services.[132] To that end, for the relatively small number of loans that are owned by Credit Suisse, Credit Suisse can change the terms of its servicing agreements and set its own rules.[133] As a result, the loan modification rules that SPS must follow may differ from investor to investor, and therefore from loan to loan. For example, one loan owner might forbid SPS from modifying loans to forgive principal while another loan owner might allow it.[134] Or one loan owner might restrict SPS from lowering interest rates below 6%, while another might say 2% is fine.[135]

Credit Suisse intends to submit certain loan modifications completed by SPS of its own loans and the loans owned by others for credit under the Settlement Agreement.[136] In general, only principal forgiveness and principal forbearance loan modifications completed by SPS are eligible for credit under the Settlement Agreement, as further discussed below.[137] A more detailed description of SPS's loan modification procedures, including illustrative examples, appears in Part II.A below.

4. The Monitor

The Settlement Agreement appointed Neil M. Barofsky of the law firm Jenner & Block LLP as independent monitor to validate and report on Credit Suisse's ongoing progress towards meeting its total consumer relief obligation.[138] Mr. Barofsky is also currently monitoring Credit Suisse AG in connection with its 2014 settlement with the New York State Department of Financial Services involving allegations of aiding and abetting tax evasion.[139]

The Settlement Agreement sets forth the Monitor's responsibilities.[140] Broadly, these include:

- Validating the specific credits earned by Credit Suisse;
- Publicly and periodically reporting on Credit Suisse's overall progress towards completion of its consumer relief obligation; and
- Determining and certifying Credit Suisse's compliance with all of the requirements of the Settlement Agreement.[141]

To this end, the Monitor must test the consumer relief submitted for credit by Credit Suisse and perform calculations to determine whether

Credit Suisse has met the various credit minimums and caps set forth in the Settlement Agreement.[142] If Credit Suisse does not meet the credit minimums or its overall obligation by December 31, 2021, the Monitor must determine the amount of the shortfall.[143] If a shortfall exists, it will increase at an annual rate of 5% until Credit Suisse meets its outstanding obligations.[144]

This Report is the first of the periodic reports the Monitor will issue over the course of the monitorship.[145] Since the execution of the Settlement Agreement, the Monitor has worked closely with Credit Suisse and SPS to develop a framework for monitoring Credit Suisse's actions to satisfy its loan modification and affordable housing obligations. Among other things, the Monitor has engaged in the following activities in furtherance of the monitorship.

Ongoing Development of Eligibility, Credit Calculation, and Testing Protocols. The Monitor has worked with SPS and Credit Suisse to develop agreed-upon eligibility, credit calculation, and testing protocols for the various types of consumer relief.[146] Collectively, these provide the "rules of the road" for the monitorship. The eligibility and credit calculation protocols establish the criteria to determine whether loan modifications or affordable housing funding completed by Credit Suisse are eligible for credit under the Settlement Agreement and, if so, the amount of that credit. The testing protocols describe the process by which Credit Suisse will internally confirm that completed consumer relief is eligible for credit under the Settlement Agreement before submitting that consumer relief to the Monitor for review. Once finalized, these protocols will ensure that Credit Suisse only receives credit for consumer relief in accordance with the Settlement Agreement.

The Monitor and Credit Suisse are close to finalizing the eligibility and credit calculation protocol for first lien loan modifications, which sets forth the specific types and terms of loan modifications completed by SPS that are creditable under the Settlement Agreement. This protocol will provide a step-by-step process for determining whether a particular loan modification is eligible for credit. For example, the steps require confirmation that the loan modification involves a first lien loan and that the modification was completed within the timeframe set by the Settlement Agreement.[147] The protocol distinguishes between principal forgiveness and principal forbearance modifications, because the eligibility requirements for these two types of consumer relief are different.[148]

Consultants. From time to time, the Monitor will hire consultants with technical expertise to assist the Monitor in evaluating data provided by Credit Suisse to support its claims for credit under the Settlement Agreement. To that end, the Monitor has retained Control Risks, an independent, global consultancy with expertise in banking and financial

services-related engagements and managing large volumes of financial and loan-related data.[149] The team lead from Control Risks also has significant experience in the subject matter of this monitorship, having served as a consultant to monitors in several other major mortgage- and RMBS-related settlements. Control Risks supports the Monitor as the Monitor evaluates and tests certain types of consumer relief submitted by Credit Suisse to confirm that it is creditable under the Settlement Agreement.[150]

Regular Communications. The Monitor regularly communicates with representatives of SPS and Credit Suisse, including weekly telephone calls, as the Monitor and Credit Suisse hash out the eligibility, credit, and testing protocols described above.[151] The Monitor has also participated in due diligence calls with vendors SPS has proposed to use in connection with its loan modification processes.[152]

In-Person Meetings / Site Visits. The Monitor has attended in-person meetings at both Credit Suisse's and SPS's offices, as well as an off-site due diligence meeting and two events hosted by SPS for borrowers seeking mortgage loan relief.[153]

Document Review. The Monitor has requested and reviewed documents and other information from SPS and Credit Suisse regarding their organization, structure, processes, and policies. This process is ongoing.

Monitor's Website. The Monitor has established a website with information about the Settlement Agreement, including frequently asked questions and answers about the agreement and contact information for the Monitor. The website also provides a list of resources for distressed borrowers and homeowners facing foreclosure, including contact information for free or low-cost tax and legal services, as well as information about Credit Suisse-sponsored borrower outreach events. This Report, and all future reports, will be posted on the Monitor's website (www.creditsuisse.rmbsmonitor.com). In the future, the Monitor's website will include additional content, including interactive heat maps depicting the geographic distribution of the number and type of loan modifications for which Credit Suisse has received credit toward its total consumer relief obligation.

Communications with Borrowers and Others. The Monitor has created a dedicated email address (creditsuisse.monitor@rmbsmonitor.com) and telephone number (212-303-2534) through which borrowers and other interested parties can contact the Monitor.

PART II:
CREDIT SUISSE'S CONSUMER RELIEF PLAN

Credit Suisse has provided the Monitor with an outline of its initial plan for meeting its consumer relief obligation under the Settlement Agreement. As described in Part II.A below, Credit Suisse plans to submit first lien principal forgiveness and principal forbearance loan modifications completed by its subsidiary SPS for credit toward that obligation.[154] The Monitor has also had productive conversations with Credit Suisse concerning its plans for extinguishing second lien or more junior debt, and for funding affordable housing. Although Credit Suisse's plans with respect to these categories of relief are still being discussed, these forms of relief and Credit Suisse's related efforts to date are briefly outlined in Parts II.B and II.C below.

A. First Lien Loan Modifications

As noted above, all of the first lien loans that Credit Suisse currently intends to modify and submit for credit are serviced by SPS, only a very small number of which are owned by Credit Suisse.[155] The rest are owned by RMBS trusts and unrelated financial institutions.[156] Receiving credit for loans owned by third parties (*e.g.*, the RMBS trusts and unrelated financial institutions) is explicitly permitted under the Settlement Agreement.[157] Of course, in these instances, this means that Credit Suisse will receive credit for a mortgage modification even though any economic cost of the modification will be borne primarily by an unrelated party. For example, if SPS is servicing a loan owned by a bank other than Credit Suisse and offers the borrower principal forgiveness, Credit Suisse will get credit under the Settlement Agreement for the modification completed by SPS, even though any economic impact of the principal forgiveness will be felt primarily by the other bank. Such a result is consistent with the approach taken by other RMBS settlement agreements.[158]

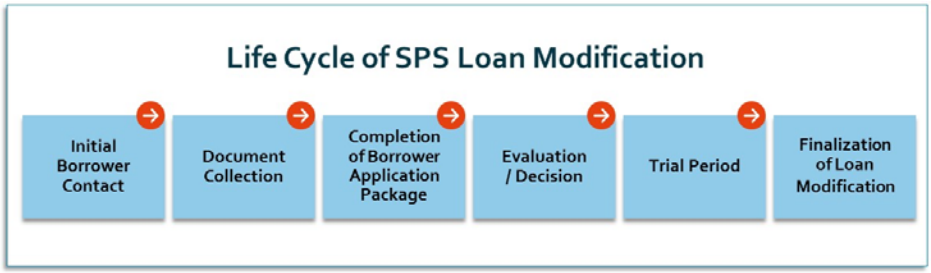
SPS's role as a loan servicer includes performing loan modifications in the ordinary course of its business.[159] Although SPS has made some changes in response to the Settlement Agreement that will result in more generous relief for certain borrowers in certain circumstances (discussed in detail in Part II.A.2.a below), for most of the credit that will likely be sought by Credit Suisse, SPS will continue to perform first lien loan modifications following the same guidelines and procedures it uses every day in its servicing operations.[160] It often has limited leeway in making these decisions; as noted above, for the vast majority of the loans serviced by SPS, it is obligated to follow the requirements set forth by its clients – the RMBS trusts and unrelated financial institutions that own the loans it services.[161] Afterwards, Credit Suisse will determine which of the modifications already completed by SPS it believes meet the specific eligibility requirements of the Settlement Agreement, and will submit those to the Monitor for credit towards its consumer relief obligation.[162] This means that Credit Suisse will receive credit for certain loan modifications that would have occurred in the absence of the Settlement Agreement.

1. SPS's Ordinary Course Loan Modification Procedures for Principal Forgiveness and Principal Forbearance

The following discussion describes the process SPS ordinarily uses to determine whether a borrower qualifies for a loan modification and the terms of the modification. The process described below is not used in every case, and may vary from borrower to borrower due to individual circumstances.

Life Cycle of a Loan Modification Performed by SPS

Loan modifications performed by SPS typically proceed as follows.



(1) Initial Borrower Contact. A loan modification begins with borrower contact.[163] A borrower suffering a hardship may contact SPS to ask about a potential modification, but more often SPS will initiate the process by reaching out to a borrower who has missed a loan payment so it can evaluate whether the borrower is eligible for a mortgage assistance option, including a loan modification.[164]

SPS first tries calling the borrower at the telephone number listed for the account.[165] If a borrower does not respond, SPS employs a variety of tactics to locate him or her, including a review of databases of phone numbers and addresses maintained by third party providers and inbound caller ID information left by borrowers.[166] If that does not work, SPS may then engage a third-party vendor who visits the borrower's property and provides SPS's contact information, but who is otherwise instructed not to discuss the missed payments with the borrower.[167] SPS also uses mailing campaigns to reach borrowers, including sending letters that set forth potential mortgage assistance options.[168]

SPS does not contact borrowers who are current on their loan payments regarding the possibility of a loan modification.[169] Instead, borrowers who are current but concerned about their ability to continue making their required monthly payments can reach out to SPS to request assistance.[170] Borrowers can do this by filling out a mortgage assistance form on SPS's website or by calling SPS's call center.[171] To receive a modification, however, borrowers who are current have to show that they

are at risk for "imminent default" due to a hardship (*e.g.*, job loss, reduced hours, death of spouse, unexpected illness), typically by providing a statement of what the hardship is and an affidavit in which they state that they cannot make their current payments.[172]

(2) Document Collection. Next, SPS collects documents that are required for evaluation of a modification.[173] These documents vary depending on the particular loan modification program being considered and the specific requirements of the owner of the loan. As a general matter, they include the borrower's tax returns, documents reflecting the borrower's income, and an affidavit signed by the borrower stating that he or she is experiencing a hardship.[174]

SPS uses a document management system designed to avoid the well-documented and widespread failures in the mortgage servicing industry to properly handle and process borrower documents in support of a requested loan modification.[175] First, it uploads all borrower documents into its electronic imaging system.[176] Then, an SPS associate reviews the uploaded version and either "verifies" the document as complete and properly submitted, or "rejects" it as insufficient or incomplete and records what is needed to satisfy the document requirement.[177] SPS sends a letter to the borrower stating what documents have been verified or rejected, and what is needed to cure any rejection.[178] The borrower can also obtain this information by logging into SPS's website or by speaking to an SPS call center associate.[179]

(3) Completion of Borrower Application Package. When all required documents are marked as "verified," the application is complete.[180]

(4) Evaluation/Decision. SPS next evaluates the borrower's application for a loan modification using SPS's computer model, which is discussed in further detail below.[181] After SPS determines whether the borrower is eligible for a modification and the terms of any modification (*i.e.*, amount of principal forgiven or forborne, new interest rate, new term, etc.), SPS records the decision and those terms in its system and performs a quality control check.[182] SPS then mails the borrower a notice that sets forth its decision.[183]

In those cases where the borrower is found eligible for a loan modification, the decision notice sets forth payment amounts and due dates for a trial loan modification (which the borrower must successfully complete to receive a permanent modification, as discussed below).[184] Although SPS records the precise terms of the potential permanent loan modification in its system, those terms are not provided to the borrower at this time.[185] SPS does this to avoid informing the borrower of loan modification terms that might change during the trial period because of events like borrower overpayment or prepayment.[186] For example, if a

borrower were to send SPS an additional $10,000 toward loan principal during the trial period, thereby reducing the total outstanding amount owed by the borrower, SPS would need to re-run the computer model to determine the impact the payment would have on the terms of any permanent modification.[187] Provided that no change in circumstances occurs during the trial period, however, the terms of any permanent modification would be the same as those that led to the trial modification.[188]

Where the borrower is found ineligible for a loan modification, the decision notice states the reason for the denial, and the borrower is given an opportunity to appeal.[189]

(5) Trial Period. Borrowers typically must complete a trial period to show that they can afford to make the newly modified monthly payments.[190] This period is typically three months.[191] No signed paperwork is required for acceptance of a trial modification.[192] The borrower accepts the trial modification simply by making the first modified payment, and rejects it by failing to do so.[193] A borrower successfully completes the trial period by making each required payment before the end of the month in which the payment is due.[194] As noted above, the borrower must successfully complete the trial period in order to receive a permanent modification.[195]

Importantly, the borrower's acceptance of the trial modification and payment of the amounts listed in SPS's letter offering that trial modification do not alter the original terms of the mortgage loan.[196] Payments made during the trial period are applied toward the amount the borrower owes under the original loan.[197] If the borrower misses a payment during the trial or is ultimately denied a permanent modification for any other reason, the borrower is still responsible for the difference between the original mortgage payment amount and any reduced trial payments that were made during the trial modification period.[198]

(6) Finalization of Loan Modification. If the borrower successfully completes the trial period, SPS finalizes the loan modification by sending a permanent modification agreement to the borrower for review and signature, together with a cover letter.[199] The cover letter sets forth the borrower's new monthly payment and due dates for the borrower's information, but it is not an enforceable agreement.[200] The permanent modification agreement itself is attached to the cover letter and sets forth the specific terms of the loan modification (*e.g.*, amount of principal forgiven or forborne, new interest rate, new term, etc.).[201]

The loan modification is not final until the borrower signs the permanent modification agreement and returns it to SPS.[202] Once the borrower returns the signed agreement, SPS updates the loan terms in its system and changes the loan status to "current."[203] If a borrower does not

successfully complete the trial period, the trial modification is considered in default, and SPS notifies the borrower that a permanent modification has been denied.[204]

Terms of the Loan Modification

SPS offers different types of loan modifications, each with its own set of rules and requirements, as described below. The rules and requirements for each of these types of loan modifications are maintained in SPS's computer system; the computer model determines the terms of any loan modification by applying those rules and requirements.[205]

HAMP Loan Modifications. SPS participates in the Making Home Affordable Home Affordable Modification Program ("HAMP"), which the federal government created in 2009 as part of the U.S. Department of the Treasury's Troubled Asset Relief Program ("TARP") to help struggling homeowners reduce their monthly mortgage payments to affordable and sustainable levels and prevent avoidable foreclosures.[206] Generally, where a loan owner allows SPS to modify a loan, that owner allows SPS to modify the loan through HAMP.[207] Under HAMP, loan owners, servicers, and borrowers receive federal funds as incentive payments for performing loan modifications permitted by the program.[208] Although not explicitly required under the Settlement Agreement, Credit Suisse has agreed with the Monitor that where incentive payments are paid to Credit Suisse (as owner of the loan) or SPS (as servicer of the loan) in connection with a loan modification that Credit Suisse submits for credit, those payments will be deducted from the credit that Credit Suisse will receive.[209] Credit Suisse should be commended for doing so, as it demonstrates a commitment to the spirit as well as the letter of the Settlement Agreement.

HAMP loan modifications are divided into different categories, including HAMP Tier 1, HAMP Tier 2, and Streamline HAMP, each of which has its own rules and eligibility requirements (which themselves are subject to certain additional restrictions that may be set by the RMBS trusts and financial institutions that own the loans). For example, under the HAMP Tier 1 program, to be eligible the borrower generally must be living in the property securing the loan.[210] A loan secured by a rental property, however, may be eligible for a HAMP Tier 2 modification.[211] And a loan may be considered for a HAMP Streamline modification upon reaching 90 days of delinquency even if the borrower has not submitted a complete loan modification application.[212]

Despite their differences, all HAMP loan modifications are intended to bring a loan current and, if possible, reduce a borrower's monthly payment. In particular, HAMP Tier 1 loan modifications are designed to reduce a borrower's monthly payment to 31% of the borrower's monthly income.[213] HAMP Tier 2 and Streamline loan modifications do not target a specific monthly payment, but instead

require that the borrower's new monthly payment be less than or equal to the pre-modification payment and between 10% to 55% of the borrower's monthly income.[214]

HAMP loan modifications attempt to lower a borrower's monthly payment to these targets by evaluating a number of different types of possible modifications to the terms of the borrower's existing loan. The HAMP modification programs consider different types of relief in defined steps, typically in the following order.

1. Capitalization. All amounts that the borrower owes, other than late fees – past due principal, past due interest, etc. – are added to the borrower's outstanding loan balance.[215]

2. Principal Forgiveness. In certain types of HAMP loan modifications, principal may be forgiven.[216] This is optional, and therefore may or may not occur.[217]

3. Interest Rate Adjustment. The borrower's interest rate is reduced in increments until the target payment is reached, or adjusted to a set percentage based on the current market rate for 30-year fixed-rate loans.[218]

4. Term Extension. The term of the loan is extended to up to 480 months (40 years) from the date of the modification.[219]

5. Principal Forbearance. Principal is forborne.[220]

As run through SPS's automated system, the HAMP model proceeds step-by-step through each type of relief until the desired monthly payment target is reached, or until the steps are exhausted.[221] Typically, several terms of the borrower's loan (such as lowering the interest rate and reducing the total amount of principal owed) may need to be adjusted to reach the payment target.[222] However, restrictions set by the RMBS trusts and financial institutions that own the loans may result in a HAMP loan modification that does not proceed through each of these steps.[223] For example, Credit Suisse does not permit any principal forgiveness to be performed on loans that it owns in connection with HAMP modifications.[224]

The HAMP program stopped accepting new applications for relief on December 31, 2016.[225] However, if a borrower submitted a complete HAMP loan modification application before December 31, 2016 (or for Streamline HAMP, at least one component of a loan modification application before that date), the borrower may still be considered for a HAMP modification.[226] As of March 2017, SPS serviced approximately 15,000 loans that were still eligible to be modified under HAMP, because the application process had been initiated prior to the December 31, 2016

cut-off.[227] SPS intends to continue performing HAMP modifications on these loans; after that, the only loan modifications that SPS will perform will be proprietary and investor-specific modifications, discussed next.[228]

SPS's Proprietary and Other Investor-Specific Loan Modifications. In addition to offering HAMP loan modifications, SPS also modifies loans pursuant to its own program.[229] That program is designed to reduce the borrower's monthly payment by a targeted percentage.[230] Like HAMP, SPS's proprietary loan modification model attempts to lower a borrower's monthly payment to a target by considering a number of different types of possible modifications to the terms of the borrower's existing loan, including: capitalization; interest rate adjustment; term extension; and principal forbearance.[231] SPS runs through the steps of its proprietary loan modification waterfall until the target payment is achieved, or until the steps are exhausted.[232] Unlike HAMP, SPS's standard proprietary loan modification program does not include principal forgiveness as a step.[233]

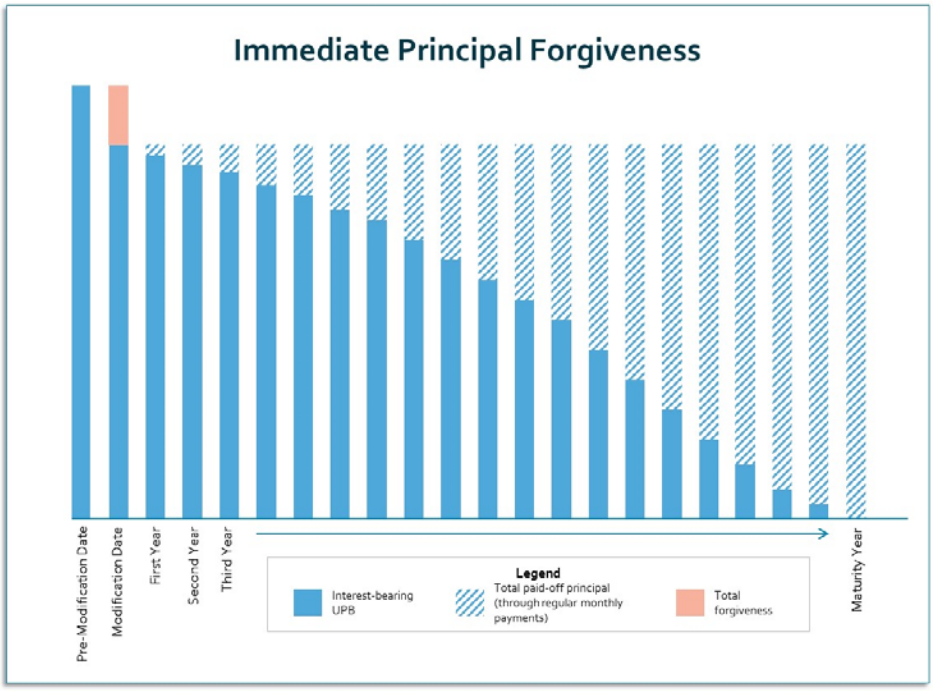
SPS's loan modification program may be modified by rules set by the RMBS trusts and financial institutions that own the loans.[234] These rules may preclude, limit, or alter certain steps that the model takes when evaluating the type of loan modification to offer a borrower.[235] For example, certain RMBS trusts and financial institutions will require that a borrower's interest rate not go below a certain figure.[236] Other RMBS trusts' and financial institutions' rules offer more expansive terms of relief than SPS's standard proprietary loan modification program and, for example, include principal forgiveness as an option.[237] For Credit Suisse-owned loans, SPS is permitted to forgive principal in non-HAMP modifications under certain circumstances.[238]

2. Crediting of Completed Principal Forgiveness and Principal Forbearance Modifications

a. Principal Forgiveness

Credit Suisse can receive credit under the Settlement Agreement by modifying first lien mortgage loans so that the borrower does not have to pay back the full amount of the loan.[239] This type of modification is called "principal forgiveness," and one of its primary benefits is that after the amount owing under the loan is reduced, the borrower pays less each month.[240] The monthly payments are reduced because the borrower does not have to make payments towards the forgiven principal amount or pay interest on the amount that is no longer owed.[241] Reducing the amount owed also benefits the borrower because the home is more likely to no longer be underwater – *i.e.*, worth less than the amount of the borrower's debt – and the borrower may be able to start building equity in his or her home.[242]

Immediate Principal Forgiveness. Principal forgiveness may be immediate or "earned" over time.[243] Immediate principal forgiveness is when the total amount to be forgiven is written off the moment the loan modification becomes permanent.[244]



Unpaid Principal Balance ("UPB"): Amount owed on a loan at any given time, and on which interest accrues until it is repaid.

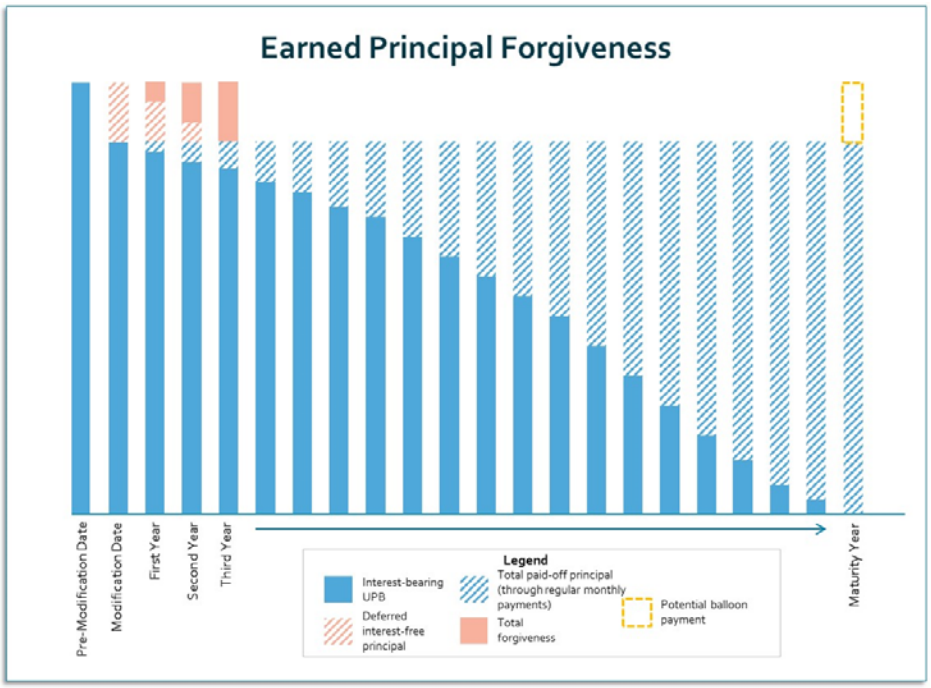
Example: Immediate Principal Forgiveness Loan Modification

Recall Bob and Evelyn, the Florida homeowners who purchased a $250,000 house using a $230,000 30-year fixed-term mortgage with a 6.25% interest rate. At the time of purchase, they agreed to pay approximately $1,812 per month on the mortgage, or 28.99% of their monthly income of $6,250 per month.

Unfortunately, by February 2017, Bob and Evelyn have seen the value of their home fall about 30% to $175,000. The family now has a combined income of $55,000 per year, or $4,583 per month, which results in the $1,812 monthly mortgage payment now representing 39.54% of their monthly gross income. After SPS evaluates their situation, Bob and Evelyn are offered a trial mortgage modification that requires them to make three payments of $1,531 (including principal, interest, taxes, and insurance) in March, April, and May 2017. If Bob and Evelyn successfully complete the trial payment plan, SPS will immediately forgive $25,000 of principal, lowering the amount Bob and Evelyn owe on their loan from $187,616 to $162,616. This change will reduce Bob and Evelyn's permanent monthly payment to $1,534, which represents 33.47% of their monthly gross income.

Bob and Evelyn make the three required trial payments and their loan modification becomes permanent. SPS deducts the $25,000 of principal from the loan. Bob and Evelyn now owe less than what their house is worth: before the loan modification, their home's market value was $12,616 less than the amount they owed; after the modification, their home is worth $12,384 more than they owe.

Earned Principal Forgiveness. Unlike immediate principal forgiveness, earned principal forgiveness occurs over time.[245] When a loan is modified to include earned principal forgiveness, the earned principal forgiveness amount is set aside.[246] The borrower does not make payments on that principal amount, or payments of interest toward that amount.[247] All of the future interest on the earned forgiveness amount is forgiven as soon as the loan modification is finalized.[248] Additionally, as long as the borrower remains current on the modified loan, one-third of that amount is forgiven on each of the first, second, and third anniversaries of the modification.[249] If the borrower does not remain current, no further forgiveness occurs and the borrower remains liable for that portion of the set-aside principal that was not forgiven.[250] The borrower will have to repay the amount of the set-aside principal that was not forgiven in a lump sum at the end of the loan.[251] However, the borrower will never have to pay interest on the amount of the set-aside principal, even if it is not ultimately forgiven.[252]



Example: *Earned Principal Forgiveness Loan Modification*

Julie and Jeff are in the same financial situation as Bob and Evelyn. Their loan is serviced by SPS but owned by a different RMBS trust than Bob and Evelyn's loan. The governing documents for the RMBS trust that owns Julie and Jeff's loan do not permit SPS to make immediate principal forgiveness loan modifications, but do allow SPS to perform loan modifications that include earned principal forgiveness.

SPS offers Julie and Jeff a loan modification with $25,000 of earned principal forgiveness over the course of three years. As part of the modification, SPS will forgive $8,333.33 of the outstanding principal on Julie and Jeff's loan in 2018, 2019, and 2020, assuming Julie and Jeff make their mortgage payments on time. Until that forgiveness occurs, the $25,000 of principal will be set aside, and Julie and Jeff will never have to make monthly principal or interest payments on that amount.

This change will reduce Julie and Jeff's monthly payment to the same amount as that of Bob and Evelyn, $1,534, which represents 33.47% of their monthly gross income. Julie and Jeff make the three required trial payments and their loan modification becomes permanent. They remain current on their modified loan, and after three years, SPS has deducted the full $25,000 of principal from the loan. Having paid $15,189 in principal over that time, Julie and Jeff now owe $147,427 on their loan. Julie and Jeff are also no longer underwater, as – assuming that the value of their property remains at $175,000 at the end of that three-year period – the value of the home exceeds their debt on the mortgage by $27,573.

Eligibility Requirements

Only certain types of principal forgiveness loan modifications are eligible for credit under the Settlement Agreement.[253]

Pre-Modification Loan Must Be Certain Type. To be eligible for credit, the pre-modification loan must fall in at least one of the following categories:

- Non-performing loans, where the borrower has not made a payment in 90 days or more;[254]
- Loans in imminent default, where it is reasonably foreseeable that the borrower will not be able to make his or her next mortgage payment, typically due to a hardship such as job loss, reduced hours, death of a spouse, unexpected illness, etc.;[255]

- Loans with **loan-to-value ratios** at or above 100% – *i.e.*, loans where the borrower has no equity in the home, as described in the call-out box to the right;
- Loans with interest rates substantially above **Freddie Mac's Primary Mortgage Market Survey**; or
- Loans with troubled loan history, where the borrower has missed two or more payments over the life of the loan.[256]

Currently, Credit Suisse intends to submit loans for credit that satisfy one of the first two criteria; namely, non-performing loans and loans in imminent default.[257] This is because, as previously noted, Credit Suisse will submit for credit loan modifications SPS performs in the ordinary course – and, in the ordinary course of its business, SPS only considers a borrower for a loan modification if the borrower has missed a payment or has a hardship, such as job loss, creating a risk of imminent default.[258] Although it is likely some loans submitted for credit will also fall into one or more of the other categories (such as having a high interest rate), this will be by coincidence rather than by design.

Loan-to-Value Ratio: The loan-to-value ratio is the ratio between the amount owed on the mortgage loan and the value of the home. Where a borrower's loan-to-value ratio is greater than 100%, the amount the borrower owes on his or her mortgage exceeds the value of the home. If the borrower sold the home, the proceeds from the sale would not be enough to pay back the loan. As noted above, this is referred to as being "underwater." If the loan-to-value ratio is reduced to less than 100%, the borrower has ownership, or "equity," in the home and is no longer said to be underwater. In that case, if the borrower were to sell the home, there could be money left over after paying off the mortgage that would belong to the borrower.

Example: Loan-to-Value Ratio

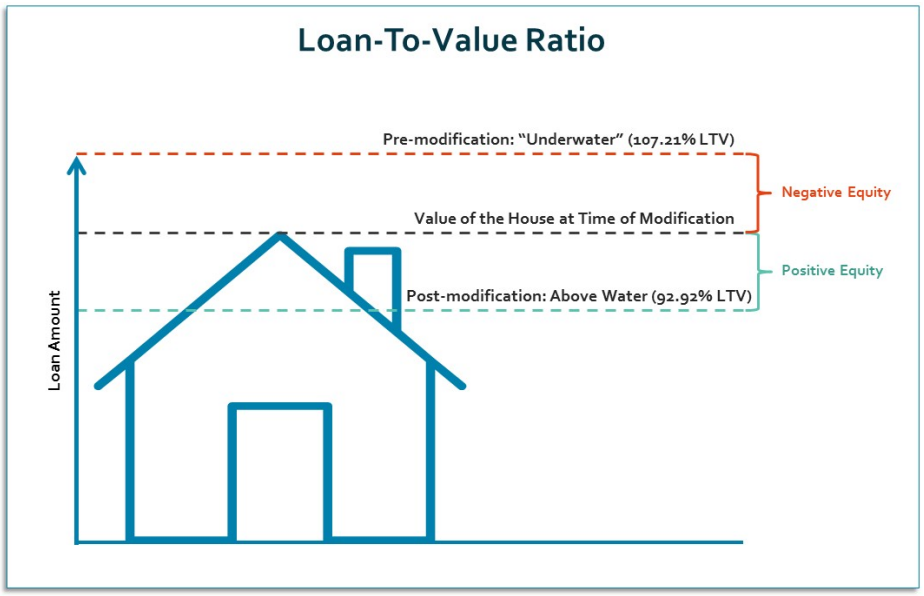
Consider Bob and Evelyn's principal forgiveness loan modification, discussed above. In that example, SPS forgave $25,000 of principal, decreasing the amount Bob and Evelyn owed on the loan from $187,616 to $162,616. At the time that Bob and Evelyn were evaluated for a loan modification, their home was worth $175,000.

Before the loan modification, Bob and Evelyn owed $12,616 more than the value of the home ($187,616, as compared to $175,000). They were underwater, as their loan-to-value ratio was greater than 100% – it was 107.21% ($187,616 ÷ $175,000). After the loan modification, Bob and Evelyn's home was worth $12,384 more than they owed on the loan ($162,616, as compared to $175,000). They were no longer underwater, as their loan-to-value ratio was reduced below 100% – to 92.92% ($162,616 ÷ $175,000).

Prior to the loan modification, if Bob and Evelyn had sold their home for market value, the sale price would not have been sufficient to pay off their debt. After the loan modification, if Bob and Evelyn were to sell the home, they would be able to satisfy their debt with the proceeds and come out with $12,384 in their pockets (subject, of course, to any fees, such as for a lawyer or real estate broker). The home went from being a net debt to being a net asset. They now have a true ownership interest in the home, which will increase as they make payments toward the principal

Freddie Mac's Primary Mortgage Market Survey ("PMMS"): The Federal Home Loan Mortgage Corporation, commonly known as Freddie Mac, is a government-sponsored enterprise. Freddie Mac surveys mortgage lenders across the United States to determine the average 30-year fixed-rate mortgage rate, and reports that average on a weekly basis. Between January 5 and October 12, 2017, PMMS for a 30-year fixed-rate mortgage has been between 3.78% and 4.30%.

balance and their loan-to-value ratio thus continues to decrease. This is referred to as "building equity" in the home.



In addition, principal forgiveness loan modifications are not eligible for credit under the Settlement Agreement if the loans themselves exceed certain size limitations. These size limitations vary by the county in which the property is located and the number of units in the home.[259] In most counties in the United States, Credit Suisse can receive credit for forgiving principal on a mortgage loan associated with a single-family home (*i.e.*, a one-unit home) only where the amount owed on the loan prior to the modification is $417,000 or less; on a loan associated with a two-unit property where the amount owed is $533,850 or less; on a loan associated with a three-unit property where the amount owed is $645,300 or less; and on a loan associated with a four-unit property where the amount owed is $801,950 or less.[260] In other counties, the maximum amount may be higher.[261] The Federal Housing Finance Agency's website lists all of the governing loan size limitations by county and number of units. This list can be accessed at https://www.fhfa.gov/DataTools/Downloads/Pages/Conforming-Loan-Limits.aspx ("Maximum Loan Limits for Mortgages Acquired in Calendar Year 2016").

Post-Modification Loan Must Meet Certain Targets. To earn credit under the Settlement Agreement, principal forgiveness loan modifications must meet certain other requirements that are generally aimed at ensuring that the loan modification either makes the loan more affordable for the borrower or helps a borrower build more ownership in his or her home.[262]

All of the loans that Credit Suisse plans to submit for principal forgiveness credit are serviced by SPS, and are either owned by Credit Suisse and classified as "held for sale" or owned by RMBS trusts and unrelated financial institutions.[263] "Held-for-sale" loans are loans that Credit Suisse owns but is looking to sell to another entity.[264] For Credit Suisse to obtain principal forgiveness credit for a modification of any of these loans, one of two conditions must be met:

- The modified loan has a loan-to-value ratio equal to or less than 100% (*i.e.*, the amount owed on the modified loan does not exceed the value of the home);[265] or

- Principal is reduced on the modified loan so that the borrower's debt-to-income ratio is 25% or below.[266] For the purpose of the Settlement Agreement, this ratio compares the borrower's monthly mortgage payments and related housing expenses (such as property taxes, and homeowners and mortgage insurance) to his or her gross monthly income.[267] For example, if a borrower makes $60,000 per year, or $5,000 per month, a modification will be eligible for credit under this provision of the Settlement Agreement only if the sum of the borrower's monthly mortgage payment after the modification and all such related monthly expenses is $1,250 or less. This requirement does not apply, however, if the modified loan qualifies under the first prong set forth above and has a loan-to-value ratio equal to or less than 100%.

Example: Debt-to-Income Ratio

Recall Bob and Evelyn. After their loan modification, they have a combined monthly income of $4,583, and a total monthly mortgage obligation of $1,534. Their debt-to-income ratio is therefore 33.47% – too high for the modification to qualify under the second of the above alternatives. However, their loan-to-value ratio, as discussed above, is 92.92%. The modification therefore qualifies under the first alternative described above, because the amount owed on the loan does not exceed the value of the home.

A different set of requirements would apply to loans owned by Credit Suisse and classified as "held for investment."[268] Held for investment loans are loans that Credit Suisse owns and intends to hold onto for at least the foreseeable future.[269] Credit Suisse currently does not hold any mortgage loans for investment, and therefore does not plan to submit modifications of any such loans for credit.[270]

Three Payments Required. For all modifications, no credit will be given if payments are required unless the borrower makes the first three

scheduled payments under the modification, including trial period payments.[271]

Earned Principal Forgiveness. For earned principal forgiveness modifications, Credit Suisse may receive credit immediately after the loan modification becomes final, provided the earned forgiveness period is a maximum of three years.[272] As a result, Credit Suisse may receive credit based on the full amount of the earned principal forgiveness, even if the forgiveness ultimately does not occur because the borrower fails to remain current on his or her loan during the earned forgiveness period.

Valuation Timeline. The Settlement Agreement requires that the loan-to-value ratio be calculated using property values received within three months of the loan modification.[273] SPS will therefore ensure that all loans submitted for credit will have a valid property valuation received within the required time period.[274]

Credit Calculation

Of its total $2.8 billion consumer relief obligation, Credit Suisse must achieve a minimum of $980 million in credit for first lien principal forgiveness loan modifications.[275] Credit Suisse must use its "best efforts" to earn a total of at least $25 million in credit for principal forgiveness loan modifications in twenty-five specified counties in the District of Colorado.[276] There is no cap on the amount of credit that Credit Suisse may receive for principal forgiveness loan modifications, except to the extent that Credit Suisse must also earn credit for at least $240 million of its total $2.8 billion obligation through financing of affordable housing.[277]

The baseline rule is that Credit Suisse receives credit for principal forgiveness loan modifications on a dollar-for-dollar basis.[278] For every dollar of principal that is forgiven in connection with an eligible modification, Credit Suisse receives at least one dollar of credit.[279] The Settlement Agreement also provides that Credit Suisse can earn more than one dollar of credit if the loan modification satisfies the criteria discussed below.

Helping Borrowers Build Ownership in Their Homes. Credit Suisse receives additional credit when the loan modification helps a borrower increase his or her equity and thereby build ownership in the home.[280] The amount of extra credit depends on how much the loan modification helps a borrower build an ownership interest, which is measured by the loan-to-value ratio.[281] Specifically, if the borrower's post-modification loan-to-value ratio is between 100% and 90%, Credit Suisse receives a 115% credit enhancement on the portion of the principal reduction that decreases the loan-to-value ratio below 100%.[282] If the borrower's post-modification loan-to-value ratio is between 90% and 76%, Credit Suisse also receives a 120% credit enhancement on the additional portion of the

principal reduction that decreases the loan-to-value ratio below 90%.[283] If the borrower's post-modification loan-to-value ratio is equal to or less than 75%, Credit Suisse receives a 125% credit enhancement for the entire amount of principal forgiven.[284]

Loan-to-Value Ratio After Modification	Credit Enhancement	Applied To
76% or above	0%	Portion of the principal reduction that decreases the loan-to-value ratio down to 100%
	115%	Portion of the principal reduction that decreases the loan-to-value ratio between 100% and 90%
	120%	Portion of the principal reduction that decreases the loan-to-value ratio between 90% and 76%
75% or below	125%	Entire amount of principal forgiveness

Example: Credit Calculation for Principal Forgiveness

Again consider Bob and Evelyn's principal forgiveness loan modification. In that example, SPS forgave $25,000 of principal, decreasing the amount Bob and Evelyn owed on the loan from $187,616 to $162,616. At the time that Bob and Evelyn were evaluated for a loan modification, their home was worth $175,000. Before the loan modification, Bob and Evelyn owed $12,616 more than the value of the home, and their loan-to-value ratio was 107.21% ($187,616 ÷ $175,000). After the loan modification, Bob and Evelyn's home is worth $12,384 more than they owed on the loan, and their loan-to-value ratio is reduced to 92.92% ($162,616 ÷ $175,000).

Credit Suisse receives the baseline dollar-for-dollar credit (*i.e.*, with no loan-to-value ratio reduction credit enhancement) on $12,616 of principal forgiveness that reduced the amount of Bob and Evelyn's loan from $187,616 to equal the value of their home (to $175,000), or from 107.21% to 100% loan-to-value ratio. Because the modification resulted in the total amount owed being reduced below the value of the home by $12,834 (from $175,000 to $162,616), resulting in a loan-to-value ratio of

92.92%, Credit Suisse receives a 115% incremental loan-to-value ratio reduction credit enhancement for that $12,834 in principal forgiveness. Credit Suisse thus obtains a total of $27,375 in credit ($12,834 x 1.15 + $12,616).

Early Incentive Credits. Credit Suisse can earn additional credit by providing or offering first lien mortgage loan modifications during the initial period of the monitorship.[285] For instance, Credit Suisse receives a 150% "Enhanced Early Incentive Credit" for any eligible principal forgiveness loan modification completed by November 1, 2017.[286] Alternatively, Credit Suisse receives a 115% "Early Incentive Credit" for any eligible principal forgiveness loan modifications offered or completed between November 2, 2017 and March 1, 2018.[287] Credit Suisse can earn the early incentive and loan-to-value ratio reduction credit enhancements cumulatively.[288]

Example: Early Incentive Credit

Again consider Bob and Evelyn's principal forgiveness loan modification. Assuming Bob and Evelyn's loan modification became final on June 1, 2017, Credit Suisse receives a 150% Enhanced Early Incentive Credit enhancement on the full $25,000 for completing the loan modification by November 1, 2017. Because the modification also resulted in the total amount owed being reduced to below the value of the home by $12,834, as discussed above, Credit Suisse also receives a 115% incremental loan-to-value ratio reduction credit enhancement on that amount. The Settlement Agreement provides for these credits to be applied cumulatively as follows:

$12,616	x	1.5	= $18,924
Amount of Principal Reduction Down to Value of the Home (100% Loan-to-Value Ratio)		Enhanced Early Incentive Credit	

$12,834	x	1.5	x	1.15	= $22,139
Amount of Principal Reduction Between Value of Home and 92.92% Loan-to-Value Ratio		Enhanced Early Incentive Credit		Incremental Credit Enhancement Between 100% and 90% Loan-to-Value Ratios	

Credit Suisse therefore receives a total of $41,063 in credit for reducing the principal amount of Bob and Evelyn's loan by $25,000.

Changes to SPS's Ordinary Course Procedures: Loan-to-Value Ratios Used in HAMP Loan Modifications

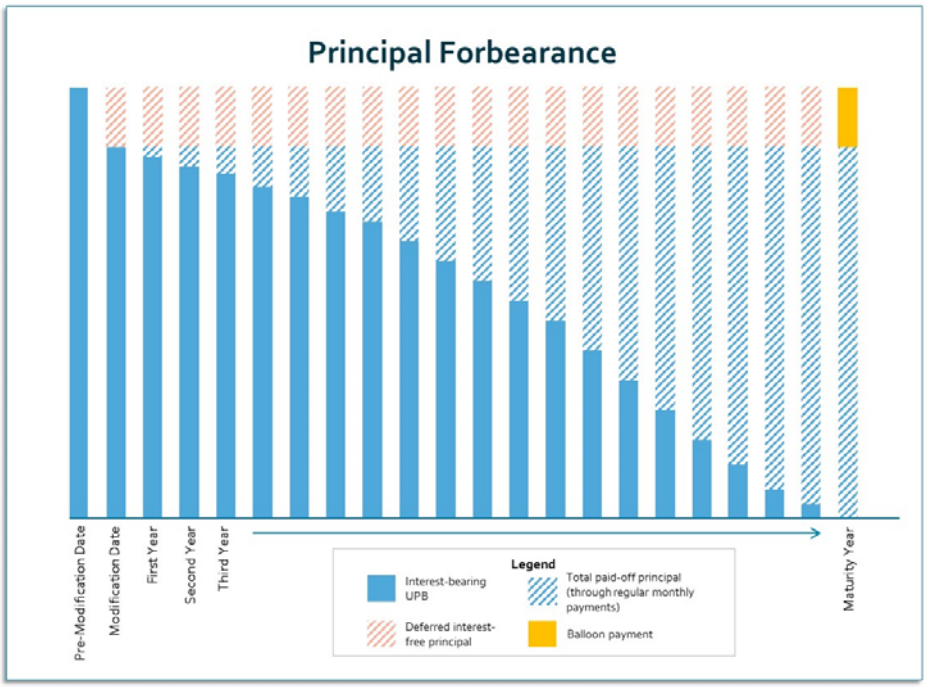
As noted above, Credit Suisse intends to submit for credit first lien loan modifications that are completed by SPS in the ordinary course of its business. However, in response to the Settlement Agreement, SPS has made adjustments to its ordinary procedures relating to the loan-to-value ratios used in HAMP loan modifications.

As noted above, in order for Credit Suisse to receive credit for principal reduction under the Settlement Agreement, for loans serviced by SPS and either owned by Credit Suisse and classified as "held for sale" or owned by an RMBS trust or unrelated financial institution, a borrower's loan-to-value ratio must be reduced to 100% or below or a borrower's debt-to-income ratio must be reduced to 25% or below.[289] However, under the rules for the HAMP Tier 2 loan modification program (and, according to SPS, the HAMP Streamline loan modification program), SPS was not permitted to reduce a borrower's loan-to-value ratio below 115%.[290] In order to maximize the number of loan modifications eligible for first lien principal forgiveness credit, SPS sought and received a waiver from the U.S. Treasury Department permitting SPS to reduce a borrower's loan-to-value ratio to 100% or below on its HAMP Tier 2 and HAMP Streamline loan modifications.[291] SPS began to make loan modifications under these programs using a new 100% loan-to-value ratio floor in July 2017.[292]

For the HAMP Tier 1 loan modification program, SPS had similarly been using a post-modification loan-to-value ratio floor of 115%.[293] Just like with HAMP Tier 2 and HAMP Streamline modifications, in July 2017 SPS reduced the loan-to-value ratio floor for this loan modification program down to 100%, so that more principal forgiveness modifications performed by SPS will qualify for credit under the Settlement Agreement.[294] SPS did not seek a waiver from the U.S. Treasury Department for its change to the loan-to-value ratio floor under the HAMP Tier 1 program, because unlike the other HAMP programs, there are no downward limits on the loan-to-value ratio target set by the servicer.[295]

b. Principal Forbearance

Credit Suisse can also receive credit for providing consumer relief by modifying first lien mortgage loans to defer all payments on a portion of principal until the end of the term of the loan.[296] This type of modification is called "principal forbearance," and its benefit is a reduction of the amount the borrower pays each month.[297] The monthly payments are reduced because the borrower does not have to make payments towards the forborne principal amount until the end of the loan, and also does not have to pay interest on the forborne amount.[298]



Principal forbearance is not as favorable to the borrower as principal forgiveness.[299] When principal is forgiven, the borrower never has to pay it back.[300] Forgiveness also means that a previously underwater borrower may have, or be closer to having, an ownership interest in his or her home.[301] With principal forbearance, however, the borrower still has to pay all of the principal back by the end of the term of the loan.[302] As a result, this type of modification does not reduce the borrower's loan-to-value ratio – it does not bring an underwater borrower any closer to having a home worth more than the amount owed on the loan.[303]

Example: Principal Forbearance Loan Modification

Jennifer is in the same financial situation as Bob and Evelyn and Julie and Jeff. Jennifer's loan is owned by a financial institution, and that financial institution permits loan modifications under SPS's proprietary loan modification program, without adjustments. On February 11, 2017, Jennifer has not yet made her February 1, 2017 payment, and an SPS call center associate calls Jennifer's home phone number. After Jennifer explains that she is having difficulty making payments, SPS evaluates her for possible mortgage assistance options.

After SPS runs its internal model, SPS determines that Jennifer qualifies for a loan modification. If Jennifer makes the required trial payments, SPS will forbear on $25,000 of the $187,616 Jennifer owes on her loan. Jennifer will make monthly principal and interest payments on $162,616 over the remaining term of the loan, and must make a "balloon" payment of $25,000 at the end of the loan. This change will reduce

Jennifer's monthly payment to $1,534, which represents 33.47% of her monthly gross income (the same as Bob and Evelyn).

Jennifer makes the three required trial payments and her loan modification becomes permanent. SPS defers repayment of $25,000 in principal until the end of the loan. In addition to a reduced monthly payment, Jennifer will save $16,967 in interest payments that she would have otherwise had to pay on the deferred amount over the remaining term of the loan. However, Jennifer is still underwater, as she still owes $187,616, which is $12,616 more than the value of her home. Her loan-to-value ratio is unaffected by the principal forbearance loan modification – it remains at 107.21%.

Eligibility Requirements

To be eligible for credit under the Settlement Agreement, principal forbearance loan modifications must meet the two requirements discussed below.

Pre-Modification Loan Must Be Certain Size. As with principal forgiveness, loans are not eligible for principal forbearance credit if the loans themselves exceed certain size limitations.[304] For example, in most counties, no loan of more than $417,000 on a single-family home is eligible for principal forbearance credit.[305]

Three Payments Required. As with principal forgiveness, no credit will be given if payments are required unless the borrower makes the first three scheduled payments under the modification, including trial period payments.[306]

Other Principal Forgiveness Requirements Do Not Apply. The other requirements that apply to principal forgiveness loan modifications, however, do not apply to principal forbearance modifications. For example, the pre-modification loan need not be non-performing, in imminent default, have a high loan-to-value ratio, have an interest rate substantially above Freddie Mac's Primary Mortgage Market Survey, or have troubled loan history; and the loan need not meet the principal forgiveness post-modification requirements related to loan-to-value or debt-to-income ratio.[307]

Credit Calculation

There are no minimums or maximums set forth in the Settlement Agreement as to the amount of credit that Credit Suisse can seek for principal forbearance loan modifications.[308] As a practical matter, however, because Credit Suisse must earn at least $980 million of its $2.8 billion total obligation through principal forgiveness loan modifications, and at least $240 million of its total obligation through affordable housing

financing, there is a de facto maximum of $1.58 billion in credit that Credit Suisse can earn through principal forbearance modifications.[309]

The formula used to calculate the amount of credit that Credit Suisse receives for principal forbearance modifications is set forth in the Settlement Agreement:

> $ [Credit] = Pre-Modification Rate × Forborne UPB × Average Life (defined as 8 years).[310]

Under this formula, Credit Suisse receives credit for principal forbearance loan modifications based on the amount of interest that a borrower no longer has to pay over a presumed 8-year life of the loan. As a result, Credit Suisse receives less credit for forbearing rather than for forgiving the same amount of principal – likely in recognition of the more limited assistance principal forbearance is to underwater and distressed homeowners when compared with principal forgiveness.[311] Credit Suisse obtains credit based on the presumed 8 years of interest relief immediately, as soon as the loan modification becomes final.[312] Future events do not affect the credit to which Credit Suisse is entitled. If the loan does not last for the presumed 8 years – or 3 years, or even 1 year – because the borrower, for example, pays off the loan or defaults, Credit Suisse does not lose this credit.[313] Nor is Credit Suisse able to get credit for the interest that is forborne if the loan performs for well beyond the presumed 8-year period.[314]

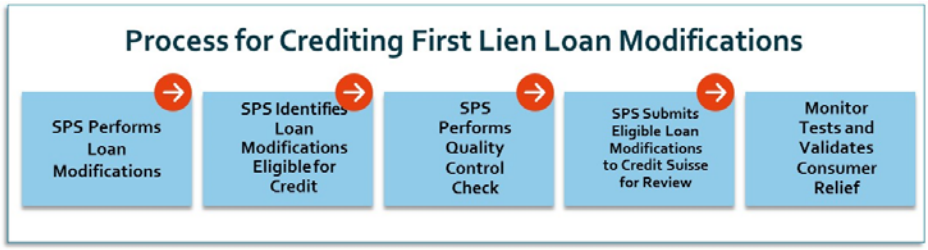
As with principal forgiveness modifications, the Settlement Agreement provides a timing incentive that gives Credit Suisse more credit for completing principal forbearance modifications by a certain date. Specifically, Credit Suisse may receive a 115% "Early Incentive Credit" for any eligible principal forbearance modification offered or completed by March 1, 2018.[315] Unlike principal forgiveness modifications, no Enhanced Early Incentive Credit is available.[316]

Example: Credit Calculation for Principal Forbearance

Consider Jennifer's principal forbearance loan modification, discussed above. In that example, SPS forbears on $25,000 of principal. The pre-modification interest rate on Jennifer's loan was 6.25%.

Under the Settlement Agreement, Credit Suisse first receives $12,500 in credit using the formula: .0625 (pre-modification interest rate) x $25,000 (amount of principal forborne) x 8 = $12,500. If Jennifer's loan modification became final by March 1, 2018, Credit Suisse also receives a 115% Early Incentive Credit enhancement. Credit Suisse therefore receives a total of $14,375 in credit for completing Jennifer's loan modification ($12,500 x 1.15).

c. Process for Submitting Principal Forgiveness and Principal Forbearance Modifications



Credit's Suisse's proposed process for submitting first lien loan modifications for credit proceeds as follows:

1. SPS will perform principal forgiveness and principal forbearance loan modifications in accordance with its standard policies and procedures and servicing agreements.[317]

2. Each day, SPS will identify completed loan modifications that are eligible for credit by analyzing information about the modification and the loan that is in SPS's computer systems.[318] For each loan determined to be credit eligible, SPS will also calculate the amount of credit associated with the loan modification, based on the formulas for calculating credit set forth in the Settlement Agreement.[319]

3. For those loan modifications that SPS initially determines are eligible for credit, **SPS's Quality Control group** will collect relevant backup evidence from its internal records.[320] This will consist of an agreed-upon list of documents and **screenshots** for each loan.[321] Quality Control will then analyze that information to determine whether SPS correctly initially identified a loan modification as eligible for credit under the Settlement Agreement, and whether SPS properly calculated the credit amount.[322] If so, those determinations and the agreed-upon backup documentation will be sent on to SPS's Compliance group for a second internal review.[323] If Quality Control's review finds that the loan is not eligible or that the credit calculation it performed conflicts with SPS's initial determination, SPS will determine the reason for the discrepancy and consider whether the loan is in fact eligible for credit, the correct credit amount, and whether SPS's initial review procedures need to be adjusted.[324]

4. **SPS's Compliance group** will conduct a separate quality control check on a sample of the loan modifications to be submitted for credit each month.[325] For each loan that is in the sample, the Compliance group will again review the backup documentation to independently determine whether all Settlement Agreement requirements are satisfied.[326] If any of the sampled loans are found to be ineligible, SPS will consider whether the error is one that is unique to that loan, such as a

SPS Quality Control Group: Internal SPS group responsible for confirming that the business decisions made by other SPS groups were made correctly. For example, in the ordinary course of its business, the Quality Control group re-evaluates all loan modification applications to confirm the accuracy of the decision previously made by SPS's loan resolution department.

Screenshot: A picture of whatever appears on the screen of a computer at that moment in time. For example, where SPS seeks to demonstrate the date that a borrower last made a payment on a loan prior to being offered a trial loan modification, a Quality Control associate may pull up the loan's payment history from an electronic database so that the payment history is displayed on an SPS computer screen, and take a screenshot of that payment history. Quality Control would rely in part on that screenshot to determine whether the settlement's eligibility requirements are satisfied, and would include that screenshot in the backup documentation sent on to SPS's Compliance group, Credit Suisse's Internal Review Group (both discussed below), and the Monitor.

SPS Compliance Group: Internal SPS group responsible for performing audit and compliance functions across SPS's business in the ordinary course. Among other things, this group is responsible for ensuring that SPS is compliant with all relevant laws and regulations, as well as internal policies and procedures.

typographical error that occurred when information was added to SPS's system, or one that could have occurred in other loans, such as the modification of a current loan without an affidavit attesting to borrower hardship.[327] If the error is capable of being population-wide, SPS will determine the source of the issue and take appropriate steps to correct the problem.[328] After the correction is implemented, the Compliance group will test a new sample population.[329] SPS's Compliance group will also recalculate the credit amounts on the sampled loans.[330]

5. After SPS performs the quality control checks described above, it will submit a list of the loan modifications that it determines are eligible for credit and the credit amounts that it has calculated for each loan modification to Credit Suisse's Internal Review Group.[331] Credit Suisse established the Internal Review Group to review and validate Credit Suisse's implementation of the Settlement Agreement's consumer relief provisions.[332] The Internal Review Group is composed of senior Credit Suisse personnel from various groups, including the CEO of Credit Suisse Global Markets, the General Counsel for Credit Suisse Global Markets and Credit Suisse Holdings (USA) Inc., and additional personnel from the Legal, Compliance, Product Control, and Internal Audit groups, among others.[333] The Internal Review Group will select its own sample of loans, and conduct a quality control test of that sample, again using the agreed-upon documentation gathered by SPS.[334]

6. Once the Internal Review Group has determined that the loans subject to its review are eligible for credit, a list of those loan modifications, proposed credit amounts, and the agreed-upon backup documentation that was initially collected by SPS Quality Control will be submitted to the Monitor for review.[335] Credit Suisse will also provide the Monitor with a report of the testing conducted by SPS Compliance, including a description of any errors identified and what was done in response.[336]

The Monitor is continuing to review this proposed process and will report on it in future reports. The Monitor will also report on the results of the Monitor's upcoming testing of an initial sample of 100 completed principal forgiveness and principal forbearance loan modifications that Credit Suisse will submit to the Monitor for credit; the test results from this initial sample will assist the Monitor in determining whether the submission process is functioning as intended.[337]

3. Other Types of First Lien Loan Modifications

Credit Suisse has determined that it will not seek credit at this time for two additional types of first lien loan modifications contemplated in the Settlement Agreement.[338] These include credit for loan modifications that result in "principal forgiveness of forbearance" of a first lien loan,[339] and loan modifications that result in "balance forgiveness" of a first lien loan.[340]

If Credit Suisse's plans change in the future, these types of relief will be discussed in a future Monitor's report.

B. Extinguishment of Second/Junior Liens and Unsecured Mortgage Debt

Credit Suisse can also receive credit for extinguishing – that is, reducing the amount owed to zero – certain types of debt, such as second liens, more junior liens, or unsecured mortgage debt.[341]

Extinguishment of Second Lien Loans. A second lien extinguishment occurs when the lender forgives the full balance of a borrower's second lien loan and reduces the amount owed to zero.[342] A second lien extinguishment will reduce a borrower's overall monthly payments by the full amount that was owed each month on the second lien, and can create or increase equity in the borrower's home, depending on if and the degree to which the borrower was underwater on his or her first mortgage before the extinguishment.[343]

Extinguishment of Junior Lien Loans and Unsecured Mortgage Debt. Credit Suisse can also receive credit for extinguishing a junior lien loan or unsecured mortgage debt.[344] As used in the Settlement Agreement, a junior lien is a lien securing a mortgage loan that is neither a first nor second lien – it is lower in priority to both.[345] In the event of a foreclosure, therefore, proceeds from the sale of the property would not go towards paying off the junior lien debt unless and until the first and second lien were first both paid in full.[346] With unsecured mortgage debt, the mortgage loan was previously secured by a lien on a home (*i.e.*, at the time the loan was originated), but the lien no longer exists.[347] This type of debt results, for example, after the foreclosure and sale of a borrower's home if the proceeds are insufficient to repay the loan in full – the unpaid portion of the loan becomes unsecured mortgage debt.[348] Unsecured mortgage debt is even lower in priority than a junior lien – as the property that originally served as collateral for the loan can no longer be seized in satisfaction of the debt.[349]

As with extinguishment of a second lien, extinguishment occurs here when the lender forgives the full balance of the junior lien loan or unsecured mortgage debt, which reduces the amount owed to zero.[350] This type of relief reduces a borrower's overall indebtedness, and, in the case of junior liens, can also positively impact the borrower's equity in the home.[351]

Eligibility Requirements

Of its total $2.8 billion consumer relief obligation, Credit Suisse may receive credit for no more than $1.16 billion worth of

extinguishments of second and junior lien loans and unsecured mortgage debt.[352]

To be eligible for credit under the Settlement Agreement, extinguishments of second and junior lien loans and unsecured mortgage debt must meet certain eligibility requirements. These include:

- Credit Suisse may not earn credit for extinguishment of a second lien, junior lien, or unsecured mortgage debt where Credit Suisse owns or services the first lien and Credit Suisse initiates or prosecutes a foreclosure with respect to the first lien within 6 months of the extinguishment of the second lien;[353]

- Eligibility is limited to borrowers with second lien unpaid principal balances at or below $208,500 nationwide, with the exception of properties located in Alaska, Guam, Hawaii, and the U.S. Virgin Islands, where the threshold is $312,750;[354] and

- As discussed in greater detail below, Credit Suisse may not earn credit for debt that has become unenforceable "by operation of state law."[355]

Credit Calculation

For second lien extinguishments, the general rule is that Credit Suisse receives credit on a dollar-for-dollar basis (*i.e.*, $1.00 forgiveness = $1.00 of credit).[356] This formula applies regardless of whether the borrower is performing, seriously delinquent, or non-performing on his or her second lien loan.[357]

For junior lien and unsecured mortgage debt extinguishments, the general rule is that Credit Suisse receives 40 cents on the dollar for this type of relief (*i.e.*, $1.00 forgiveness = $.40 of credit).[358] Credit Suisse therefore receives significantly less credit for this type of relief than for other forms of consumer relief.

Credit Suisse may receive a 115% "Early Incentive Credit" for any extinguishments of second and junior lien loans and unsecured mortgage debt offered or completed by March 1, 2018.[359]

Example: Second Lien Extinguishment

Like Bob and Evelyn, Doug purchased a three-bedroom home in Orlando, Florida, in February 2006, for $250,000. At that time, he too had an annual income of $75,000, or $6,250 per month, put down $20,000 in cash (8%), and borrowed the rest ($230,000) from the bank. He also

obtained a 30-year, fixed-rate loan at a 6.25% interest rate, which resulted in a $1,812 monthly payment, or 28.99% of his monthly income.

In February 2007, the value of Doug's home had increased to $300,000. At this time, he took out a second mortgage on his home – a $30,000 home equity loan (a second lien) in order to pay for a relative's medical bills. The home equity loan was a 30-year, fixed-rate loan at a 6.29% interest rate. He agreed to pay approximately $186 per month on the second mortgage, creating a combined monthly obligation of $1,997 on both mortgages, representing 32.0% of his monthly income. The increased value of his home at this time exceeded the amount of both loans – the "combined loan-to-value" ratio was 85.8%.

By February 1, 2017, after the housing crisis decimated property values in his community, the value of Doug's home has fallen to $175,000 – 30% less than its original value. Doug now owes $188,720 on his first mortgage, and $25,297 on his second mortgage, and he continues to pay a combined $1,997 per month. The combined loan-to-value ratio is now 122.3% – if he was to sell his home, he would not be able to pay off both mortgages (indeed, he would not even be able to pay off his first mortgage).

Assume that Credit Suisse owns the second lien loan, and decides to extinguish it in order to obtain credit under the Settlement Agreement. Without the second mortgage obligation, Doug's total mortgage debt will now be limited to the $188,720 remaining on his first mortgage, and his monthly payments will be limited to the $1,812 that he had originally agreed to pay on that loan. His payments thus will be reduced; however, if he were to sell the home, the sale price would still be insufficient to pay his full debt.

Credit Suisse will obtain dollar-for-dollar credit on the $25,297 extinguished second lien, and because Credit Suisse extinguishes the lien on or before March 1, 2018, it will earn a total of $29,091.55 in credit ($25,297 x 1.15).

Example: Extinguishment of Unsecured Mortgage Debt

John and Emily also purchased a three-bedroom home in Orlando, Florida, in February 2006, for $250,000. At that time, they too made a combined annual income of $75,000, or $6,250 per month, put down $20,000 in cash (8%), and borrowed the rest ($230,000) from the bank. They also obtained a 30-year, fixed-rate loan at a 6.25% interest rate, which resulted in a $1,812 monthly payment, or 28.99% of their monthly income.

By February 2012, Emily had lost some shifts at work, and the $1,812 monthly payment obligation had become a struggle. John and Emily stopped making payments on their mortgage loan that month. Five years later, in February 2017, the owner of their mortgage foreclosed on their home. The property sold at auction for $165,000, which was not enough to repay the outstanding balance on the loan, including unpaid principal and past-due interest, which at that time was $276,931. After the sale price of $165,000 was applied to the outstanding balance of the loan, John and Emily were left with unsecured mortgage debt for the remaining amount, or $111,931.

Assume that in February 2017, Credit Suisse purchases John and Emily's unsecured mortgage debt, and as a result of the Settlement Agreement, it decides to extinguish the total amount ($111,931) of that unsecured mortgage debt. Because Credit Suisse earns 40 cents for every dollar of unsecured mortgage debt that it extinguishes, and because the extinguishment occurs on or before March 1, 2018, Credit Suisse will obtain $51,488.26 of credit ($111,931 x 0.4 x 1.15).

Note that in the above example, the borrowers had only a first lien mortgage loan, and the debt remaining on that loan became unsecured after the same mortgage foreclosed. However, mortgage debt can become unsecured in other ways as well. For example, if a borrower has more than one mortgage, and the senior (first) mortgage is foreclosed, the total balance of any second or more junior mortgages on the property will become unsecured mortgage debt at the time of the foreclosure.[360]

Enforceability Rules

Credit Suisse may not earn credit for extinguishing debt that has become unenforceable by operation of state law.[361] As discussed below, debt may be unenforceable because, among other things, the relevant statute of limitations has run, the debt is barred from collection by an anti-deficiency statute, or the debt has been discharged in bankruptcy.[362]

To ensure that no unenforceable debt is submitted for credit, the Monitor worked with Credit Suisse and SPS to develop a set of rules that will be used to determine whether a particular second lien loan, junior lien loan, or unsecured mortgage debt has become unenforceable under state law. These agreed-upon rules, as well as background principles of law, are discussed below.

Statute of Limitations. All states have statutes of limitations that prevent lenders from collecting on a loan after a certain amount of time has elapsed from one or more triggering events. The lengths of state statutes of limitations for mortgage debt vary; they are typically between three and ten years.[363] A typical state statute of limitations for mortgage debt is six years.[364]

These statutes of limitations begin to run upon the occurrence of one or more triggering events. The most relevant triggering event is when a borrower misses one or more payments on his or her mortgage, and the full amount of the mortgage debt – not only the missed installments – becomes due.[365] Some mortgages provide that the entire debt is immediately due upon a failure to make a certain number of payments.[366] Other mortgages require the lender to take some affirmative action, such as by sending a notice to the borrower expressly stating that the entire amount of the loan is due and owing, or by initiating a foreclosure action.[367] In situations where the lender must take affirmative action, state law varies as to exactly what steps the lender must take to cause the entire loan to be immediately due.[368] To determine whether, and on what date, this has occurred in any particular instance is fact-intensive, requiring an examination of the text of the particular mortgage, the lender's actions (including the specific language used in any communication with the borrower), and assessment of the particular state's law.[369]

After discussion, the Monitor and Credit Suisse agreed on a list of state-specific statutes of limitations to be applied when evaluating whether a particular second lien loan, junior lien loan, or unsecured mortgage debt has become unenforceable.[370] However, as noted above, determining the date upon which the debt became due and owing with precision can be difficult, and would normally require a fact-intensive review for each loan. The Monitor and Credit Suisse therefore agreed that, for purposes of the Settlement Agreement, the applicable statute of limitations period for each loan will be treated as beginning thirty days after the borrower's last payment.[371] This agreement is designed to prevent Credit Suisse from receiving credit for extinguishing a loan where the applicable statute of limitations would otherwise prevent Credit Suisse from collecting that debt.

As a result, at this time, Credit Suisse will not seek, and the Monitor will not grant, credit for extinguishments of second or junior liens or unsecured mortgage debt where the borrower last made a payment more than thirty days plus the relevant state's limitations period (again, typically six years) prior to the date of the extinguishment.[372]

Example: Application of Statute of Limitations

Consider the extinguishment of Doug's home equity loan, discussed above. In Florida, the relevant statute of limitations period is five years.[373] In the example above, Doug continued to make payments on that loan until the date that it was extinguished by Credit Suisse. If instead, Doug last made a payment on that loan in December of 2010 (more than five years plus 30 days prior to February 1, 2017), Credit Suisse would not submit the February 2017 extinguishment for credit, and the Monitor would not provide credit for that extinguishment if it did.

Anti-Deficiency Statutes. When a lender forecloses, the foreclosure sale price is often insufficient to pay the amount remaining on the borrower's loan.[374] The amount the borrower still owes after the sale price is applied is known as a "deficiency."[375] Many states permit the lender to obtain a deficiency judgment in a foreclosure proceeding or to sue the borrower to recover the outstanding, now unsecured, debt.[376] Other states have "anti-deficiency statutes," which prohibit a lender from collecting outstanding unsecured mortgage debt under certain circumstances.[377] For example, a common type of anti-deficiency statute forbids recovery of any deficiency if the underlying loan was provided by the seller of the property to secure part or all of the purchase price (a so-called "purchase money mortgage").[378] Other states place limitations on the amount of unsecured debt that may be collected; in these states, the amount that the lender may recover is typically limited to the difference between the foreclosure sale price and the property's fair market value at that time.[379] The Monitor and Credit Suisse have agreed on a list of state-specific anti-deficiency rules to be applied when evaluating whether certain types of unsecured mortgage debt have become unenforceable.[380]

Example: Application of Anti-Deficiency Statute

Consider the extinguishment of John and Emily's unsecured mortgage debt, discussed above. If John and Emily lived in California, rather than Florida, Credit Suisse would not submit, and the Monitor would not credit, the extinguishment of John and Emily's unsecured mortgage debt. This is because in California (but not in Florida), no deficiency judgment can be collected on any loan that was used to purchase property, where the borrower lives in the home.[381] Accordingly, if the property were in California, the unsecured debt remaining after foreclosure of John and Emily's mortgage would be unenforceable under state law and entitled to no credit under the Settlement Agreement.

Bankruptcy: A legal proceeding involving a person or business that is unable to satisfy its liabilities. In a bankruptcy proceeding, an individual's unsecured debts, such as credit card debt, medical bills, and unsecured mortgage debt, may be extinguished.

Discharge in Bankruptcy. Unsecured mortgage debt discharged in **bankruptcy** is also unenforceable.[382] Credit Suisse has agreed that it will not seek to submit for credit any unsecured mortgage debt that has been discharged in bankruptcy.[383]

Credit Suisse's Plan

Credit Suisse is still evaluating whether and how to extinguish second and junior lien loans and unsecured mortgage debt for credit under the Settlement Agreement.[384] If Credit Suisse decides to move forward and seek such credit, these efforts will be the subject of a future Monitor's report.

C. Affordable Housing Financing

Credit Suisse is still in the early stages of fulfilling its obligation to provide affordable housing consumer relief. This section therefore includes a high-level review of the affordable housing requirements of the Settlement Agreement and a description of Credit Suisse's initial plans. The Monitor will provide a more detailed review of the affordable housing requirements and Credit Suisse's efforts to fulfill those requirements in a subsequent report.

Background

The Settlement Agreement requires Credit Suisse to provide financing to facilitate the construction, rehabilitation, or preservation of **affordable housing** for rent or sale.[385] Of its $2.8 billion consumer relief obligation, Credit Suisse is required to achieve $240 million worth of credit by funding affordable housing development projects.[386] Credit Suisse must use its "best efforts" to earn at least $25 million of this $240 million of credit within the District of Colorado.[387]

Affordable Housing: Housing is typically considered "affordable" if it consumes no more than 30% of a household's income.

Most affordable housing development is funded by senior loans made on a for-profit basis by commercial banks, and by **low-income housing tax credits**, which developers sell to private investors in exchange for equity investments in their projects.[388] However, these sources of financing are in many cases insufficient to fully fund an affordable housing project.[389] Credit Suisse will be facilitating affordable housing development by providing additional funding in the form of loans made to developers that are second or junior in priority to the commercial senior loan, called "subordinate" or "subordinated" loans.[390] These loans generally are not expected to be fully repaid and are provided at low or no interest.[391] Accordingly, these loans typically result in some (if not total) loss to the lender.[392] In the absence of this type of funding from a bank such as Credit Suisse, government entities or non-profit organizations may provide a similar type of subordinated funding; if no such funds are available, the affordable housing development often will not be built.[393]

Low-Income Housing Tax Credit ("LIHTC"): Federal tax credit awarded to certain affordable rental housing projects. Once awarded, project developers sell the tax credits to private investors, who use the tax credits to reduce their federal tax liabilities. To receive the tax credit, an affordable rental housing project must meet certain requirements. For example, the project must set aside at least 40 percent of the residential units for renters earning no more than 60 percent of the area's median income (the 40/60 test) or 20 percent of the residential units for renters earning 50 percent or less of the area's median income (the 20/50 test). These units are subject to rent restrictions to ensure that the rent is affordable, which the project must maintain for at least 30 years.

As noted above, a future Monitor's report will describe in detail the Settlement Agreement's eligibility requirements and crediting provisions for affordable housing. Broadly, however, the Settlement Agreement imposes certain limitations on the types of affordable housing developments that Credit Suisse can obtain credit for financing.[394] For the most part, the Settlement Agreement tracks the eligibility requirements of the federal government's low-income housing tax credit program.[395] As a result, if a project meets the requirements of that program, the project generally will also meet the eligibility requirements of the Settlement Agreement.[396]

The Settlement Agreement also sets forth requirements that are designed to ensure that Credit Suisse funds affordable housing developments in areas that have a critical need for such housing.[397] For example, at least 50% of the units generating affordable housing credit must be located in neighborhoods that the U.S. Department of Housing and Urban Development ("HUD") or the state in which they are located has designated as having a particular need for affordable housing because housing costs are high relative to median income and/or because the area has low poverty rates and substantial educational, employment, and other opportunities for its residents.[398] This is consistent with HUD policy seeking to move lower-income families out of neighborhoods with concentrated poverty and into areas with lower poverty and greater opportunities for economic mobility.[399]

Credit Suisse earns credit for funding affordable housing based on the amount that Credit Suisse loans the affordable housing project and does not expect to be repaid.[400] This expected "loss" amount for each loan is subject to review and approval by the Monitor for purposes of determining the affordable housing credit Credit Suisse will receive.[401] The minimum amount of credit that Credit Suisse will receive is $3.25 credit for every $1.00 of loss for all qualifying developments in areas that have *not* been deemed as having a critical need for affordable housing.[402] For areas that have been so designated, Credit Suisse earns $3.75 in credit for every $1.00 of loss.[403]

The Settlement Agreement also gives Credit Suisse the opportunity to earn extra credit. For example, if Credit Suisse funds more affordable housing units in designated critical need areas than required (which, as noted above, is 50% of the units), it receives a 125% credit enhancement on each of the additional units.[404] Credit Suisse may also receive a 115% "Early Incentive Credit" for projects where it has issued a formal commitment to provide a subordinated loan by March 1, 2018.[405] Accordingly, if Credit Suisse takes advantage of all the available incentives under the Settlement Agreement – which it currently does not intend to do in full – Credit Suisse could fulfill its $240 million minimum credit obligation by expending approximately $49.47 million.[406]

Credit Suisse's Plan

Unlike some of the other banks that have entered into RMBS settlement agreements, Credit Suisse's business does not include providing for-profit loans to developers of affordable housing.[407] Credit Suisse is therefore contracting with National Equity Fund, Inc. ("National Equity Fund"), a national non-profit with expertise in affordable housing to assist with the selection of projects.[408] Credit Suisse plans to provide loans with terms that are intended to ensure that Credit Suisse will most likely never be repaid, to maximize the credit that Credit Suisse can receive under the Settlement Agreement.[409]

With the assistance of National Equity Fund, Credit Suisse has already started to identify both new construction and rehabilitation projects for funding, and anticipates that it may be able to issue commitment letters for a sufficient number of projects to meet its $240 million credit minimum by March 2018.[410] Credit Suisse's efforts to fund affordable housing projects will be the subject of a future Monitor's report.

D. Other Consumer Relief-Related Efforts To Date

1. Required Tax Disclosure

The Settlement Agreement requires Credit Suisse to "clearly disclose" to borrowers the potential tax consequences of any relief offered or provided, and recommend that borrowers seek appropriate counsel as needed.[411]

Non-Extension of Mortgage Forgiveness Debt Relief Act. Typically, forgiveness of mortgage debt is taxed as income, unless certain exclusions or exceptions apply, such as insolvency or bankruptcy.[412] In other words, if a borrower receives $50,000 in principal forgiveness as part of a loan modification, that $50,000 is generally treated as income, and subject to federal income taxes like any other income.[413] The same principle applies in certain circumstances where a home is foreclosed upon and sold for less than the full amount of the debt, and the remaining unsecured balance is forgiven.[414]

At the onset of the financial crisis, in 2006 and 2007, a significant number of borrowers were defaulting on underwater mortgages, and many were losing their homes to foreclosure.[415] Congress recognized the unfairness of sticking either these foreclosed-upon borrowers or those who were able to keep their homes through a mortgage modification with the financial stress of additional tax liability.[416] In 2007, Congress passed the Mortgage Forgiveness Debt Relief Act to alleviate that burden.[417] Under the Act, any debt discharge on a principal residence up to $2 million was excluded from income.[418]

However, the Mortgage Forgiveness Debt Relief Act expired at the end of 2016 and has not been extended.[419] Therefore, for the first time in a decade, borrowers are likely to face tax liability as a result of principal forgiveness loan modifications, including those that are required to be performed by Credit Suisse under the Settlement Agreement.[420]

Example: Expiration of Mortgage Forgiveness Debt Relief Act

Consider Bob and Evelyn's principal forgiveness loan modification, discussed above. Bob and Evelyn's loan was modified and they received $25,000 in principal forgiveness, lowering the amount Bob and Evelyn owed on their loan from $187,616 to $162,616. However, because the loan

was modified after the Mortgage Forgiveness Debt Relief Act expired, Bob and Evelyn, who otherwise have a combined annual income of $55,000, are treated as receiving an additional $25,000.

Depending on a number of circumstances, Bob and Evelyn may have to pay income tax on the $25,000, even though they did not receive this amount in cash. Assuming that Bob and Evelyn jointly file their federal income taxes, take the standard deduction (and no others), and claim two exemptions (for themselves, and no other dependents), and assuming that tax rates from 2016 continue to apply in 2017, the $25,000 in principal forgiveness will raise their 2017 federal tax bill to $7,971 – in comparison to $4,221, which is what they would have paid based solely on their combined annual income of $55,000.[421]

Disclosure of Tax Consequences. Because of the potential tax liability that borrowers now face as a result of the non-extension of Mortgage Forgiveness Debt Relief Act, providing an appropriate disclosure that "clearly disclose[s]" potential tax consequences is of particular significance to borrowers receiving principal forgiveness modifications.[422] For this reason, the Monitor worked with SPS to develop a detailed tax disclosure that explains the potential tax consequences of both immediate principal forgiveness and earned principal forgiveness loan modifications, depending on the type of loan modification offered or provided to the borrower, and including illustrative examples.[423]

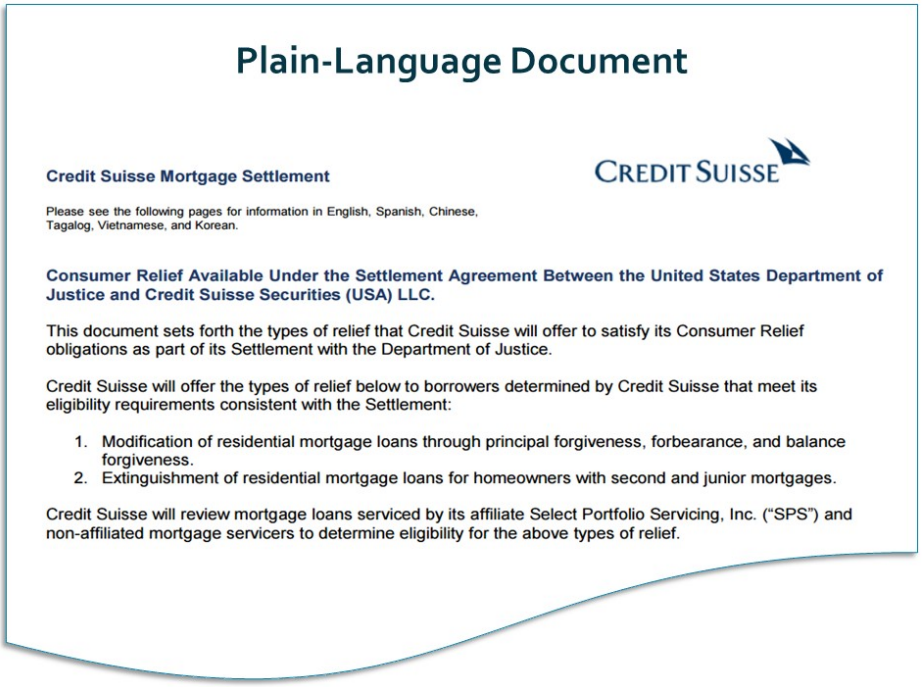
The detailed disclosure is being provided to all borrowers with potentially creditable relief both at the trial plan offer stage (when the borrower is making an initial decision about whether to proceed with an offered trial modification) and the permanent modification stage (when the borrower is making a final decision about whether to accept the permanent modification).[424] The disclosure provided at the permanent offer stage includes the precise amount of the principal forgiven in the loan modification that might be included in the borrower's income.[425]

2. Required Outreach

The Settlement Agreement requires Credit Suisse to engage in two forms of outreach: publication of a "plain-language document" and coordination of borrower outreach events.

a. Publication of Plain-Language Document

Credit Suisse is required to prepare a short, plain-language document, available online, that can be distributed to third parties to explain the various forms of consumer relief available under the Settlement Agreement.[426] The document must be translated into at least Spanish, Chinese, Tagalog, Vietnamese, and Korean, and into other languages, as appropriate, on a best efforts basis.[427]



Plain-Language Document

Credit Suisse Mortgage Settlement

CREDIT SUISSE

Please see the following pages for information in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

Consumer Relief Available Under the Settlement Agreement Between the United States Department of Justice and Credit Suisse Securities (USA) LLC.

This document sets forth the types of relief that Credit Suisse will offer to satisfy its Consumer Relief obligations as part of its Settlement with the Department of Justice.

Credit Suisse will offer the types of relief below to borrowers determined by Credit Suisse that meet its eligibility requirements consistent with the Settlement:

1. Modification of residential mortgage loans through principal forgiveness, forbearance, and balance forgiveness.
2. Extinguishment of residential mortgage loans for homeowners with second and junior mortgages.

Credit Suisse will review mortgage loans serviced by its affiliate Select Portfolio Servicing, Inc. ("SPS") and non-affiliated mortgage servicers to determine eligibility for the above types of relief.

Credit Suisse provided the Monitor with a proposed version of this document, and accepted and included comments and suggestions from the Monitor.[428] Once finalized, Credit Suisse translated the document as required and published the plain-language document on both Credit Suisse's and SPS's websites.[429] The plain-language document is also available on the Monitor's website, at http://creditsuisse.rmbsmonitor.com/plain-languagedocument.pdf.

The plain-language document includes SPS's phone number as a contact for borrowers, and SPS has trained its call center staff to answer questions about the Settlement Agreement.[430]

b. Borrower Outreach Events

(1) Agreed-Upon Requirements

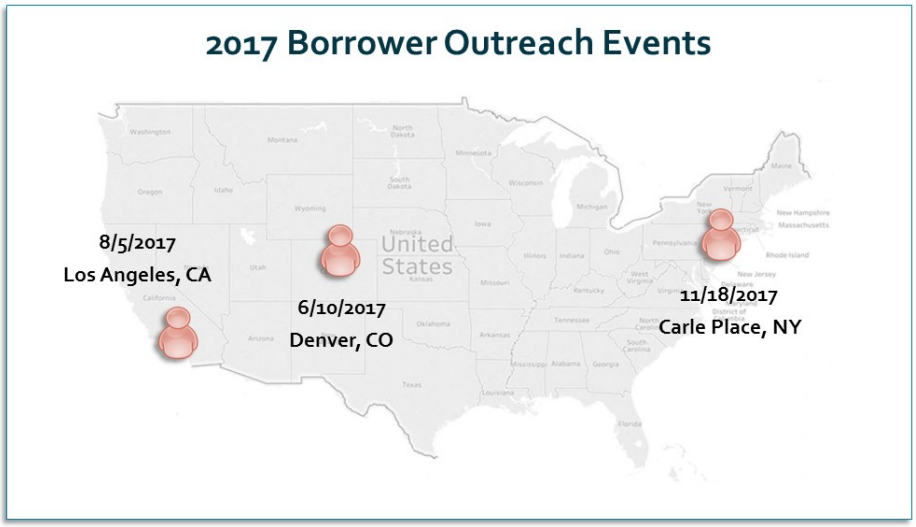
Credit Suisse must hold three borrower outreach events each year until the Monitor certifies that Credit Suisse has satisfied its consumer relief obligation.[431] The Settlement Agreement requires that these events be held in geographically dispersed locations, but otherwise leaves the location and timing of the events to Credit Suisse's discretion.[432]

In advance of each event, Credit Suisse must reach out to eligible borrowers through personalized invitation letters, emails, and/or outbound phone calls.[433] This outreach must be conducted in English and Spanish, and on a best efforts basis, in other languages.[434] The outreach must encourage borrowers to make appointments in advance, although

appointments are not required.[435] Credit Suisse is also required to notify appropriate individuals and entities, such as state attorneys general, local not-for-profits, and state housing finance authorities, of the schedule of such events in order to increase awareness and attendance.[436]

Assistance at the event itself must also be available in English and Spanish, and assistance in other languages must be provided on a best efforts basis.[437] The events must involve a presentation informing attendees about Credit Suisse's consumer relief obligations under the Settlement Agreement.[438]

Credit Suisse designated SPS to coordinate and hold the required outreach events.[439] The Monitor worked with SPS to create an agreed-upon checklist used to ensure that Credit Suisse fulfills the requirements for each outreach event.[440] The Monitor also worked with SPS on the letters sent to borrowers and other interested parties in advance of each event, as well as on a list of agreed-upon metrics to be provided to the Monitor after each event to gauge success.[441]



SPS has already held outreach events in Denver, Colorado and Los Angeles, California.[442] It will hold its final outreach event of the year on November 18, 2017, in Carle Place, New York.[443] SPS will propose locations and dates for each subsequent year at the beginning of that calendar year.[444]

(2) Colorado Event

The Monitor attended the first borrower outreach event in Denver, Colorado. The event was held at the Courtyard by Marriott Denver Cherry Creek, on June 10, 2017, from 9:00am to 5:00pm MDT.[445]

Monitor's Observations

The event was well-organized and ran smoothly.[446] SPS's staff was professional and friendly to the borrowers with whom they met.[447] Five mortgage assistance counselors from SPS worked one-on-one with borrowers, and four senior members of SPS management attended and provided oversight and assistance.[448] SPS welcomed borrowers as they arrived, directed them to counselors when available, and appeared to make sure that borrowers were comfortable and attended-to while waiting to see a counselor.[449] Three of these counselors spoke both Spanish and English, and they were observed assisting several borrowers in Spanish throughout the day.[450] SPS provided all borrowers with a copy of the plain-language document to review before their individual counseling sessions began, which SPS and the Monitor had previously agreed would satisfy the requirement that Credit Suisse present attendees with information about Credit Suisse's consumer relief obligations under the Settlement Agreement.[451]

The flow of borrowers was fairly constant, and well spread out.[452] For much of the day, a small number of borrowers were waiting to be seen.[453] The Monitor did not observe any time at which no borrowers were present; similarly, there did not appear to be more than one borrower per counselor waiting at any given time.[454] Free Wi-Fi was available if borrowers needed to access information electronically.[455] Chairs and an additional table were available for borrowers during any required waiting.[456] The conference room was stocked with beverages and snacks for borrowers while they waited.[457]

The Monitor observed several mortgage assistance counseling sessions, and was impressed by the professionalism, warmth, and care that the SPS counselors conveyed.[458] The counselors who were observed were reassuring, and took the necessary time – in some cases, upwards of an hour – to walk borrowers through the mortgage assistance application process step-by-step.[459] They asked questions of the borrowers that appeared to be targeted at unearthing any possible bases for hardship.[460] Borrowers appeared to appreciate the time, attention, and assistance provided by the counselors.[461]

Members of SPS's senior management noted to the Monitor that, in their view, the main benefit of an outreach event was the successful execution of loan modifications and other types of mortgage assistance.[462] However, several additional benefits were identified, including:

- SPS has heard from borrowers that they can become frustrated with the mortgage assistance application process when conducted over the phone. Although the conversation is the same whether over-the-phone or face-

to-face, some borrowers prefer the in-person interaction.[463]

- Some borrowers indicated that they had not previously gone through the mortgage assistance application process because they had been nervous about it. SPS's counselors found themselves better able to assure these borrowers that they cared about the borrowers' difficulties, and were attempting to help them, through the in-person interaction.[464]

- Every borrower who attends an outreach event is provided an individual contact in SPS's Ombudsman Department.[465] If the borrower needs any assistance going forward in connection with the servicing of the borrower's loan, the borrower knows that he or she can reach out directly to the Ombudsman contact, rather than calling SPS's call center.[466]

Obstacles to Receiving Assistance

Same-Day Decisions. If possible, SPS had hoped to make same-day decisions at the Colorado event.[467] SPS was unable to do so, because in all cases where SPS could have made a same-day decision, SPS had not yet obtained property valuations on the borrowers' homes.[468] This is because attendees were insufficiently late on their mortgage payments for SPS to have obtained a property valuation in the ordinary course.[469] To speed up the applications, SPS ordered property valuations for all of the mortgage assistance applications submitted at the event the next business day after the event was held.[470]

Owner Restrictions. Some borrowers who attended the event learned when they arrived that their loans were owned by RMBS trusts and financial institutions that do not permit SPS to provide any type of mortgage assistance option, including loan modifications.[471] For future events, SPS will not send invitations to borrowers whose loans are subject to such restrictions.[472]

Post-Event Metrics

Number of Invitees and Attendees. SPS sent invitations to 2,614 borrowers.[473] 35 borrowers RSVP'd for the event.[474] 64 borrowers attended the event, to discuss a total of 67 accounts, resulting in an approximate 2.5% return rate on attendance.[475] SPS had expected a 1% return rate, based on its prior experience with borrower outreach events arranged by the HOPE NOW Alliance and the U.S. Department of the Treasury.[476]

SPS stated that a combination of factors likely had contributed to the higher-than-expected turnout.[477] First, SPS had not recently participated in an outreach event in Colorado.[478] Second, SPS had marketed this outreach event more than prior events, including by sending emails (which it had not done before) and by increasing the frequency of its calling campaign.[479] Third, the reference to a "settlement" in the invite letter may have played a role, as several borrowers who attended the event asked if the Settlement Agreement entitled them to a payment.[480]

Outcome. According to SPS, as of October 16, 2017, 6 accounts with borrowers in attendance were still being evaluated for potential mortgage assistance.[481] Borrowers were still collecting the documentation necessary for SPS's review of these accounts.[482]

Outcome	Number of Borrower Accounts
Pending Documents	6
Mortgage Assistance Offered	22
No Mortgage Assistance Offered	32
Did Not Request Mortgage Assistance	7

Types of Mortgage Assistance Offered. As of October 16, 2017, 22 borrower accounts (33%) had been offered some type of mortgage assistance option, including 15 borrower accounts (22%) that were offered a trial loan modification.[483] SPS will update the Monitor with additional results as decisions on more accounts are made.[484]

Mortgage Assistance Offered	Number of Borrower Accounts
Trial Loan Modification	15
Payment Deferral	2
Repayment Plan	3
Permanent Loan Modification	2

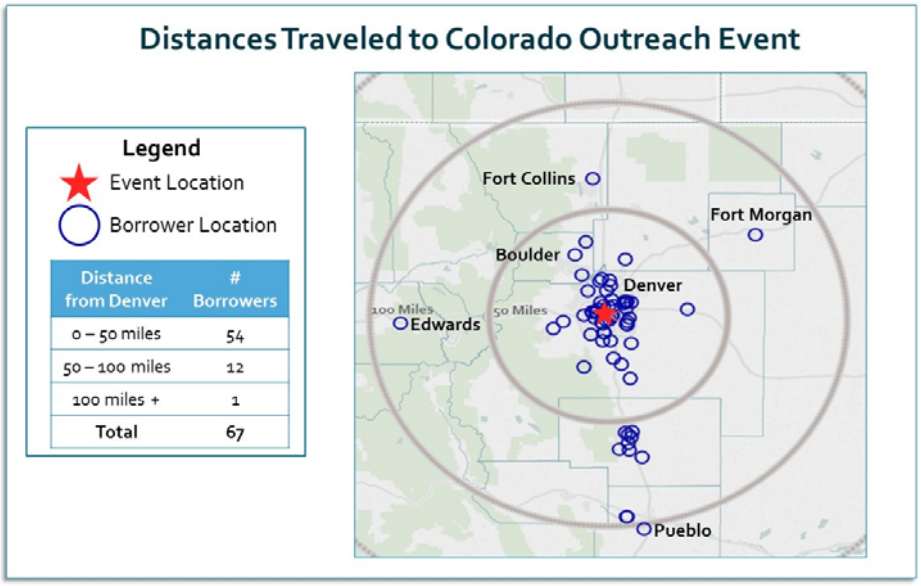
Loan-to-Value Ratio. The majority of accounts with borrowers in attendance had a loan-to-value ratio of less than 80% (based on the most recent property value in SPS's system, which may not have been obtained within the last three months).[485] The loan-to-value ratios were distributed as follows.[486]

Loan-to-Value Ratio	Number of Borrower Accounts
< 80%	38
80% - 100%	8
> 100%	4
2nd Lien	6
Unknown: No Property Valuation Conducted by SPS as of the Date of the Event	11

Delinquency Status. The majority of accounts with borrowers in attendance were classified as "current" by SPS (*i.e.*, they were less than 30 days past due on their mortgage loan payments).[487] Delinquency statuses were distributed as follows.[488]

Delinquency Status	Number of Borrower Accounts
Current	35
30-90 Days	20
120 + Days	6
Referred to Foreclosure	6

Distance Traveled. Borrowers traveled from as far away as Pueblo, Colorado (approximately 113 miles) to attend the event.[489] Below is a map showing distances traveled by borrowers to attend the event.[490]



Distance from Denver	# Borrowers
0 – 50 miles	54
50 – 100 miles	12
100 miles +	1
Total	67

Cost. SPS calculated that the event cost $12,850.16, which includes costs for travel and lodging of SPS personnel, renting the event space, food, and overtime pay for hourly employees.[491]

(3) California Event

The Monitor also attended the second borrower outreach event in Los Angeles, California, which was held at the JW Marriott Los Angeles LA LIVE, on August 5, 2017, from 8:00am to 5:00pm PDT.[492]

Monitor's Observations

Like the Colorado event, the California event was well-organized and ran smoothly.[493] The setup for the event was similar to that of the Colorado event. As borrowers arrived, members of SPS's staff greeted the borrowers, distributed copies of the plain-language document, and then directed them to mortgage assistance counselors for one-on-one sessions as counselors became available.[494] Free Wi-Fi was provided to allow borrowers to access documents or other information electronically, and a designated waiting area was set up for borrowers and stocked with beverages and snacks.[495]

The Monitor observed several mortgage assistance counseling sessions, and was again impressed by SPS's professionalism and commitment to customer service.[496] The counselors observed were friendly and helpful, spending significant time walking borrowers through

the mortgage assistance application process step-by-step.[497] Borrowers appeared to appreciate the assistance provided by the counselors.[498] Indeed, the Monitor overheard multiple borrowers thanking SPS's staff for their assistance, with one borrower remarking that SPS turned what could have been a "nerve-racking" affair into a positive and helpful experience.[499]

Differences from the Colorado Event

SPS Personnel. SPS staffed the California event with substantially more personnel than the Colorado event, as SPS had expected a larger borrower turnout.[500] Eighteen SPS employees attended the event, including twelve mortgage assistance counselors.[501] Seven of the twelve counselors were bilingual in Spanish and English; they were observed assisting numerous borrowers in Spanish throughout the day, which SPS had anticipated given the greater concentration of Spanish-speaking borrowers in the Los Angeles area.[502]

Same-Day Decisions. Unlike the Colorado event, where no same-day decisions were made, SPS was able to obtain same-day, on-site decisions for at least four borrower accounts at the California event.[503] In each of these cases, the accounts were sufficiently delinquent such that SPS had already obtained property valuations on the borrowers' homes.[504] All four of these borrowers were offered trial modifications.[505]

Owner Restrictions. Unlike the Colorado event, no borrower attending the California event learned at the event that the owner of his or her loan did not permit any type of mortgage assistance option.[506] This is because SPS sent invitations for the California event only to borrowers with loans owned by RMBS trusts and financial institutions that allow SPS to provide some type of mortgage assistance.[507]

Non-Profit Attendance. Representatives from HAVEN Neighborhood Services ("HAVEN"), a non-profit housing and credit counseling agency, and Committee for Better Banks, a non-profit community advocacy group, attended the event.[508] Representatives from the non-profits had positive feedback on the event, and SPS indicated that having the non-profits at the event was helpful.[509] In particular, HAVEN helped attendees fill out paperwork and answered general questions about the mortgage assistance application process at the event.[510] SPS explained that their staff would have provided the same assistance, but that some borrowers felt more comfortable with a third party.[511] In addition, SPS directed borrowers with second mortgages that were not serviced by SPS to HAVEN, so that HAVEN could help them to reach out to the servicers of those loans to discuss possible mortgage assistance options.[512]

Post-Event Metrics

Number of Invitees and Attendees. SPS sent invitations to 3,794 borrowers.[513] 70 borrowers RSVP'd for the event.[514] 123 borrowers attended the event to discuss a total of 126 accounts, resulting in an approximate 3% return rate on attendance.[515] At the Monitor's request, SPS asked borrowers upon arrival how they heard about the event.[516] The majority of borrowers said that the hard copy letters they received had gotten their attention and prompted them to attend the event.[517] Only a few borrowers said that a phone call or email led them to attend.[518]

Outcome. According to SPS, as of October 16, 2017, 58 accounts with borrowers in attendance were still being evaluated for potential mortgage assistance.[519] The borrowers on 52 of these accounts were still collecting the documentation necessary for SPS's review of their accounts.[520]

Outcome	Number of Borrower Accounts
Pending Decision (All Documents Received)	6
Pending Documents	52
Mortgage Assistance Offered	42
No Mortgage Assistance Offered	22
Did Not Request Mortgage Assistance	4

Types of Mortgage Assistance Offered. As of October 16, 2017, 42 borrower accounts (33%) had been offered some type of mortgage assistance option, including 27 accounts (21%) that were offered a trial loan modification.[521] SPS will update the Monitor with additional results as decisions on more borrowers' accounts are made.[522]

Mortgage Assistance Offered	Number of Borrower Accounts
Trial Loan Modification	27
Payment Deferral	3
Repayment Plan	9
Permanent Loan Modification	3

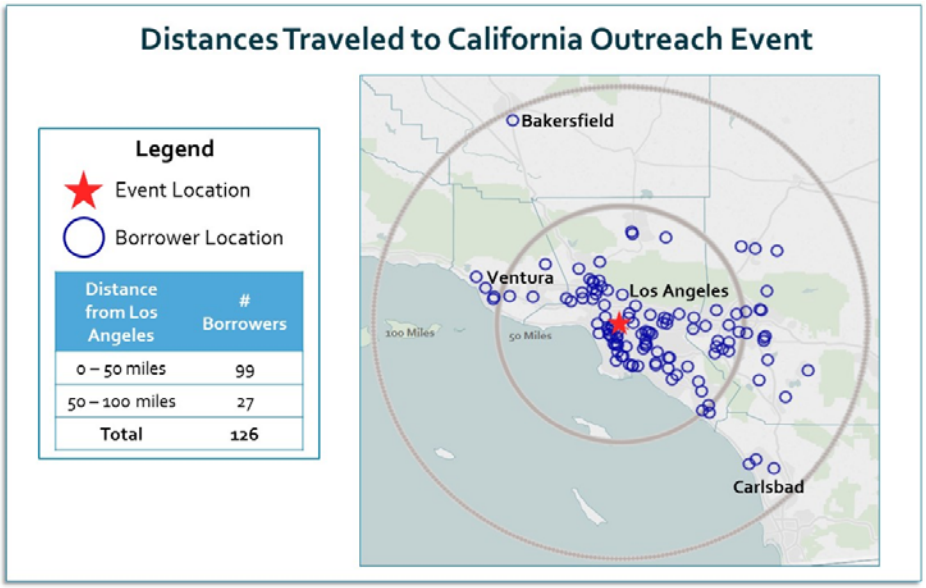
Loan-to-Value Ratio. The majority of accounts with borrowers in attendance had a loan-to-value ratio of less than 100% (based on the most recent property value in SPS's system, which may not have been obtained within the last three months).[523] Loan-to-value ratios were distributed as follows.[524]

Loan-to-Value Ratio	Number of Borrower Accounts
< 80%	56
80% - 100%	29
> 100%	28
2nd Lien	8
Unknown: No Property Valuation Conducted by SPS as of the Date of the Event	5

Delinquency Status. The majority of accounts with borrowers in attendance were classified as delinquent by SPS (*i.e.*, they were 30 or more days past due on their mortgage loan payments).[525] Delinquency statuses were distributed as follows.[526]

Delinquency Status	Number of Borrower Accounts
Current	10
30-90 Days	57
120 + Days	37
Referred to Foreclosure	22

Distance Traveled. Borrowers traveled from as far away as Bakersfield, California (approximately 96 miles) to attend the event.[527] Below is a map showing distances traveled by borrowers to attend the event.[528]



Cost. SPS calculated that the event cost $34,057.26, which includes costs for travel and lodging of SPS personnel, renting the event space, food, and overtime pay for hourly employees.[529]

(4) New York Event

SPS intends to hold the Carle Place, New York event on November 18, 2017.[530] The Monitor will attend the New York event and provide information on this event in a future report.

3. Fair Housing Act and Equal Credit Opportunity Act

The Settlement Agreement requires that Credit Suisse provide consumer relief in a manner that does not violate the Fair Housing Act or the Equal Credit Opportunity Act.[531]

The Monitor will review Credit Suisse's provision of relief under the Settlement Agreement to ensure that it complies with both Acts. SPS has provided the Monitor with its 2017 Fair Servicing Policy and Procedure manual. This policy states that SPS has:

> established a policy of nondiscrimination for all aspects of servicing a borrower mortgage loan on the basis of race, color, national origin, religion, sex, marital status, age, disability, family status, actual or perceived sexual orientation (includes homosexuality, heterosexuality, or bisexuality), gender identify (includes actual or perceived gender-related characteristics), the receipt of public assistance or when the borrower exercises his or her good faith rights under the Consumer Credit Protection Act. SPS is committed to a policy of nondiscrimination in all aspects of its servicing programs.[532]

This policy, by its terms, also applies to "all business units, employees . . . , contractors, and vendors, and any other party who on behalf of SPS assists in the servicing of SPS serviced loans."[533] In addition, the scope of the policy clearly states that it applies to "any aspect of the loan cycle."[534]

As an initial step, the Monitor intends to conduct interviews to confirm that this policy is enforced. Over the life of the monitorship, the Monitor will conduct other reviews as it deems necessary to ensure that all consumer relief provided under the Settlement Agreement comports with the requirements of the Fair Housing Act and Equal Credit Opportunity Act. These activities of the Monitor will be discussed in future reports.

E. Compliance with Terms of the Settlement Agreement

The Settlement Agreement requires Credit Suisse to provide the Monitor with all documents and information (excluding privileged information) the Monitor needs to determine whether Credit Suisse has satisfied its consumer relief obligation.[535]

Credit Suisse and SPS should be commended for their adherence to this obligation. They have promptly provided all documents and information requested by the Monitor to date. They have also provided significant additional assistance and cooperation in furtherance of the

monitorship, reflecting a commitment to transparency to the Monitor. These include, among other things:

- Appointing dedicated Project Managers from both Credit Suisse and SPS to coordinate logistics, including arranging meeting times and spaces, and to oversee the flow of information from Credit Suisse and SPS to the Monitor;[536]

- Hosting meetings at Credit Suisse's and SPS's offices;[537]

- Facilitating the Monitor's regular communications with Credit Suisse and SPS by preparing detailed agendas for meetings and calls and ensuring participation of senior personnel with decision making authority;[538]

- Preparing draft eligibility, selection, and testing protocols, supporting data and documentation standards, and other related documents for the Monitor's review;[539]

- Providing transparency into SPS's ordinary-course mortgage loan servicing procedures;[540] and

- Agreeing to provide the Monitor with full, read-only access to SPS's electronic records system.[541]

PART III:
NEXT STEPS AND CONCLUSIONS

Over the last several months, the Monitor has been working with Credit Suisse and SPS to reach agreement on the eligibility and testing protocols that will be used to determine which loans modified by SPS will be submitted to Credit Suisse's Internal Review Group for testing and validation.[542] The Monitor expects to reach agreement with Credit Suisse and SPS on these protocols shortly. The Monitor will then work with Credit Suisse to finalize a testing and sampling plan for Credit Suisse's Internal Review Group, which as explained above will be validating the eligibility determinations made by SPS and then submitting loans for further testing and crediting by the Monitor.

After the parties reach agreement on these eligibility and testing protocols, Credit Suisse and SPS have proposed to submit a representative sample of 100 completed principal forgiveness and principal forbearance loan modifications to the Monitor for credit.[543] Recognizing that the volume of loans that will be submitted for credit in the future will be much larger, submitting a smaller, 100-loan sample at the outset will allow the Monitor to test whether the agreed-upon eligibility and testing protocols are functioning as envisioned. It will also allow the Monitor to perform a "deep dive" review of a representative sample of the loan modifications Credit Suisse intends to submit for credit, with the goal of working through any issues identified as part of that review as early as possible. The Monitor will report on the results of the 100-loan review once it concludes.

Based on the information submitted to the Monitor and the work described in this Report, and subject to the Monitor's final determination and certification that Credit Suisse's consumer relief efforts comply with the requirements of the Settlement Agreement, the Monitor concludes:

- Credit Suisse is in compliance with the consumer relief requirements of the Settlement Agreement for the period from January 18, 2017, through the date of this Report.

- To date, Credit Suisse has provided the Monitor with all documents and information the Monitor has requested for the purpose of determining whether Credit Suisse has satisfied its consumer relief obligation, as required by the Settlement Agreement.

- Credit Suisse has fulfilled its obligation to publish a plain-language document (translated into Spanish, Chinese, Tagalog, Vietnamese and Korean) explaining the types of consumer relief available under the Settlement Agreement.

- Credit Suisse has held two of the three required borrower outreach events for 2017, and those events have complied with the parameters set forth in the Settlement Agreement.

ENDNOTES

ENDNOTES FOR EXECUTIVE SUMMARY

[1] Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[2] Settlement Agreement between the United States and Credit Suisse Securities (USA) LLC ¶ 2, Jan. 18, 2017 (hereinafter "Credit Suisse Settlement Agreement").
[3] Josh Rosner, *Housing in the New Millennium: A Home Without Equity Is Just a Rental With Debt*, Hous. Trends (Graham Fisher), June 29, 2001, at 1, *available at* http://ssrn.com/abstract=1162456 (last visited Aug. 31, 2017).

ENDNOTES FOR PART I: THE SETTLEMENT AGREEMENT

[4] Credit Suisse Settlement Agreement ¶¶ A-24.
[5] Credit Suisse Settlement Agreement ¶ 2; Settlement Agreement between the United States and Credit Suisse Securities (USA) LLC, Annex 1 – Statement of Facts, at 1-19, Jan. 18, 2017 (hereinafter "Credit Suisse Statement of Facts").
[6] Credit Suisse Statement of Facts at 1, 5-19; Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[7] Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[8] Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[9] Credit Suisse Settlement Agreement ¶ 2; Credit Suisse Statement of Facts at 2, 4-7, 10-11; Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[10] Credit Suisse Statement of Facts at 8, 11-14; Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017); Fin. Crisis Inquiry Comm'n, Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States 403-04 (2011), *available at* http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf (last visited Aug. 31, 2017).
[11] Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[12] Pub. L. No. 101-73, 103 Stat. 183 (codified as amended in scattered sections of 12 U.S.C.); 12 U.S.C. § 1833a(a); Credit Suisse Settlement Agreement ¶ 1.
[13] Credit Suisse Settlement Agreement ¶¶ 3, 5; Settlement Agreement between the United States and Credit Suisse Securities (USA) LLC, Annex 3 – Deal Names, at 1-7, Jan. 18, 2017 (hereinafter "Credit Suisse Annex 3").
[14] Credit Suisse Settlement Agreement ¶ 1.
[15] Credit Suisse Settlement Agreement ¶ 2.
[16] Settlement Agreement between the United States and Credit Suisse Securities (USA) LLC, Annex 2 – Consumer Relief, at 2 nn.1 & 6, 3 n.7, 5, Jan. 18, 2017 (hereinafter "Credit Suisse Annex 2").
[17] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F).
[18] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F); Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan. 18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[19] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A, 1.B, 1.D & 1.F).
[20] Credit Suisse Annex 2 at 2 nn.1 & 6, 3 n.7.
[21] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F).
[22] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F); Press Release, Dep't of Justice, Credit Suisse Agrees to Pay $5.28 Billion in Connection with Its Sale of Residential Mortgage-Backed Securities (Jan.

18, 2017), *available at* https://www.justice.gov/opa/pr/credit-suisse-agrees-pay-528-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017).
[23] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F).
[24] Credit Suisse Annex 2 at 2-4 (Menu Items 1.A-1.F).
[25] Credit Suisse Annex 2 at 5-6 (Menu Item 2).
[26] Credit Suisse Annex 2 at 5 & n.13 (Menu Item 2).
[27] Monitor Call with Credit Suisse, July 18, 2017; *How Is It Built?*, Cal. Hous. Consortium, http://calhsng.org/resources/affordable-housing-101/how-is-it-built (last visited Aug. 31, 2017).
[28] Credit Suisse Annex 2 at 5 & n.13 (Menu Item 2).
[29] Credit Suisse Annex 2 at 5.
[30] Credit Suisse Annex 2 at 2 n.1.
[31] Credit Suisse Annex 2 at 7.
[32] Credit Suisse Annex 2 at 2 n.1, 7.
[33] Credit Suisse Settlement Agreement at 1.
[34] George A. Manning, Financial Investigation & Forensic Accounting 604 (3d ed. 2011).
[35] For examples, see 12 U.S.C. § 1833a(a) and 18 U.S.C. § 1014.
[36] Press Release, Dep't of Justice, Justice Department Collects More Than $15.3 Billion in Civil and Criminal Cases in Fiscal Year 2016 (Dec. 14, 2016), *available at* https://www.justice.gov/opa/pr/justice-department-collects-more-153-billion-civil-and-criminal-cases-fiscal-year-2016 (last visited Aug. 31, 2017).
[37] Press Release, Dep't of Justice, President Obama Establishes Interagency Financial Fraud Enforcement Task Force (Nov. 17, 2009), *available at* https://www.justice.gov/opa/pr/president-obama-establishes-interagency-financial-fraud-enforcement-task-force (last visited Aug. 31, 2017). The Monitor, Neil Barofsky, was a member of the Task Force from its inception until March 31, 2011, when he stepped down as the Special Inspector General for the Troubled Asset Relief Program.
[38] Press Release, Dep't of Justice, Goldman Sachs Agrees to Pay More than $5 Billion in Connection with Its Sale of Residential Mortgage Backed Securities (Apr. 11, 2016), *available at* https://www.justice.gov/opa/pr/goldman-sachs-agrees-pay-more-5-billion-connection-its-sale-residential-mortgage-backed (last visited Aug. 31, 2017); Press Release, Dep't of Justice, Justice Department, Federal and State Partners Secure Record $7 Billion Global Settlement with Citigroup for Misleading Investors About Securities Containing Toxic Mortgages (July 14, 2014), *available at* https://www.justice.gov/opa/pr/justice-department-federal-and-state-partners-secure-record-7-billion-global-settlement (last visited Aug. 31, 2017); Press Release, Dep't of Justice, Justice Department, Federal and State Partners Secure Record $13 Billion Global Settlement with JPMorgan for Misleading Investors About Securities Containing Toxic Mortgages (Nov. 19, 2013), *available at* https://www.justice.gov/opa/pr/justice-department-federal-and-state-partners-secure-record-13-billion-global-settlement (last visited Aug. 31, 2017).
[39] Press Release, Dep't of Justice, Federal Government and State Attorneys General Reach $25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses (Feb. 9, 2012), *available at* https://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest (last visited Aug. 31, 2017); *see* Consent Judgment, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Apr. 4, 2012), ECF No. 10 (JPMorgan Chase); Consent Judgment, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Apr. 4, 2012), ECF No. 11 (Bank of America); Consent Judgment, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Apr. 4, 2012), ECF No. 12 (Citigroup); Consent Judgment, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Apr. 4, 2012), ECF No. 13 (Ally/GMAC); Consent Judgment, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Apr. 4, 2012), ECF No. 14 (Wells Fargo).
[40] Complaint, *United States v. Bank of Am. Corp.*, No. 12-CV-361 (RMC) (D.D.C. Mar. 12, 2012), ECF No. 1; Press Release, Dep't of Justice, Federal Government and State Attorneys General Reach $25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses (Feb. 9, 2012), *available at* https://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest (last visited Aug. 31, 2017).
[41] Press Release, Dep't of Justice, Federal Government and State Attorneys General Reach $25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure

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[243] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, § 6.3.6 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017).
[244] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[245] Dan Immergluck, Preventing the Next Mortgage Crisis 86 (2015).
[246] Dan Immergluck, Preventing the Next Mortgage Crisis 86 (2015).
[247] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05: Modification of Loans with Principal Reduction Alternative 4 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017).
[248] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05:

Modification of Loans with Principal Reduction Alternative 4, 6 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017).

[249] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05: Modification of Loans with Principal Reduction Alternative 4 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017); Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[250] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05: Modification of Loans with Principal Reduction Alternative 6 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017).

[251] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05: Modification of Loans with Principal Reduction Alternative 6 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017).

[252] U.S. Dep't of Treasury, Home Affordable Modification Program Supplemental Directive 10-05: Modification of Loans with Principal Reduction Alternative 4, 6 (2010), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd1005.pdf (last visited Aug. 31, 2017).

[253] Credit Suisse Annex 2 at 2 n.3 (Menu Item 1.A).

[254] Monitor Call with SPS, July 12, 2017.

[255] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, §§ 1.1.2, 1.1.3, 4.4 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017); U.S. Dep't of Treasury, Making Home Affordable Program Supplemental Directive 09-01: Introduction of the Home Affordable Modification Program 3 (2009), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd0901.pdf (last visited Aug. 31, 2017); Monitor Call with SPS, July 12, 2017; Monitor Call with SPS, June 21, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.

[256] Credit Suisse Annex 2 at 2 n.3 (Menu Item 1.A).

[257] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[258] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[259] Credit Suisse Annex 2 at 2 n.4 (Menu Items 1.A, 1.B, 1.C & 1.F).

[260] *Conforming Loan Limits*, Fed. Hous. Fin. Agency, https://www.fhfa.gov/DataTools/Downloads/Pages/Conforming-Loan-Limits.aspx (last visited Aug. 31, 2017) (loan limits for mortgages acquired in calendar year 2016); *see also* https://www.fhfa.gov/DataTools/Downloads/Documents/Conforming-Loan-Limits/FullCountyLoanLimitList2016_HERA-BASED_FINAL_FLAT.xlsx (last visited Aug. 31, 2017).

[261] *Conforming Loan Limits*, Fed. Hous. Fin. Agency, https://www.fhfa.gov/DataTools/Downloads/Pages/Conforming-Loan-Limits.aspx (last visited Aug. 31, 2017) (loan limits for mortgages acquired in calendar year 2016); *see also* https://www.fhfa.gov/DataTools/Downloads/Documents/Conforming-Loan-Limits/FullCountyLoanLimitList2016_HERA-BASED_FINAL_FLAT.xlsx (last visited Aug. 31, 2017).

[262] Credit Suisse Annex 2 at 2 n.5 (Menu Item 1.A).

[263] Monitor Call with Credit Suisse, Sept. 29, 2017; Monitor Call with Credit Suisse, Sept. 28, 2017; Monitor Call with SPS, July 19, 2017.

[264] FASB Accounting Standards Codification 948-310-35-1, Loans Held for Sale; *US GAAP Plus, Loan Receivables (After Adoption of IFRS 9 and ASU 2016-01): Key Differences Between U.S. GAAP and IFRSs*, Deloitte, https://www.iasplus.com/en-us/standards/ifrs-usgaap/loan-receivables (last visited Aug. 31, 2017).

[265] Credit Suisse Annex 2 at 2 n.5 (Menu Item 1.A).

[266] Credit Suisse Annex 2 at 2 n.5 (Menu Item 1.A).

[267] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[268] Credit Suisse Annex 2 at 2 n.5 (Menu Item 1.A).

[269] FASB Accounting Standards Codification 310-10-35-47, Loans and Trade Receivables Not Held for

Sale; FASB Accounting Standards Codification 948-310-25-1, Loans Held as Long-Term Investments; *US GAAP Plus, Loan Receivables (After Adoption of IFRS 9 and ASU 2016-01): Key Differences Between U.S. GAAP and IFRSs*, Deloitte, https://www.iasplus.com/en-us/standards/ifrs-usgaap/loan-receivables (last visited Aug. 31, 2017).

[270] Monitor Call with Credit Suisse, Sept. 29, 2017; Monitor Call with Credit Suisse, Sept. 28, 2017; Monitor Call with SPS, July 19, 2017.

[271] Credit Suisse Annex 2 at 2 n.2.

[272] Credit Suisse Annex 2 at 2 n.1.

[273] Credit Suisse Annex 2 at 2 n.3.

[274] Monitor Call with SPS, May 3, 2017; Monitor Call with SPS, Apr. 28, 2017.

[275] Credit Suisse Annex 2 at 2 (Menu Item 1.A).

[276] Credit Suisse Annex 2 at 6 n.14 (Menu Item 1.A).

[277] Credit Suisse Annex 2 at 2, 5 (Menu Items 1.A & 2).

[278] Credit Suisse Annex 2 at 2 (Menu Item 1.A).

[279] Credit Suisse Annex 2 at 2 (Menu Item 1.A).

[280] Credit Suisse Annex 2 at 3 (Menu Item 1.A).

[281] Credit Suisse Annex 2 at 3 (Menu Item 1.A).

[282] Credit Suisse Annex 2 at 3 (Menu Item 1.A).

[283] Credit Suisse Annex 2 at 3 (Menu Item 1.A).

[284] Credit Suisse Annex 2 at 3 (Menu Item 1.A).

[285] Credit Suisse Annex 2 at 2-3 & nn.6-7.

[286] Credit Suisse Annex 2 at 2 & n.6 (Menu Item 1.A).

[287] Credit Suisse Annex 2 at 3 & n.7 (Menu Item 1.A).

[288] Credit Suisse Annex 2 at 2-3 nn.6-7.

[289] Credit Suisse Annex 2 at 2 n.5 (Menu Item 1.A).

[290] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, §§ 6.3.2, 6.3.3, 6.4.3.2, 6.4.3.3 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017); Monitor Call with SPS, Aug. 16, 2017; Monitor Call with SPS, Apr. 28, 2017; Monitor Call with SPS, Apr. 19, 2017.

[291] Monitor Call with SPS, Aug. 16, 2017; Monitor Call with SPS, Apr. 28, 2017; Monitor Call with SPS, Apr. 19, 2017.

[292] Monitor Call with SPS, Aug. 16, 2017; Monitor Call with SPS, July 13, 2017. The change to the loan-to-value ratio floor will also allow SPS to provide a greater amount of principal forbearance under the HAMP Streamline program, because under the rules for that program, loan-to-value ratio is used to calculate both principal forgiveness and principal forbearance amounts. U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, §§ 6.3.3.4, 6.4.3.3 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017); Monitor Call with SPS, Aug. 16, 2017.

[293] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, § 6.4.3.1 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017); Monitor Call with SPS, Aug. 30, 2017; Monitor Call with SPS, Aug. 16, 2017.

[294] Monitor Call with SPS, Aug. 30, 2017; Monitor Call with SPS, Aug. 16, 2017.

[295] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. II, §§ 6.3.7, 6.4.3.1 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017); Monitor Call with SPS, Aug. 16, 2017.

[296] Principal forbearance loan modifications are discussed on page 3 of "Annex 2" to the Settlement Agreement, under section 1.C or – as termed in the Agreement – "Menu Item 1.C." Credit Suisse Annex 2 at 3 (Menu Item 1.C).

[297] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).

[298] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[299] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[300] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[301] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[302] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017).
[303] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017); Martin Neil Baily, *Preface*, *in* The Future of Housing Finance: Restructuring the U.S. Residential Mortgage Market vii, vii (Martin Neil Baily ed., 2011).
[304] Credit Suisse Annex 2 at 2 n.4.
[305] *Conforming Loan Limits*, Fed. Hous. Fin. Agency, https://www.fhfa.gov/DataTools/Downloads/Pages/Conforming-Loan-Limits.aspx (last visited Aug. 31 2017) (loan limits for mortgages acquired in calendar year 2016); *see also* https://www.fhfa.gov/DataTools/Downloads/Documents/Conforming-Loan-Limits/FullCountyLoanLimitList2016_HERA-BASED_FINAL_FLAT.xlsx (last visited Aug. 31, 2017).
[306] Credit Suisse Annex 2 at 2 n.2.
[307] Credit Suisse Annex 2 at 2 n.3, 3 (Menu Item 1.C).
[308] Credit Suisse Annex 2 at 3 (Menu Item 1.C).
[309] Credit Suisse Annex 2 at 2-3, 5 (Menu Items 1.A, 1.C & 2).
[310] Credit Suisse Annex 2 at 3 & n.8 (Menu Item 1.C).
[311] Fed. Home Loan Mortg. Corp., Freddie Mac Principal Reduction Modification FAQs for Servicers and Borrowers 6 (2016), *available at* http://www.freddiemac.com/singlefamily/service/pdf/prmod_faqs.pdf (last visited Aug. 31, 2017); Remarks of Edward J. DeMarco, Acting Director, Fed. Hous. Fin. Agency, Before the Brookings Institution, Washington, D.C., at 13-14 (Apr. 10, 2012), *available at* https://www.brookings.edu/wp-content/uploads/2012/04/0410_housing_demarco_speech.pdf (last visited Aug. 31, 2017).
[312] Credit Suisse Annex 2 at 3 & n.8 (Menu Item 1.C).
[313] Credit Suisse Annex 2 at 3 & n.8 (Menu Item 1.C).
[314] Credit Suisse Annex 2 at 3 & n.8 (Menu Item 1.C).
[315] Credit Suisse Annex 2 at 3 & n.7 (Menu Item 1.C; Early Incentive Credit).
[316] Credit Suisse Annex 2 at 3 (Menu Item 1.C).
[317] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[318] Monitor Call with SPS, Sept. 6, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[319] Monitor Call with SPS, Sept. 6, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[320] Monitor Call with SPS, Sept. 6, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[321] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[322] Monitor Call with SPS, Sept. 6, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[323] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.

[324] Monitor Call with SPS, Sept. 6, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[325] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[326] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[327] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[328] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[329] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[330] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[331] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[332] Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[333] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017; Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[334] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[335] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[336] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017.
[337] Monitor Call with SPS, June 7, 2017; Monitor Call with SPS, May 10, 2017.
[338] Monitor Call with SPS, Apr. 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[339] Credit Suisse Annex 2 at 3 (Menu Item 1.C).
[340] Credit Suisse Annex 2 at 4 (Menu Item 1.F).
[341] Credit Suisse Annex 2 at 4 (Menu Items 1.D & 1.E).
[342] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. V, § 7.3.2 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017).
[343] *See* U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. V, § 7.3.2 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017).
[344] Credit Suisse Annex 2 at 4 (Menu Item 1.E).
[345] Credit Suisse Annex 2 at 4 (Menu Item 1.E).
[346] Marianne M. Jennings, Real Estate Law 434 (10th ed. 2014).
[347] *City Consumer Servs., Inc. v. Peters*, 815 P.2d 234, 237 (Utah 1991).
[348] Faten Sabry et al., *Residential Mortgage Defaults, Foreclosures, and Modifications*, *in* The Handbook of Mortgage-Backed Securities 592, 619 (Frank J. Fabozzi ed., 7th ed. 2016).
[349] Faten Sabry et al., *Residential Mortgage Defaults, Foreclosures, and Modifications*, *in* The Handbook of Mortgage-Backed Securities 592, 619 (Frank J. Fabozzi ed., 7th ed. 2016).
[350] U.S. Dep't of Treasury, Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages, ch. V, § 7.3.2 (v. 5.1, 2016), *available at* https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/mhahandbook_51.pdf (last visited Aug. 31, 2017).
[351] Remarks of Edward J. DeMarco, Acting Director, Fed. Hous. Fin. Agency, Before the Brookings Institution, Washington, D.C., at 13-14 (Apr. 10, 2012), *available at* https://www.brookings.edu/wp-content/uploads/2012/04/0410_housing_demarco_speech.pdf (last visited Aug. 31, 2017).
[352] Credit Suisse Annex 2 at 4 (Menu Items 1.D & 1.E).
[353] Credit Suisse Annex 2 at 4 n.9 (Menu Items 1.D & 1.E).
[354] Credit Suisse Annex 2 at 4 n.10 (Menu Items 1.D & 1.E).
[355] Credit Suisse Annex 2 at 4 n.9 (Menu Items 1.D & 1.E).
[356] Credit Suisse Annex 2 at 4 (Menu Item 1.D).
[357] Credit Suisse Annex 2 at 4 (Menu Item 1.D).
[358] Credit Suisse Annex 2 at 4 (Menu Item 1.E).
[359] Credit Suisse Annex 2 at 3 n.7, 4 (Early Incentive Credit; Menu Items 1.D & 1.E).

[360] *E.g.*, Roger Bernhardt et al., 1 California Mortgages, Deeds of Trust, and Foreclosure Litigation §§ 2.99, 3.32(c) (4th ed. 2017).
[361] Credit Suisse Annex 2 at 4 n.9 (Menu Items 1.D & 1.E).
[362] Cal. Civ. Proc. Code § 580b; *Godby v. Wells Fargo Bank, N.A.*, 599 F. Supp. 2d 934, 938-39 (S.D. Ohio 2008); *Madden v. Alaska Mtg. Grp.*, 54 P.3d 265, 268 & n.4 (Alaska 2002).
[363] *See, e.g.*, Alaska Stat. § 45.03.118(a); Ariz. Rev. Stat. § 12-548(A); Ark. Code Ann. § 16-56-111(a); Colo. Rev. Stat. Ann. § 13-80-103.5(1)(a); D.C. Code. § 12-301(7); Fla. Stat. § 95.11(2)(b); Idaho Code Ann. § 5-216; 735 Ill. Comp. Stat. Ann. § 5/13-206; Ind. Code § 26-1-3.1-118(a); Iowa Code Ann. § 614.1(5)(a); Kan. Stat. Ann. § 60-511(1); Ky. Rev. Stat. Ann. § 355.3-118(1); La. Civ. Code art. 3498; Md. Cts. & Jud. Proc. Code § 5-101; Mich. Comp. Laws Ann. § 600.5807(8); Mo. Rev. Stat. Ann. § 516.110(1); Mont. Code Ann. § 30-3-122(1); N.Y. C.P.L.R. § 213(4); Okla. Stat. Ann. § 3-118(a); Utah Code Ann. § 78B-2-309(2); Wash. Rev. Code § 4.16.040(1); Wyo. Stat. Ann. § 34.1-3-118(a).
[364] *See, e.g.*, Alaska Stat. § 45.03.118(a); Ariz. Rev. Stat. § 12-548(A); Colo. Rev. Stat. Ann. § 13-80-103.5(1)(a); Ky. Rev. Stat. Ann. § 355.3-118(1); Mich. Comp. Laws Ann. § 600.5807(8); Mont. Code Ann. § 30-3-122(1); N.Y. C.P.L.R. § 213(4); Okla. Stat. Ann. § 3-118(a); Utah Code Ann. § 78B-2-309(2); Wash. Rev. Code § 4.16.040(1); Wyo. Stat. Ann. § 34.1-3-118(a).
[365] Mont. Code Ann. § 30-3-122(1); Okla. Stat. Ann. § 3-118(a); Wyo. Stat. Ann. § 34.1-3-118(a); *Navy Fed. Credit Union v. Jones*, 930 P.2d 1007, 1009 (Ariz. Ct. App. 1996); *Castle Rock Bank v. Team Transit, LLC*, 292 P.3d 1077, 1082 (Colo. App. 2012); *FGB Realty Advisors, Inc. v. Keller*, 923 P.2d 520, 521-22 (Kan. Ct. App. 1996); *Sparta State Bank v. Covell*, 495 N.W.2d 817, 819 (Mich. Ct. App. 1992); *EMC Mortg. Corp. v. Patella*, 720 N.Y.S.2d 161, 162-63 (App. Div. 2001); *Wash. Fed., Nat'l Ass'n v. Azure Chelan LLC*, 382 P.3d 20, 30 (Wash. Ct. App. 2016).
[366] *FGB Realty Advisors, Inc. v. Keller*, 923 P.2d 520, 521-22 (Kan. Ct. App. 1996); *Copland v. Daniels*, No. 114923, 1993 WL 946051, at *1-2 (Va. Cir. Ct. Apr. 28, 1993); *Sport Mart, Inc. v. Knell*, No. 11-0048, 2011 WL 819988, at *4 (W. Va. Nov. 28, 2011).
[367] *FGB Realty Advisors, Inc. v. Keller*, 923 P.2d 520, 521-22 (Kan. Ct. App. 1996); *see Daaus Funding, LLC v. Mironer*, No. B263730, 2016 WL 7448775, at *9 (Cal. Ct. App. Dec. 28, 2016); *Snow v. Wells Fargo Bank, N.A.*, 156 So. 3d 538, 542 (Fla. Dist. Ct. App. 2015); *Curtis v. Speck*, 130 S.W.2d 348, 351 (Tex. Civ. App. 1939), *abrogated on other grounds by Holy Cross Church of God in Christ v. Wolf*, 44 S.W.3d 562, 569-70 (Tex. 2001).
[368] *Compare Murphy v. HSBC Bank USA*, 95 F. Supp. 3d 1025, 1029 n.10 (S.D. Tex. 2015) (explaining that under Texas law, "to be effective acceleration requires two acts: a notice of intent to accelerate and a notice of acceleration"), *with Salahat v. FDIC*, 680 S.E.2d 638, 642 (Ga. Ct. App. 2009) ("[T]he August 24, 2007 correspondence advised Ram-Mar . . . that the Note was in default, and that was all Section 7, by its plain terms, required. . . . [A]fter the expiration of ten days, the Bank was entitled to accelerate the Note without any further notice . . . ."). *See also, e.g.*, *Stadler v. Riverside Groves & Water Co.*, 140 P. 252, 253 (Cal. 1914) (holding advance notice of intent not required; lender must instead provide notice that the note has in fact been accelerated); *Snow v. Wells Fargo Bank, N.A.*, 156 So. 3d 538, 542 (Fla. Dist. Ct. App. 2015) (holding that a letter with express language declaring the entire amount due is required); *Karam v. Brown*, 407 S.W.3d 464, 469-70 (Tex. App. 2013) (holding that a notice of intent to accelerate, followed by a letter with express language declaring the entire amount due, is required); *Deutsche Bank Tr. Co. v. Unknown Heirs of Estate of Suoto*, No. 850120/15, slip op. at 1-2 (N.Y. App. Div. 1st Dep't Mar. 16, 2017) (holding that notice that the debt "will" be accelerated if default is not cured within 30 days is sufficient to accelerate debt upon failure to cure).
[369] Some courts have indicated that the statute of limitations for the entire loan amount may begin to run immediately upon the first missed payment, irrespective of what is stated in the mortgage, or what actions are taken by the lender. *See Premier Capital, LLC v. Skaltsis*, 934 A.2d 496, 501 (N.H. 2007); *see also Wells Fargo Bank, NA v. Strong*, No. K15C-03-003, 2015 WL 6000514, at *3 (Del. Super. Ct. Oct. 6, 2015); *Bank of Nova Scotia v. St. Croix Drive-In Theatre, Inc.*, 552 F. Supp. 1244, 1251 (D.V.I. 1982). In other states, even after a mortgage has been declared to be immediately due, events such as partial payment by the borrower or the debtor's acknowledgement of the debt may cause the statute of limitations to pause or to start anew. *Williams v. Lopes*, No. 24665/20003, 2005 WL 2451991, at *2-4 (N.Y. Sup. Ct. 2005); *Banque Francaise du Commerce Exterieur v. Antweil*, No. 93-CV-5834 (JSM), 1994 WL 132149, at *1 (S.D.N.Y. Apr. 12, 1994). In addition, when a promissory note is not accelerated, each missed payment may trigger the start of the statute of limitations as to that individual missed payment.

Therefore, in some circumstances certain past-due amounts may be unenforceable due to the expiration of the statute of limitations, but more recent missed payments and/or future-due principal may be recoverable. *See, e.g.*, *Navy Fed. Credit Union v. Jones*, 930 P.2d 1007, 1009 (Ariz. Ct. App. 1996); *Obhi v. Banga*, No. H037025, 2012 WL 2785896, at *3 (Cal. Ct. App. July 10, 2012); *Trigg v. Arnott*, 71 P.2d 330, 332 (Cal. Ct. App. 1937); *Parker v. Dodge*, 98 S.W.3d 297, 301 (Tex. App. 2003).

[370] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[371] Monitor Call with SPS, Apr. 19, 2017.

[372] Monitor Call with SPS, Apr. 19, 2017.

[373] Fla. Stat. § 95.11(2)(a); *Dhanasar v. JPMorgan Chase Bank, N.A.*, 201 So. 3d 825, 826 (Fla. Dist. Ct. App. 2016).

[374] Kimbriell Kelly, *Lenders Seek Court Actions Against Homeowners Years After Foreclosure*, Wash. Post, June 15, 2013, https://www.washingtonpost.com/investigations/lenders-seek-court-actions-against-homeowners-years-after-foreclosure/2013/06/15/3c6a04ce-96fc-11e2-b68f-dc5c4b47e519_story.html?utm_term=.a9b115f75187 (last visited Aug. 31, 2017).

[375] *First Bank v. Fischer & Frichtel, Inc.*, 364 S.W.3d 216, 220 (Mo. 2012) (en banc).

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[379] 42 Pa. Consol. Stat. Ann. § 8103(a).

[380] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

[381] Cal. Code Civ. Proc. § 580b(a)(3); *Garcia v. Dyck-O'Neal, Inc.*, 178 So. 3d 433, 433-36 (Fla. Dist. Ct. App. 2015).

[382] *Godby v. Wells Fargo Bank, N.A.*, 599 F. Supp. 2d 934, 942 (S.D. Ohio 2008).

[383] Monitor Call with Credit Suisse, Sept. 29, 2017.

[384] Monitor Call with SPS, May 3, 2017.

[385] Credit Suisse Annex 2 at 5-6 (Menu Item 2).

[386] Credit Suisse Annex 2 at 5 (Menu Item 2).

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[394] Credit Suisse Annex 2 at 5-6 (Menu Item 2).

[395] Credit Suisse Annex 2 at 5 & n.12 (Menu Item 2); *see* 26 U.S.C. § 42.

[396] Credit Suisse Annex 2 at 5 & n.12 (Menu Item 2).

[397] Credit Suisse Annex 2 at 5 & n.12 (Menu Item 2).

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[401] Credit Suisse Annex 2 at 5 n.13 (Menu Item 2).
[402] Credit Suisse Annex 2 at 5 (Menu Item 2).
[403] Credit Suisse Annex 2 at 5 (Menu Item 2).
[404] Credit Suisse Annex 2 at 5 (Menu Item 2).
[405] Credit Suisse Annex 2 at 3 n.7, 5 (Early Incentive Credit; Menu Item 2).
[406] Monitor Call with Credit Suisse, Sept. 29, 2017. Assuming that units per dollars of loss are consistent, and that half of Credit Suisse's losses will therefore be entitled to the additional 125% excess critical need credit enhancement if all financed units are located in these areas, the calculation would be: $24.734 million x 3.75 x 1.15 + $24.734 million x 3.75 x 1.15 x 1.25 = $240 million.
[407] Monitor On-Site Due Diligence Meeting with National Equity Fund, Inc. and Credit Suisse, July 20, 2017; Monitor Call with Credit Suisse, May 24, 2017; *cf.* Bendix Anderson, *AHF Announces Top 25 Lenders of 2016*, Affordable Hous. Fin. (Mar. 6, 2017), *available at* http://www.housingfinance.com/finance/ahf-announces-top-25-lenders-of-2016_o (last visited Aug. 28, 2017) (including among list of top 25 affordable housing lenders of 2016 Citi Community Capital, Bank of America Merrill Lynch, and JPMorgan Chase Bank); Bendix Anderson, *AHF Announces Top 25 Affordable Housing Lenders*, Affordable Hous. Fin. (Mar. 10, 2016), *available at* http://www.housingfinance.com/finance/ahf-announces-top-25-affordable-housing-lenders (last visited Aug. 28, 2017) (same with respect to 2015).
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[409] Monitor Call with Credit Suisse, July 18, 2017.
[410] Monitor On-Site Due Diligence Meeting with National Equity Fund, Inc. and Credit Suisse, July 20, 2017; Monitor Call with Credit Suisse, July 18, 2017.
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[417] Mortgage Forgiveness Debt Relief Act of 2007, Pub. L. No. 110-142, §§ 1-2, 121 Stat. 1803.
[418] Mortgage Forgiveness Debt Relief Act of 2007, Pub. L. No. 110-142, § 2, 121 Stat. 1803; *Mortgage Debt Forgiveness: 10 Key Points, IRS Tax Tip 2012-39*, Internal Revenue Serv. (Feb. 28, 2012), https://www.irs.gov/uac/mortgage-debt-forgiveness-10-key-points (last visited Aug. 31, 2017).
[419] 26 U.S.C. § 108(a)(1)(E).
[420] Credit Suisse Annex 2 at 2-3.

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[423] Monitor Call with SPS, July 12, 2017; Monitor Call with SPS, June 21, 2017.
[424] Monitor Call with SPS, Aug. 2, 2017; Monitor Call with SPS, July 12, 2017.
[425] Monitor Call with SPS, Sept. 21, 2017; Monitor Call with SPS, July 12, 2017.
[426] Credit Suisse Annex 2 at 6.
[427] Credit Suisse Annex 2 at 6.
[428] Monitor Call with SPS, May 10, 2017; Monitor Call with SPS, May 3, 2017; Monitor Call with SPS, Mar. 10, 2017.
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[431] Credit Suisse Annex 2 at 6.
[432] Credit Suisse Annex 2 at 6.
[433] Credit Suisse Annex 2 at 6-7.
[434] Credit Suisse Annex 2 at 7.
[435] Credit Suisse Annex 2 at 7.
[436] Credit Suisse Annex 2 at 7.
[437] Credit Suisse Annex 2 at 7.
[438] Credit Suisse Annex 2 at 7.
[439] Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[440] Monitor Call with SPS, May 10, 2017; Monitor Call with SPS, Apr. 19, 2017; Monitor Call with SPS, Apr. 12, 2017; Monitor Call with SPS, Mar. 16, 2017.
[441] Monitor Call with SPS, May 10, 2017; Monitor Call with SPS, Apr. 19, 2017; Monitor Call with SPS, Apr. 12, 2017; Monitor Call with SPS, Mar. 16, 2017.
[442] SPS California Borrower Outreach Event, Aug. 5, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[443] Monitor Call with SPS, Sept. 13, 2017.
[444] Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[445] SPS Colorado Borrower Outreach Event, June 10, 2017.
[446] SPS Colorado Borrower Outreach Event, June 10, 2017.
[447] SPS Colorado Borrower Outreach Event, June 10, 2017.
[448] SPS Colorado Borrower Outreach Event, June 10, 2017.
[449] SPS Colorado Borrower Outreach Event, June 10, 2017.
[450] SPS Colorado Borrower Outreach Event, June 10, 2017.
[451] SPS Colorado Borrower Outreach Event, June 10, 2017; Monitor Call with SPS, May 10, 2017.
[452] SPS Colorado Borrower Outreach Event, June 10, 2017.
[453] SPS Colorado Borrower Outreach Event, June 10, 2017.
[454] SPS Colorado Borrower Outreach Event, June 10, 2017.
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[470] SPS Colorado Borrower Outreach Event, June 10, 2017.
[471] SPS Colorado Borrower Outreach Event, June 10, 2017.
[472] Monitor Call with SPS, July 19, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[473] SPS Colorado Borrower Outreach Event, June 10, 2017; Monitor Call with SPS, May 17, 2017.
[474] SPS Colorado Borrower Outreach Event, June 10, 2017.
[475] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[476] Monitor Call with SPS, Mar. 16, 2017; Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[477] SPS Colorado Borrower Outreach Event, June 10, 2017.
[478] SPS Colorado Borrower Outreach Event, June 10, 2017.
[479] SPS Colorado Borrower Outreach Event, June 10, 2017.
[480] SPS Colorado Borrower Outreach Event, June 10, 2017.
[481] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Sept. 5, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[482] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Sept. 5, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[483] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Sept. 5, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[484] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[485] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[486] Monitor Call with SPS, July 13, 2017; Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[487] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[488] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[489] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[490] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[491] Monitor Call with SPS, June 28, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[492] SPS California Borrower Outreach Event, Aug. 5, 2017.
[493] SPS California Borrower Outreach Event, Aug. 5, 2017.
[494] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[495] SPS California Borrower Outreach Event, Aug. 5, 2017.
[496] SPS California Borrower Outreach Event, Aug. 5, 2017.
[497] SPS California Borrower Outreach Event, Aug. 5, 2017.
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[499] SPS California Borrower Outreach Event, Aug. 5, 2017.
[500] SPS California Borrower Outreach Event, Aug. 5, 2017.
[501] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[502] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[503] SPS California Borrower Outreach Event, Aug. 5, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[504] SPS California Borrower Outreach Event, Aug. 5, 2017.
[505] SPS California Borrower Outreach Event, Aug. 5, 2017.
[506] SPS California Borrower Outreach Event, Aug. 5, 2017; SPS Colorado Borrower Outreach Event, June 10, 2017.
[507] SPS California Borrower Outreach Event, Aug. 5, 2017.

[508] SPS California Borrower Outreach Event, Aug. 5, 2017.
[509] SPS California Borrower Outreach Event, Aug. 5, 2017.
[510] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[511] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[512] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[513] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[514] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[515] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[516] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[517] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[518] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[519] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[520] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Sept. 5, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[521] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[522] Monitor Call with SPS, Oct. 18, 2017; Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[523] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[524]Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017; Monitor Call with SPS, July 13, 2017.
[525] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[526] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[527] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[528] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[529] Monitor Call with SPS, Aug. 23, 2017; SPS California Borrower Outreach Event, Aug. 5, 2017.
[530] Monitor Call with SPS, Sept. 13, 2017.
[531] Credit Suisse Annex 2 at 1; Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*; Equal Credit Opportunity Act, 15 U.S.C. §§ 1691, *et seq.*
[532] SPS, Online Policy and Procedure Resource, Fair Servicing, Jan. 2017, at 1.
[533] SPS, Online Policy and Procedure Resource, Fair Servicing, Jan. 2017, at 1.
[534] SPS, Online Policy and Procedure Resource, Fair Servicing, Jan. 2017, at 1.
[535] Credit Suisse Settlement Agreement ¶ 2.
[536] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017; Monitor Call with SPS, Feb. 24, 2017; Monitor Call with Credit Suisse, Feb. 13, 2017.
[537] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017; Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.
[538] *E.g.*, Monitor Call with SPS, July 12, 2017; Monitor Call with SPS, June 21, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor Call with SPS, June 1, 2017.
[539] Monitor Call with SPS, July 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[540] Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[541] Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.

ENDNOTES FOR PART III: NEXT STEPS AND CONCLUSIONS

[542] Monitor Call with SPS, Sept. 27, 2017; Monitor Call with SPS, Sept. 26, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, June 12, 2017; Monitor Call with SPS, June 7, 2017; Monitor Call with SPS, June 1, 2017; Monitor On-Site Meeting with Credit Suisse and SPS, Mar. 27-28, 2017.
[543] Monitor Call with SPS, Sept. 27, 2017; Monitor Call with SPS, Sept. 26, 2017; Monitor Call with SPS, June 7, 2017; Monitor Call with SPS, May 10, 2017; Monitor On-Site Meeting with Credit Suisse, Jan. 31, 2017.

GLOSSARY

A list of terms used throughout this Report appears below.

Adjustable-Rate Mortgage: Mortgage loan in which the interest rate changes over the course of the loan. Adjustable-rate mortgages generally have a lower initial rate than a borrower could obtain on a fixed-rate mortgage, but expose borrowers to the risk that interest rates will increase in the future.

Affordable Housing: Housing is typically considered "affordable" if it consumes no more than 30% of a household's income. The federal government incentivizes development of affordable housing by, among other things, awarding tax credits that can be sold to private investors who use the credits to reduce their federal tax liabilities.

Bankruptcy: Legal proceeding involving a person or business that is unable to satisfy its liabilities. In a bankruptcy proceeding, an individual's unsecured debts, such as credit card debt, medical bills, and unsecured mortgage debt, may be extinguished.

Capitalization: Method of modifying a mortgage loan in which missed payments and other outstanding costs are added to the borrower's outstanding principal loan balance, and thus spread out over the remaining term of the loan.

Compensating Factors: A borrower who otherwise may not qualify for a loan due to insufficient credit score or income, for example, may have "compensating factors" that outweigh the shortcoming and warrant issuance of the loan. Some common compensating factors are low non-housing debt, strong career growth potential, additional income sources, exceptional credit history, or projected significant cash reserve after purchasing the home.

Credit Suisse: Credit Suisse Securities (USA) LLC, together with its current and former U.S. subsidiaries and U.S. affiliates. Credit Suisse is one of the parties to the Settlement Agreement.

Debt-to-Income Ratio: Ratio between a borrower's total monthly debts and his or her gross monthly income. For purposes of the Settlement Agreement, this ratio compares the borrower's monthly mortgage payments and related housing expenses (such as property taxes, and homeowners and mortgage insurance) to his or her gross monthly income.

The Department of Justice ("DOJ"): Principal federal law enforcement agency of the United States, with the authority to seek both civil and criminal penalties for violations of federal law. DOJ is one of the parties to the Settlement Agreement.

Due Diligence: Appropriate level of attention or care a reasonable person should take before entering into an agreement or a transaction with another party. In finance, often refers to the process by which one company conducts an investigation or review of an asset before buying the asset from another company.

Earned Principal Forgiveness: Method of modifying a mortgage loan in which a portion of the unpaid principal balance of the loan is forgiven over time, provided the borrower remains current on the modified loan.

Equal Credit Opportunity Act ("ECOA"): Federal law, codified at 15 U.S.C. § 1691(a), that generally prohibits creditors from discriminating against credit applicants with respect to any aspect of a credit transaction. For example, the ECOA prohibits creditors from discriminating against credit applications on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract), or because all or part of the applicant's income derives from any public assistance program.

Fair Housing Act ("FHA"): Federal law, codified at 42 U.S.C. § 3605(a), that makes it unlawful for any person or other entity who engages in residential real estate-related transactions to discriminate against any person in such transactions because of race, color, religion, sex, handicap, familial status, or national origin.

First Lien: Lien that has priority over all other liens or claims on a property, other than a tax lien or certain other liens pursuant to state law (*i.e.*, mechanic's lien), in the event of borrower default.

Fixed-Rate Mortgage: Mortgage loan with an interest rate that does not change over the course of the loan.

Foreclosure: Legal process in which a borrower who has failed to make timely payments on a mortgage loan loses ownership of the home. It is not automatic, but must be initiated by the lender, and it may or may not require the lender to seek a court's approval. It may transfer ownership of the home to the lender or may allow the lender to auction the home and keep all proceeds up to the amount owed to the lender.

Held-for-Sale: Under U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), an accounting treatment for mortgage loans the owner of which is looking to sell to another entity.

Held-for-Investment: Under U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), an accounting treatment for mortgage loans the owner of which intends to hold onto for at least the foreseeable future.

Home Affordable Modification Program ("HAMP"): Loan modification program of the U.S. Department of the Treasury and U.S. Department of Housing and Urban Development, intended to help struggling homeowners reduce monthly mortgage payments to affordable, sustainable levels and prevent avoidable foreclosures. Part of the broader "Making Home Affordable" initiative, created by the federal government in 2009 as part of the Treasury Department's Troubled Asset Relief Program. Under HAMP, loan owners, servicers, and borrowers receive federal funds as incentive payments for performing loan modifications permitted by the program.

Immediate Principal Forgiveness: Method of modifying a mortgage loan in which a portion of the principal balance of the loan is written off the moment the loan modification becomes permanent.

Imminent Default: Condition in which it is reasonably foreseeable that a borrower will not be able to make his or her next mortgage payment, typically due to a hardship such as job loss, reduced hours, death of a spouse, unexpected illness, etc. Loans in imminent default may be eligible for a loan modification.

Internal Review Group: Internal Credit Suisse group composed of senior Credit Suisse personnel from various groups, including the CEO of Credit Suisse Global Markets, the General Counsel for Credit Suisse Global Markets and Credit Suisse Holdings (USA) Inc., and additional personnel from the Legal, Compliance, Product Control, and Internal Audit groups, among others. The Internal Review Group will review Credit Suisse's consumer relief activities to confirm that they meet the requirements of the Settlement Agreement before submitting that consumer relief to the Monitor for credit.

Junior Lien: Lien that is not a first or second lien. A junior lien is lower in priority than either a first or second lien in the event of borrower default.

Lien: Interest in property held by a creditor to secure payment of a debt. A mortgage is a type of lien.

Loan-to-Value Ratio: Ratio between the amount owed on a mortgage loan and the value of the home securing the loan. Where a borrower's loan-to-value ratio is greater than 100%, the amount the borrower owes on his or her mortgage exceeds the value of the home. Where the loan-to-value ratio is less than 100%, the value of the home exceeds the amount the borrower owes on his or her mortgage.

Low-Income Housing Tax Credit ("LIHTC"): Federal tax credit awarded to certain affordable rental housing projects. Once awarded, project developers sell the tax credits to private investors, who use the tax credits to reduce their federal tax liabilities. To receive the tax credit, an affordable rental housing project must meet certain requirements. For example, the project must set aside at least 40 percent of the residential units for renters earning no more than 60 percent of the area's median income (the 40/60 test) or 20 percent of the residential units for renters earning 50 percent or less of the area's median income (the 20/50 test). These units are subject to rent restrictions to ensure that the rent is affordable, which the project must maintain for at least 30 years.

Monitor: Neil M. Barofsky of the law firm Jenner & Block LLP, appointed as independent monitor to oversee and periodically report to the public on Credit Suisse's progress toward meeting its total consumer relief obligation under the Settlement Agreement.

Mortgage: When a person borrows money to buy a home, the bank receives an interest in the home called a mortgage. If the borrower does not repay the loan in a timely fashion, the mortgage gives the bank the right to obtain ownership of the home. The mortgage is said to "secure" repayment of the loan, and commonly that loan is called a "mortgage loan."

Mortgage Servicer: Company that serves an administrative function on behalf of lenders and owners of debt. Servicers typically do not originate or own the loans they service and are hired by owners of loans. A servicer's main duties are collecting payments, distributing those payments to the parties entitled to receive them, communicating with borrowers, and maintaining records. Servicers may also decide when to modify the terms of distressed loans in order to avoid foreclosure.

Non-Performing Loan: Loan on which the borrower has not made a payment in 90 days or more.

Origination: Process by which a loan is made. The lender that makes the loan is known as the originator of the loan. The originator may deal with borrowers directly or may contract brokers to find potential borrowers and evaluate loan applications.

Primary Mortgage Market Survey ("PMMS"): Survey conducted by the Federal Home Loan Mortgage Corporation of mortgage lenders across the United States to determine the average 30-year fixed-rate mortgage rate, which is then reported on a weekly basis.

Principal Forbearance: Method of modifying a mortgage loan in which the borrower's repayment of a portion of the principal is deferred until the end of the term of the loan. The principal forbearance amount is sometimes referred to as a "non-interest bearing balloon."

Principal Forgiveness: Method of modifying a mortgage loan in which the borrower's unpaid principal balance is permanently reduced.

Rating Agency: In order for a debt security to be sold to a wide group of investors, a security generally receives a rating from a "rating agency." A rating agency is not part of the federal government, but instead is a company that analyzes the security to determine the risk that investors owning the security may suffer a loss. Investors frequently consider credit ratings when making investment decisions.

Residential Mortgage-Backed Security ("RMBS"): Type of debt security involving a collection of mortgage loans. An investor who owns an RMBS has the right to receive a portion of the monthly payments made under the mortgage loans. RMBS can be freely traded among investors. The process by which loans are packaged into these securities is called "securitization."

RMBS Trust: Mortgage loans included in an RMBS are formally owned by a trust. The trust is set up during the securitization process for the purpose of holding the mortgage loans and administering payments in a particular RMBS. Each month, the mortgage servicer for the loans in the RMBS trust collects monthly payments from borrowers, and then remits those payments to the trust. The "trustee" for the trust is in charge of aggregating these monthly payments and then distributing them to investors in the RMBS.

Screenshot: Picture of whatever appears on the screen of a computer at that moment in time.

Second Lien: Lien that has priority over all other liens or claims on a property, other than the first lien, a tax lien, or certain other liens pursuant to state law (*i.e.*, mechanic's lien), in the event of borrower default. An example of a second lien is a home equity line of credit on an already-mortgaged home.

Securitization: Process of taking a group of assets that generate a regular stream of payments, like a collection of residential mortgage loans, and transforming them into a security through financial engineering. An example of securitization is a residential mortgage-backed security ("RMBS"), which is a type of security that is backed by a collection of home mortgage loans.

Select Portfolio Servicing, Inc. ("SPS"): A mortgage servicer owned by Credit Suisse.

Settlement Agreement: Agreement of January 18, 2017, between Credit Suisse and DOJ, resolving potential claims relating to Credit Suisse's alleged unlawful conduct in connection with the packaging and sale of residential mortgage-backed securities, or "RMBS," between 2005 and 2007.

SPS Compliance Group: Internal SPS group responsible for performing audit and compliance functions across SPS's business in the ordinary course. Among other things, this group is responsible for ensuring that SPS is compliant with all relevant laws and regulations, as well as internal policies and procedures.

SPS Quality Control Group: Internal SPS group responsible for confirming that the business decisions made by other SPS groups were made correctly. For example, in the ordinary course of its business, the Quality Control group re-evaluates all loan modification applications to confirm the accuracy of the decision previously made by SPS's loan resolution department.

Subprime Mortgage: Borrowers with the best credit histories can borrow money from banks at the so-called prime rate. Subprime mortgages carry interest rates higher than the prime rate, and are generally offered to prospective borrowers who have poor credit histories and to whom lending is therefore riskier.

Underwater: A homeowner is said to be "underwater" when the amount owed on a mortgage loan is greater than the current market value of the home. Many homeowners found themselves underwater after home values fell significantly during the 2008 financial crisis.

Underwriting Guidelines: Guidelines used by originators of mortgage loans to decide whether a borrower should be given a loan to buy a home. The guidelines are intended to ensure, among other things, that a borrower has enough income to cover his or her monthly mortgage payment, and that in the event the borrower fails to repay the loan, the value of the property on which a mortgage is given is greater than the amount borrowed.

Unpaid Principal Balance ("UPB"): Amount owed on a loan at any given time, and on which interest accrues until it is repaid.

Unsecured Mortgage Debt: Mortgage loan that was previously secured by a lien on a home (*i.e.*, at the time of origination), but now the lien no longer exists. This type of debt would result, for example, after foreclosure and sale of a borrower's home if the proceeds are insufficient to repay the loan in full. The unpaid portion of the loan then becomes unsecured mortgage debt. Unsecured mortgage debt is even lower in priority than a junior lien, as the property that originally served as collateral for the loan can no longer be seized in satisfaction of the debt.

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