ASF Staff Summary
Treasury "Market Rate Modification" Proposal
November 30, 2012

The U.S. Department of the Treasury ("Treasury") has been contemplating a new program in an effort to address its concerns regarding underwater borrowers with mortgages held in private label RMBS trusts. Press reports have indicated the Administration is seeking funds for the program as part of the fiscal cliff discussions. Under existing programs, certain underwater borrowers, defined as those with loan-to-value ("LTV") ratios of 125% or greater ("Significantly Underwater Borrowers"), and who are current on their mortgage payments, may have limited ability to refinance at current market interest rates. Despite being current on their payments, Treasury asserts that Significantly Underwater Borrowers are more likely to default on their mortgages.

In order to assist Significantly Underwater Borrowers, and as a possible alternative to various proposals in jurisdictions around the country to use eminent domain to seize performing underwater mortgage loans from private label RMBS trusts, Treasury has proposed a "Market Rate Modification" program in which participating servicers would modify existing mortgages from their original contract rate (the "Original Contract Rate") down to the current market rate (the "Current Market Rate"). The Current Market Rate is proposed to be set at Freddie Mac's Primary Mortgage Market Survey ("PMMS") rate.[1]

Eligible borrowers would need to be current on their loans and would likely be required to submit a "hardship affidavit"[2] to qualify for the program. Such an affidavit is meant to help determine that the eligible borrowers, who are current on their payments, would meet the "reasonably foreseeable default" standard under the REMIC rules and most PSAs. Each month during the five years after modification, Treasury will pay servicers the difference in the borrower's monthly interest payments between the Original Contract Rate and the Current Market Rate. After five years, the borrower's interest rate would remain at the Current Market Rate, but Treasury would no longer pay the difference. In other words, the trust would receive interest payments based only on the Current Market Rate, regardless of whether the borrower is still underwater.

[1] *See* http://www.freddiemac.com/pmms/abtpmms.htm for more information on the PMMS.
[2] *See* https://www.hmpadmin.com/portal/programs/docs/hamp_borrower/hardship_english.pdf.