



Citi Monitorship

Final Report
November 2020

Monitor's Letter

In my thirteenth and final report as Monitor over Citigroup's July 11, 2014 Settlement Agreement with the Department of Justice (DOJ) and the five Settling States (California, Delaware, Illinois, Massachusetts, and New York), I am pleased to confirm that Citi has satisfactorily discharged its obligations under the Settlement Agreement.

- ▶ First, Citi has provided sufficient consumer relief to earn the \$2.5 billion in consumer relief credit required by the Settlement Agreement. Including the final \$170.0 million in credit awarded in this Report, Citi has exceeded that \$2.5 billion minimum by earning \$2.55 billion of credit for undertaking more than 63,000 creditable actions, such as reducing borrowers' mortgage debts, reducing borrowers' mortgage interest rates, making donations designed to stabilize communities and their housing markets, and financing affordable rental housing.
- ▶ Second, Citi has satisfied the Settlement Agreement's non-credit requirements related to consumer relief, such as performing outreach to help consumers understand and apply for consumer relief and complying with the fair lending requirements imposed by the Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA) when providing consumer relief.

This Report discusses the final \$170.0 million in credit awarded under the Settlement Agreement, confirms Citi's compliance with its other settlement obligations, and analyzes the relief provided under the Settlement Agreement, including by reference to a small group of similar settlements executed from 2012 through 2017.

Under the Settlement Agreement, Citi could receive credit for eligible consumer relief offered from April 30, 2014, through December 31, 2018. In part because the Settlement Agreement offered bonus credit for providing relief by October 1, 2015, Citi offered most of its relief in 2014 and 2015, although it also offered substantial relief after that date.

To receive credit for the relief it provided, Citi performed internal testing in an effort to confirm that the relief was creditable under the Settlement Agreement. It then submitted documentation regarding that relief to my team and me. Along with our consultants, my team and I then independently reviewed each of Citi's submissions to verify that the relief was credit-worthy and the amount of credit sought was accurate. This crediting process often presented complex issues that demanded significant time and resources from all involved. Although Citi understandably sought to streamline the relief and crediting processes where possible, it worked cooperatively to address issues as they arose; more than once, Citi helped to find

ways to eliminate any possible doubts as to whether certain relief was eligible for credit. In some cases, eliminating such doubts involved withdrawing claims for credit where Citi's interpretation of the Settlement Agreement differed from mine. For that reason, among others, during the crediting period, Citi provided significant relief for which it did not receive credit under the Settlement Agreement.

To understand the consumer relief provided under the Settlement Agreement, one must appreciate two points. First, the Settlement Agreement resolved investigations into possible misconduct of the sort that has often been identified as a substantial cause of the financial crisis that lasted from December 2007 to June 2009 and the lingering damage that crisis did to the nation's economy. Specifically, it addressed potential federal and state violations of law in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs) between 2006 and 2007.

Second, the Settlement Agreement's consumer relief component was part of an unconventional effort undertaken in a small set of settlements to ameliorate some of the urgent and pervasive ills spawned by the financial crisis, particularly the risk or reality of foreclosure that afflicted millions of Americans beginning with the crisis and continuing for years afterward. Although the sorts of penalties and other payments that the Settlement Agreement obliged Citi to make to various governmental entities (\$4.5 billion in total) are common in settlements involving large numbers of consumers, the \$2.5 billion in credit for providing consumer relief that my team and I monitored was unusual.

To be sure, large consumer settlements often require defendants to provide specified forms of relief to individual consumers. In most cases, however, consumers receiving relief under such settlements are reliably identifiable people who allegedly suffered discrete harms as the direct result of the defendants' alleged misconduct. However, the Settlement Agreement and similar settlements instead sought to respond to a vast array of systemic harms, a pressing need for timely relief, and seemingly intractable obstacles to properly identifying those injured, establishing who and what caused their injuries, and calculating the extent of those injuries.

The unconventional approach taken by the Settlement Agreement and similar agreements was to focus on certain categories of individuals and communities likely to be suffering from the financial crisis, though not necessarily as the direct result of a given financial institution's alleged misconduct, and to get relief as soon as reasonably possible to the areas of greatest perceived need. Those efforts were necessarily constrained by the kinds and amounts of consumer relief each financial institution could realistically provide given its particular book of business.

This Report analyzes features of the consumer relief in the Settlement Agreement, as well as, to a limited extent, other similar settlements. Although the financial crisis may be in the rearview mirror, there inevitably will be new crises with meaningful similarities. Responding well to a crisis requires acting both promptly and properly. That is not an easy combination to achieve under optimal conditions, much less under crisis conditions. When the financial crisis

occurred, there were no models for such settlements, and I hope that this Report will provide a resource to those responding to similar crises. Indeed, the nation—and the world—is struggling with the COVID-19 pandemic and the resulting economic hardships. Although the current crisis is quite distinct from the financial crisis of 2007–2009, policymakers are once again faced with choices as to how best to remedy the severe economic and other harms faced by individuals and communities.

This Report is by nature backward-looking. It does not attempt to predict the future or prescribe solutions to the problems arising from the current COVID-19 crisis. It is too early to say much about today's economic situation with certainty. Nobody knows what the most severe and important economic problems will turn out to be, and one cannot confidently offer advice about problems that have not finished taking shape.

That said, certain economic stressors are clear and seem likely to lead to struggles similar to those that homeowners faced during the 2007–2009 financial crisis and its aftermath. In particular, unemployment in the United States has risen dramatically during the pandemic, for a while reaching numbers well above even the peak reached during, and in the years after, the 2007–2009 financial crisis. Legislative expansions of unemployment insurance have softened the blow, but they are not complete or permanent solutions. As discussed in this Report, an unexpected drop in income, including one caused by job loss, is one of the most important factors—perhaps the most important factor—causing people to miss mortgage payments and thus to risk foreclosure. Given that at least half of American households report having little or no savings, the millions of American households that have suddenly seen their incomes drop are struggling to pay their mortgages (and their rent) and will continue to do so until they can return to work and remain at work long enough to make up for the money they lost while unemployed. For many, this will be a slow and difficult process.

Although federal, state, and local governments have created a patchwork of measures to give homeowners (and renters) more time to make their housing payments—including a September 2020 nationwide moratorium on evicting certain renters harmed by the COVID-19 pandemic that is scheduled to remain in effect until December 2020—many of those measures simply delay the date on which the missed payments must be made, possibly in the form of a large lump sum covering the total unpaid amount. Further, many of those measures are set to expire shortly, if they have not done so already. For millions of households, unemployment will last longer than the stopgap protective measures, and in many cases large bills that homeowners cannot pay either have come due or will soon do so. Without measures in place to reduce homeowners' debts and, especially, their monthly debt payments, there is a real risk of widespread foreclosures in the not-so-distant future.

Further compounding the problem is that many mortgage servicers also have been getting squeezed during the pandemic. Mortgage servicers collect payments, keep a percentage, and pass the rest on to the mortgage holders. Servicers' contracts with the mortgage holders generally oblige them to make their payments to the mortgage holders whether or not the servicers are getting paid. Thus, at a time when organized cooperation from servicers will be critical to help implement private or governmental programs to alter the terms of borrowers'

mortgages, servicers may struggle to execute their routine business tasks, much less the additional ones associated with changing the terms of millions of mortgages. The sooner that measures to reduce the risk of widespread foreclosure (or eviction) can be put in place, the more likely they will help. One of the lessons from the 2007–2009 financial crisis is that prompt relief stands a better chance of helping than delayed relief. Hastily placed sandbags may leak when the flood comes, but there is little benefit to neatly stacking sandbags around a house after the water has already filled the basement.

And, as it pertains to settlements like this one (less likely to be applicable in this crisis), those generally happen far too late to blunt the most severe economic hardships faced by consumers. Settlements follow investigations and, often, litigation arising from investigations, which can take years. In the immediate aftermath of any severe crisis, such settlements often come too late.

As policymakers at every level consider how to respond further to the pandemic, they may look back to lessons learned from the financial crisis and the novel settlement agreements entered into with financial institutions. In conjunction with this report, a wealth of data regarding the nature, extent, and location of the consumer relief is available in the interactive mapping tools on the Monitor’s website. Those tools afford insights into relief and credit under the Settlement Agreement and should be useful to a wide range of people. The interactive mapping tools will remain available for one year after the publication of this Report.

Although the Settlement Agreement was not perfect, it had real benefits for individuals and communities. Among other things, it reduced or extinguished loan balances and lowered interest rates, making tens of thousands of struggling consumers’ overall debt load and monthly payments more manageable. It provided funds that enabled developers to build or rehabilitate thousands of affordable rental housing units, including in communities where such units are in short supply, particularly for families.

I am grateful to DOJ and the Settling States for devising an agreement that made such relief possible and for entrusting me and my team with the responsibility to ensure that the relief became a reality. I am proud that during years of sustained hard work the dedicated professionals on my team, including our skilled consultants, were able to draw on their experience, wisdom, and integrity to fulfill that responsibility.


Thomas J. Perrelli

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Introduction to the Final Report

This is the thirteenth and final report of the Monitor pursuant to the July 11, 2014 agreement (the Settlement Agreement) among Citigroup, Inc. (Citi), the U.S. Department of Justice (DOJ), and the states of California, New York, Illinois, Delaware, and the Commonwealth of Massachusetts (collectively, the “Settling States”). The Settlement Agreement resolved potential federal and state legal claims for violations of law in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDOs) between 2006 and 2007.¹ In the Settlement Agreement, Citi agreed to pay \$4.5 billion to the settling governmental entities, acknowledged a statement of facts, and agreed to provide consumer relief valued at \$2.5 billion under the valuation principles set forth in Annex 2 to the Settlement Agreement.²

Citi provided relief to consumers and then tested that relief to confirm that it met various criteria to qualify for credit under the Settlement Agreement. If the relief passed Citi’s testing, Citi submitted evidence regarding the relief and the testing to the Monitor in the form of a credit submission. It has been the Monitor’s responsibility to analyze Citi’s credit submissions to determine whether Citi is entitled to the credit sought in its credit submissions. Citi had until December 31, 2018, to complete all consumer relief, but could and did provide credit submissions after that date, including credit submissions revised in light of the Monitor’s analysis.

It is the Monitor’s responsibility to report on Citi’s efforts to satisfy the Settlement Agreement’s consumer relief requirements. As described herein, the Monitor concludes that Citi has satisfied its consumer relief obligations. Prior to publication, the Monitor afforded Citi the opportunity to review and comment upon this Final Report.

The purpose of this Final Report is twofold:

- ▶ To provide an update on, and final tally of, the \$2.55 billion in credit earned by Citi for consumer relief efforts pursuant to the requirements of the Settlement Agreement, including the final \$170.0 million in credit awarded since the Monitor’s prior report.

- ▶ To detail Citi’s overall consumer relief under the Settlement Agreement, to discuss its compliance with the broader requirements of the Settlement Agreement (such as its compliance with fair housing obligations), and to examine Citi’s consumer relief efforts in response to the 2007–2009 financial crisis through a broader lens that places the Settlement Agreement in the context of private and public efforts to address the harms caused by that crisis.

Definitions of many terms used in this Report are available in the [Glossary](#).

A copy of the Settlement Agreement and its Annex 2 are attached to this Report as [Appendix H](#).

The full agreement, including its attachments, is available on the Monitor’s website:

<http://www.citigroupmonitorship.com/settlement-agreement/>

The Monitor’s website is scheduled to be available for one year after the publication of this Report.

Visualization tools for crediting and other Settlement Agreement data are available on the Monitor’s website:

[Interactive Maps](#)

These tools are scheduled to be available for one year after the publication of this Report.

I. Crediting Under the Settlement Agreement

This Section gives a brief introduction to the structure of consumer relief under the Settlement Agreement and to the contents of this Report.

Upon meeting the requirements and criteria described in Annex 2 of the Settlement Agreement, Citi could earn credit for providing consumer relief in five broad categories called “menu items”:³

- ▶ **Menu Item 1:** Forgiveness/Forbearance
- ▶ **Menu Item 2:** Rate Reduction/Refinancing
- ▶ **Menu Item 3:** Low to Moderate Income and Other Lending
- ▶ **Menu Item 4:** Community Investment and Neighborhood Stabilization
- ▶ **Menu Item 5:** Financing of Affordable Rental Housing

Each menu item generally consisted of similar forms of consumer relief or forms of relief with similar aims, with some menu items further divided into sub-menu items. For example, Menu Item 1 broke down into eight sub-menu items (Menu Items 1A–H), many of which allowed Citi to receive credit for relief that reduced individual borrowers’ loan balances. Menu Item 4 broke down into six sub-menu items (Menu Items 4A–F), which generally were designed to prevent or mitigate community harms associated with foreclosure. For simplicity’s sake, sub-menu items are often referred to in this Report as “menu items” unless doing so would cause confusion.

There often was not a one-to-one match between the amount of relief distributed and the amount of credit Citi received for a given menu item or form of relief. As discussed below, for many menu items and forms of relief, there were multipliers that made \$1.00 of relief worth substantially more, or substantially less, than \$1.00 of credit, and Citi also received a 15% bonus for providing creditable relief by October 1, 2015, or for providing certain kinds of relief in amounts exceeding each state’s minimum credit requirement (the “State Minimum”) specified by the Settlement Agreement (or both).⁴

In addition, there was overlap among the menu items and the types of relief. First, a single menu item or sub-menu item might allow Citi to earn credit for multiple kinds of relief. For example, Menu Item 1G allowed Citi to earn credit for various forms of relief designed to

help a borrower refinance an existing loan with a lender other than Citi: forgiving part of the loan balance (principal reduction), forgiving all of the loan balance (extinguishment), paying refinancing-related closing (or other) costs on a borrower's behalf, or providing HUD-approved counseling about refinancing. Second, a single kind of relief might be creditable under multiple menu items. For example, principal reduction relief as defined in this Report was creditable not only under Menu Item 1G but also under Menu Items 1A, 1B, 1D, 1E, 1F, 1H, and 2A. This was in part because each menu item imposed specific criteria that a loan had to meet in order for relief directed at that loan to be creditable under that menu item. For example, although Menu Items 1A and 1D both allowed credit for principal reduction, Menu Item 1A required that the borrower's loan be secured by a first lien, whereas Menu Item 1D required that the loan be secured by a second lien. (More detailed explanations of key forms of relief are provided below in [Section VI.B.1](#) and [Section VII.A.](#))

As described at greater length in the Monitor's First Report, the Settlement Agreement included certain rules, principles, and conditions that applied regardless of the type of relief being provided or the menu item under which credit was sought.⁵ Those requirements dictated, among other things, that Citi could receive credit only for relief provided from April 30, 2014, through December 31, 2018,⁶ that Citi generally could not require a borrower to waive or release a claim against Citi in order to receive relief,⁷ and that Citi could not implement its consumer relief obligations in ways that violated the federal Fair Housing Act (FHA) or the federal Equal Credit Opportunity Act (ECOA).⁸ This Report offers an analysis of Citi's compliance with its FHA and ECOA obligations below in [Section VIII](#).

In addition to those generally applicable conditions, the Settlement Agreement imposed conditions that applied more narrowly. For example, there were credit minimums and maximums for some menu items, and Citi had to provide enough relief in each Settling State to satisfy each State Minimum. Further, each sub-menu item had conditions dictating both what sort of loans or projects could receive relief under that sub-menu item and what kinds of relief could earn credit under that sub-menu item.

Despite those general and specific constraints, the Settlement Agreement provided Citi considerable discretion in earning the required credit for providing relief. Notably, the Settlement Agreement did not require Citi to provide any specific relief to any specific individual. Rather, Citi had to provide relief that, in the aggregate and consistent with the Settlement Agreement's constraints, satisfied its total consumer relief commitment.

Prior to this report, the Monitor had awarded \$2.38 billion of the \$2.5 billion in consumer credit required by the Settlement Agreement. This Report begins by awarding the remaining credit, providing an overview of all credit awarded, and confirming that Citi has satisfied certain other consumer-focused requirements of the Settlement Agreement. Specifically, the Report explains in general terms how crediting, including testing by the Monitor, worked under the Settlement Agreement ([Section II](#)); awards new credit under Menu Item 1D (second-lien principal forgiveness) and Menu Item 5 (affordable rental housing) ([Section III](#)); summarizes all credit that Citi earned under the Settlement Agreement, including bonus credit for providing

relief by October 1, 2015, and for exceeding credit minimums in the Settling States ([Section IV](#)); and confirms Citi's compliance with additional obligations under the Settlement Agreement, including meeting the credit minimums in each Settling State, performing consumer outreach, disclosing tax consequences, and providing relief consistent with fair housing legal requirements ([Section V](#)).

The remaining sections of the Report provide an analysis of the Settlement Agreement in the context of the 2007–2009 financial crisis from which it arose and various efforts to address that crisis ([Section VI](#)), an explanation of affordable rental housing relief under the Settlement Agreement ([Section VII](#)), and an analysis of Citi's satisfaction of the Settlement Agreement's requirement that Citi's relief comply with applicable fair housing laws ([Section VIII](#)).

II. Monitor's Role, Citi's Business Units, and Citi's Internal Review Group

This Section identifies the relevant parties to the Monitorship: the Monitor, the Monitor's consultants, the Citi business units that provided the consumer relief required by the Settlement Agreement, and the Citi internal review group that tested Citi's relief before submitting it to the Monitor for review and crediting.

As part of the Settlement Agreement, Thomas J. Perrelli was appointed as independent monitor (Monitor) to determine Citi's compliance with the consumer relief and corresponding requirements of the Settlement Agreement. Mr. Perrelli is a former United States Associate Attorney General who played a lead role in negotiating the National Mortgage Settlement (discussed below in [Section VI](#)). Under the Settlement Agreement, any costs associated with the Monitorship were to be borne by Citi.⁹

The Monitor has been tasked with determining whether Citi has completed its consumer relief obligations in accordance with the terms of the Settlement Agreement and with communicating Citi's progress to the public. To keep the public informed, the Monitor has issued a series of reports, each publicly available on the Monitor's website. [Appendix A](#) lists all the Monitor's reports.

The Monitor has engaged outside consultants and experts to assist him in his duties under the Settlement Agreement, including the processes through which the Monitor and his team have assessed whether Citi has met its obligations under the Settlement Agreement and the Monitor's reporting requirements under the Settlement Agreement. The following consultants assisted the Monitor:

- ▶ **Bates White LLC** is an economic consulting firm with expertise in providing advanced economic, financial, and econometric analysis. Bates White assisted the Monitor in determining whether Citi complied with its consumer relief obligations, including its obligations under the Settlement Agreement with respect to the FHA and the ECOA.

- ▶ **BDO Consulting**, a division of BDO USA, LLP, assisted in testing and verifying Citi's credit submissions to the Monitor from the beginning of the Monitorship until October 2017, when the Monitor replaced BDO with Control Risks Group, LLC.
- ▶ **Control Risks Group, LLC** is an independent global consultancy with expertise in banking and financial services-related engagements and managing large volumes of financial and loan-related data. Control Risks assisted the Monitor in determining whether Citi complied with its consumer relief obligations, primarily by testing and verifying Citi's credit submissions to the Monitor.

Throughout the course of the Monitorship, the Monitor received and evaluated, with assistance from the consultants identified above, credit submissions regarding consumer relief given to individual homeowners by two different mortgage operations within Citi: **CitiFinancial Servicing (CFS)** and **CitiMortgage, Inc. (CMI)**. During the Settlement Agreement time frame, CFS was an arm of Citi that operated through local branches and had a portfolio consisting of relatively small loans. CMI was the sixth-largest mortgage servicer in the United States, servicing approximately \$336 billion in loans. In early 2017, Citi announced its intention to wind down its mortgage servicing operations—including in CFS and CMI—by the end of 2018 and focus on loan origination.¹⁰

A third business unit, **Citi Community Development**, provided donations under Menu Items 4D–4F designed to prevent or mitigate neighborhood blight caused by foreclosures. A fourth business unit, **Citi Community Capital**, provided relief in the form of subordinated debt lending to affordable rental housing developers under Menu Item 5. As discussed in the Monitor's Sixth Report¹¹ and in [Appendix C](#), although such subordinated debt lending is not part of Citi Community Capital's ordinary business model, Citi Community Capital does have extensive experience providing other forms of lending to affordable rental housing projects. Indeed, during the period when Citi was offering relief under the Settlement Agreement, Citi Community Capital was the nation's largest lender to affordable housing properties.¹²

Before Citi provided any credit submission to the Monitor for evaluation, Citi's **Internal Review Group (IRG)**, a group of Citi employees required to be independent of Citi's business units, tested and confirmed the eligibility of the relief and determined the amount of credit earned. The IRG's testing was governed by procedures reached through agreement between Citi and the Monitor to ensure that the relief satisfied the requirements of Annex 2.

III. New Credit—Menu Item 1D (Second-Lien Principal Forgiveness) and Menu Item 5 (Affordable Rental Housing)

This Section awards the final credit for consumer relief under the Settlement Agreement. This credit was not awarded in any prior Monitor’s report.

The Monitor periodically issued reports to describe the testing and validation of Citi’s credit submissions and to formally credit Citi for specific amounts of completed consumer relief. Although the Monitor has previously credited Citi for most of the relief required by the Settlement Agreement, the Monitor has not credited relief under Menu Item 1D and has credited only some relief under Menu Item 5. Accordingly, in this section, the Monitor credits the following relief:

- ▶ All credited relief under Menu Item 1D (second-lien principal forgiveness, including extinguishment).
- ▶ The remaining credited relief under Menu Item 5 (affordable rental housing).

A. Menu Item 1D (Second-Lien Principal Forgiveness)

Menu Item 1D relief consists of principal forgiveness of mortgage debt secured by second liens, including extinguishment of that debt. Although Menu Item 1D allowed Citi to forgive principal both on “performing loans” (past due ninety or fewer days) and on loans classified as either “seriously delinquent” or “non-performing” (more than ninety days past due), Citi forgave principal only for seriously delinquent or non-performing loans. The Monitor hereby credits \$23,234,978.58 for the relief Citi provided under Menu Item 1D.

Figure 1, below, shows the business unit providing the relief, the number of loans, the total amount of relief provided, and the total credit awarded for that relief.

FIGURE 1: ALL MENU ITEM 1D RELIEF

Menu Item	Portfolio	Loans	Relief	Credit
Menu Item 1D	CMI	983	\$59,922,436.89	\$23,234,978.58

Although the Settlement Agreement imposed a credit minimum applicable to Menu Item 1 and Menu Item 4A combined (\$820 million total), it imposed no credit minimum or maximum specifically applicable to Menu Item 1D.

Further analysis and information regarding Menu Item 1D crediting are available in [Appendix B](#).

[Appendix B](#) also discusses Citi’s obligation under Menu Item 1—including Menu Item 1D—to meet certain requirements regarding relief provided to Hardest Hit Areas (HHAs) as defined by the U.S. Department of Housing and Urban Development (HUD).

B. Menu Item 5 (Affordable Rental Housing)

In the Sixth and Seventh Reports, the Monitor awarded a total of \$759,704,639 for the lending relief to affordable rental housing developments that Citi provided under Menu Item 5 (affordable rental housing) in connection with 122 developments.¹³ This Report credits Citi with \$111,254,118 in additional credit for its lending under Menu Item 5 in connection with an additional 15 developments. This is the final credit issued under Menu Item 5, making Citi’s total credit under that menu item \$870,958,757. The Settlement Agreement required Citi to book at least \$180 million in anticipated losses under Menu Item 5. Including the newly credited relief, Citi’s anticipated losses are \$221,145,246. The Monitor reports that Citi has satisfied its obligations under Menu Item 5, including its anticipated losses.

Relief under Menu Item 5 came in the form of “soft debt” “gap financing,” a form of lending that Citi provided to developers building or rehabilitating affordable rental housing developments. As discussed more fully both in the Monitor’s Sixth Report and in the affordable rental housing section of this Report (§ VII), such lending is important, often critical, to the financing needs of affordable rental housing developments. Gap financing is also generally—as it is under the Settlement Agreement—subordinated debt, meaning that it has a lower priority for repayment than other loans financing the housing development and, indeed, may never be repaid in full.

Annex 2 granted \$3.75 in credit per \$1.00 of loss for lending to “Critical Need Family Housing” (CNFH) and \$3.25 in credit per \$1.00 of loss for all non-CNFH lending. CNFH rental units had to be in developments that were located in certain kinds of neighborhoods and that met or exceeded Annex 2’s required minimum percentages of units with multiple bedrooms.¹⁴ At least half of the affordable rental housing units receiving credit under Menu Item 5 had to be CNFH units.¹⁵ Citi satisfied that requirement by providing relief such that 50.39% of the affordable rental housing units credited were in CNFH developments.

The Settlement Agreement did not impose a minimum number of affordable rental housing units to be built or rehabilitated, but Citi’s Menu Item 5 lending created or rehabilitated 15,445 units, nearly double Citi’s self-imposed goal of 8,000 units.

Further analysis and information regarding Menu Item 5 crediting for the final set of affordable rental housing developments credited in this Report are available in [Appendix C](#).

IV. Citi's Overall Consumer Relief Credit

This Section provides an overview of all the credit that Citi earned under the Settlement Agreement, including bonuses for providing relief early or in the Settling States.

With Menu Item 1D (second-lien principal forgiveness) and Menu Item 5 (affordable rental housing) fully credited, Citi has completed the consumer relief commitment detailed in Annex 2 of the Settlement Agreement. Including applicable bonuses, the Monitor has credited Citi with \$2,553,224,263.60 for the relief it provided across all menu items, which exceeds the \$2,500,000,000 credit minimum imposed by the Settlement Agreement.

A visualization tool regarding the relief provided and the credit awarded under the Settlement Agreement is available on the Monitor's website:

Consumer Relief

This tool is scheduled to be available for one year after the publication of this Report.

Subsection A, below, describes the total credit for all menu items, and **subsection B** describes the bonus credit that Citi received for providing certain relief by October 1, 2015 ("Early Incentive Bonus") or for exceeding credit minimums for certain kinds of relief provided in the Settling States ("State Minimums Bonus").

A. Total Credit

Annex 2 of the Settlement Agreement structured crediting according to menu item. Each menu item or sub-menu item specified which forms of relief were creditable, the applicable eligibility conditions, and the amount of credit awarded for each dollar of relief provided. The

first table in this subsection presents information about credit and relief in terms of the various menu items. However, much of the analysis in this Report focuses not on menu items but rather on the impact of various kinds of relief on consumers and their communities. Accordingly, the second table in this section provides information about crediting in terms of the various forms of relief.

Figure 2, below, breaks down Citi’s credit by menu item, sub-menu item, and business unit and further provides information regarding the number of units of relief (numbers of loan modifications, rate reductions, etc.). For Menu Items 4D–4F, relief did not come in the form of discrete units but rather as cash donations or payments for various anti-bligh measures. Relief under the majority of menu items credited came from Citi business units CMI or CFS. However, relief under Menu Items 4D–4F came from Citi Community Development, and for relief under Menu Item 5 (affordable rental housing), the relevant business unit was Citi Community Capital. If Citi did not receive credit under a given menu item (e.g., Menu Item 3 and Menu Item 1B), that menu item does not appear in the table. Note that the amounts indicated in the entries for totals and subtotals in the table below—as in tables throughout this Report—may differ slightly from the sums of the individual entries due to rounding.

FIGURE 2: TOTAL CREDIT BY MENU ITEM, SUB-MENU ITEM, AND BUSINESS UNIT

Menu Item	CMI			CFS			Overall		
	Relief Units	Credit	Credit/Unit	Relief Units	Credit	Credit/Unit	Relief Units	Credit	Credit/Unit
1	9,615	\$201,952,954.42	\$21,003.95	35,009	\$395,638,560.22	\$11,301.05	44,624	\$597,591,514.64	\$13,391.71
1A	463	\$27,531,178.81	\$59,462.59	n/a	n/a	n/a	463	\$27,531,178.81	\$59,462.59
1D	983	\$23,234,978.58	\$23,636.80	n/a	n/a	n/a	983	\$23,234,978.58	\$23,636.80
1G	n/a	n/a	n/a	852	\$31,169,535.61	\$36,583.96	852	\$31,169,535.61	\$36,583.96
1H	8,169	\$151,186,797.03	\$18,507.38	34,157	\$364,469,024.61	\$10,670.41	42,326	\$515,655,821.64	\$12,182.96
2	3,675	\$122,631,013.51	\$33,368.98	8,875	\$355,540,301.54	\$40,060.88	12,550	\$478,171,315.05	\$38,101.30
2A	3,675	\$122,631,013.51	\$33,368.98	8,875	\$355,540,301.54	\$40,060.88	12,550	\$478,171,315.05	\$38,101.30
4	640	\$41,244,139.26	\$64,443.97	8,674	\$414,720,850.35	\$47,811.95	9,407	\$570,964,989.61	\$60,695.76
4A	640	\$41,244,139.26	\$64,443.97	8,674	\$414,720,850.35	\$47,811.95	9,314	\$455,964,989.61	\$48,954.80
4D	n/a	n/a	n/a	n/a	n/a	n/a	19	\$57,500,000.00	\$3,026,315.79
4E	n/a	n/a	n/a	n/a	n/a	n/a	12	\$34,500,000.00	\$2,875,000.00
4F	n/a	n/a	n/a	n/a	n/a	n/a	62	\$23,000,000.00	\$370,967.74
5	n/a	n/a	n/a	n/a	n/a	n/a	137	\$870,958,757.41	\$6,357,363.19
State Min. Bonus	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$35,537,686.90	n/a
Total	n/a	\$365,828,107.19	n/a	n/a	\$1,165,899,712.10	n/a	n/a	\$2,553,224,263.60	n/a

The relief units indicated for Menu Item 5 (affordable rental housing) are the number of developments to which Citi provided subordinated soft debt financing, so the amount indicated for credit received per unit reflects the average amount of credit received *per development*. The 137 developments provided 15,445 new or rehabilitated affordable rental housing units (apartments or homes), meaning that Citi received an average of \$56,391 in credit for every affordable rental housing *unit* provided under Menu Item 5.

Unless otherwise indicated, when reporting credit amounts for a particular menu item or sub-menu item or for a particular kind of relief, this Report *does* include Early Incentive Bonuses in the credit amount but does *not* include State Minimums Bonuses. That is because the nature of the connection between relief and bonus credit differs for those two forms of bonus credit. Citi earned Early Incentive Bonus credit as the direct result of specific, identifiable instances of relief such as extinguishing a particular loan or providing refinancing assistance to a particular borrower. In contrast, Citi earned State Minimums Bonus credit after exceeding a given Settling State’s minimum for total credit earned under any and all menu items for any and all forms of relief. Once the credit amount hit a given state’s minimum threshold, Citi received State Minimums Bonus credit for earning additional credit under most, but not all, menu items and kinds of relief. Early Incentive Bonus credit (§ IV.B) and State Minimums Bonus credit (§§ IV.B and V.A) are discussed further below.

Figure 3, below, shows the following by category of relief: the total amount of relief credited, the number of relief units, the total amount of credit, and the average amount of credit per unit of relief. The figure also indicates the menu item(s) corresponding to each form of relief. It indicates only the forms of relief for which Citi actually received credit under the Settlement Agreement (excluding those for which it could have received credit but did not). The amount for Menu Item 5 (affordable rental housing) relief is the amount of Citi’s anticipated losses from lending to Menu Item 5. Figure 3 does *not* include the \$35.5 million State Minimums Bonus that Citi received for relief under various menu items (see § IV.B below).

FIGURE 3: TOTAL CREDIT BY TYPE OF RELIEF

Relief Type	Menu Item(s)	Relief	Relief Units	Credit	Credit/Unit
Principal Reduction (incl. Balance Forgiveness)	1A, 1G, 2A	\$86,968,825.78	2,546	\$101,352,931.05	\$39,808.69
Extinguishment	1D, 1H, 4A	\$1,622,353,792.67	52,623	\$994,855,789.83	\$18,905.34
1st-Lien Exting.	4A	\$399,541,790.33	9,314	\$455,964,989.61	\$48,954.80
2nd-Lien Exting.	1D	\$59,922,436.89	983	\$23,234,978.58	\$23,636.80
Junior/Unsec'd Exting.	1H	\$1,162,889,565.45	42,326	\$515,655,821.64	\$12,182.96

Figure 3 continued on following page

FIGURE 3: TOTAL CREDIT BY TYPE OF RELIEF (CONT'D)

Relief Type	Menu Item(s)	Relief	Relief Units	Credit	Credit/Unit
Anti-Blight Donations	4D, 4E, 4F	\$50,000,000.00	93	\$115,000,000.00	\$1,236,559.14
CDFI Donations	4D	\$25,000,000.00	19	\$57,500,000.00	\$3,026,315.79
IOLTA Donations	4E	\$15,000,000.00	12	\$34,500,000.00	\$2,875,000.00
Housing Counseling Donations	4F	\$10,000,000.00	62	\$23,000,000.00	\$370,967.74
Rate Reduction & Costs Paid	1G, 2A	n/a	11,319	\$435,519,098.41	\$38,476.82
Rate Reduction	2A	n/a	8,288	\$389,806,390.42	\$47,032.62
Costs Paid	1G, 2A	\$39,818,875.34	3,031	\$45,712,707.99	\$15,081.72
Affordable Rental Housing	5	\$221,145,246.06	137	\$870,958,757.41	\$6,357,363.20
Total	n/a	n/a	66,718	\$2,517,686,576.70	\$37,736.24

As noted above (§ I), there was not always a one-to-one match between a given menu item and a particular kind of relief. For example, Menu Item 2A included several kinds of relief: rate reduction, paying closing costs for refinancing, paying other refinancing costs, and principal or balance forgiveness. Figure 3, above, includes relief for closing costs and other costs as part of rate reduction relief but treats principal and balance forgiveness as principal reduction. Some sub-menu items under Menu Item 1 (forgiveness/forgbearance) allowed for relief both in the form of principal reduction (reducing but not eliminating a debt) and in the form of extinguishment (eliminating a debt). However, as it happened, Citi only provided one form of relief under each of those menu items: principal reduction for Menu Item 1A and extinguishment for Menu Items 1D and 1H.

Most of these forms of relief are defined below. [Section VI.B.1](#) describes principal reduction (§ VI.B.1.a) and rate reduction (§ VI.B.1.b) as well as extinguishment (§ VI.B.1.c) and other forms of anti-blight relief (§ VI.B.1.e). [Section VII.A](#) describes affordable rental housing.

B. Early Incentive Bonuses and State Minimums Bonuses

The Settlement Agreement gives Citi a 15% bonus for creditable relief provided by October 1, 2015. This Early Incentive Bonus could be earned for relief provided under any sub-menu item. The Settlement Agreement also gives Citi a 15% bonus for earning credit under certain menu items for relief affecting the Settling States once Citi had satisfied the State Minimums by earning state-specific minimum amounts of credit under any menu item. This State Minimums Bonus could be earned only for relief provided under Menu

Item 1 (forgiveness/forbearance), Menu Item 2 (rate reduction/refinancing), Menu Item 3 (low- to moderate-income lending), and Menu Items 4A–C (anti-blight extinguishment, costs paid, and certain donations).

Although, as discussed above (§ IV.A), this Report generally includes the Early Incentive Bonus as part of the total credit awarded for a particular menu item or form of relief without distinguishing between the bonus and non-bonus credit, Figure 4, below, indicates the total amount of credit Citi received by menu item and sub-menu item, indicating the amounts of Early Incentive Bonus credit as well as the percentages of total credit earned in the form of such bonuses. If Citi did not receive credit under a given menu item, that menu item does not appear in the table.

FIGURE 4: EARLY INCENTIVE CREDIT BONUSES

Menu Item	Early Incentive Bonus	Total Credit	Early Incentive Bonus Pct. Cred.
Menu Item 1	\$59,871,230.15	\$597,591,514.64	10.02%
1A	\$3,203,414.32	\$27,531,178.81	11.64%
1D	\$2,142,280.81	\$23,234,978.58	9.22%
1G	\$4,025,628.70	\$31,169,535.61	12.92%
1H	\$50,499,906.32	\$515,655,821.64	9.79%
Menu Item 2	\$55,996,869.15	\$478,171,315.05	11.71%
2A	\$55,996,869.15	\$478,171,315.05	11.71%
Menu Item 4	\$71,423,199.28	\$570,964,989.61	12.51%
4A	\$56,423,199.28	\$455,964,989.61	12.37%
4D	\$7,500,000.00	\$57,500,000.00	13.04%
4E	\$4,500,000.00	\$34,500,000.00	13.04%
4F	\$3,000,000.00	\$23,000,000.00	13.04%
Menu Item 5	\$91,648,095.57	\$870,958,757.41	10.52%
Total	\$278,939,394.13	\$2,517,686,576.70	11.08%

As discussed above (§ IV.A), State Minimums Bonus credit derives from the total credit earned in each Settling State (including Early Incentive Bonuses).

Citi received \$35,537,686.90 in State Minimums Bonuses under the Settlement Agreement. Section V.A provides additional details regarding State Minimums.

Figure 5, below, provides a map of all the credit awarded across all menu items, including Early Incentive Bonus credit and State Minimums Bonus credit, by state.

FIGURE 5: TOTAL CREDIT BY STATE

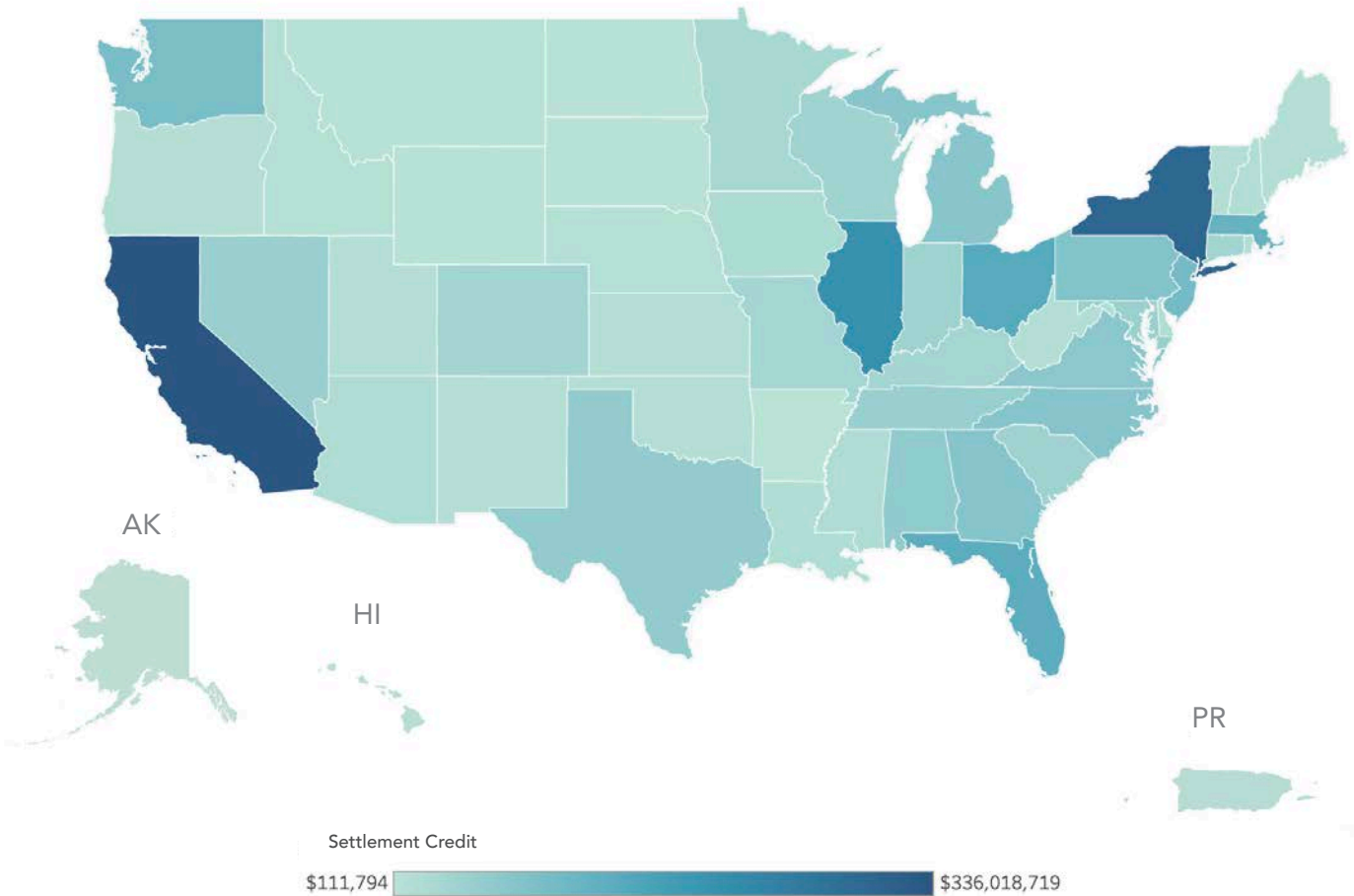
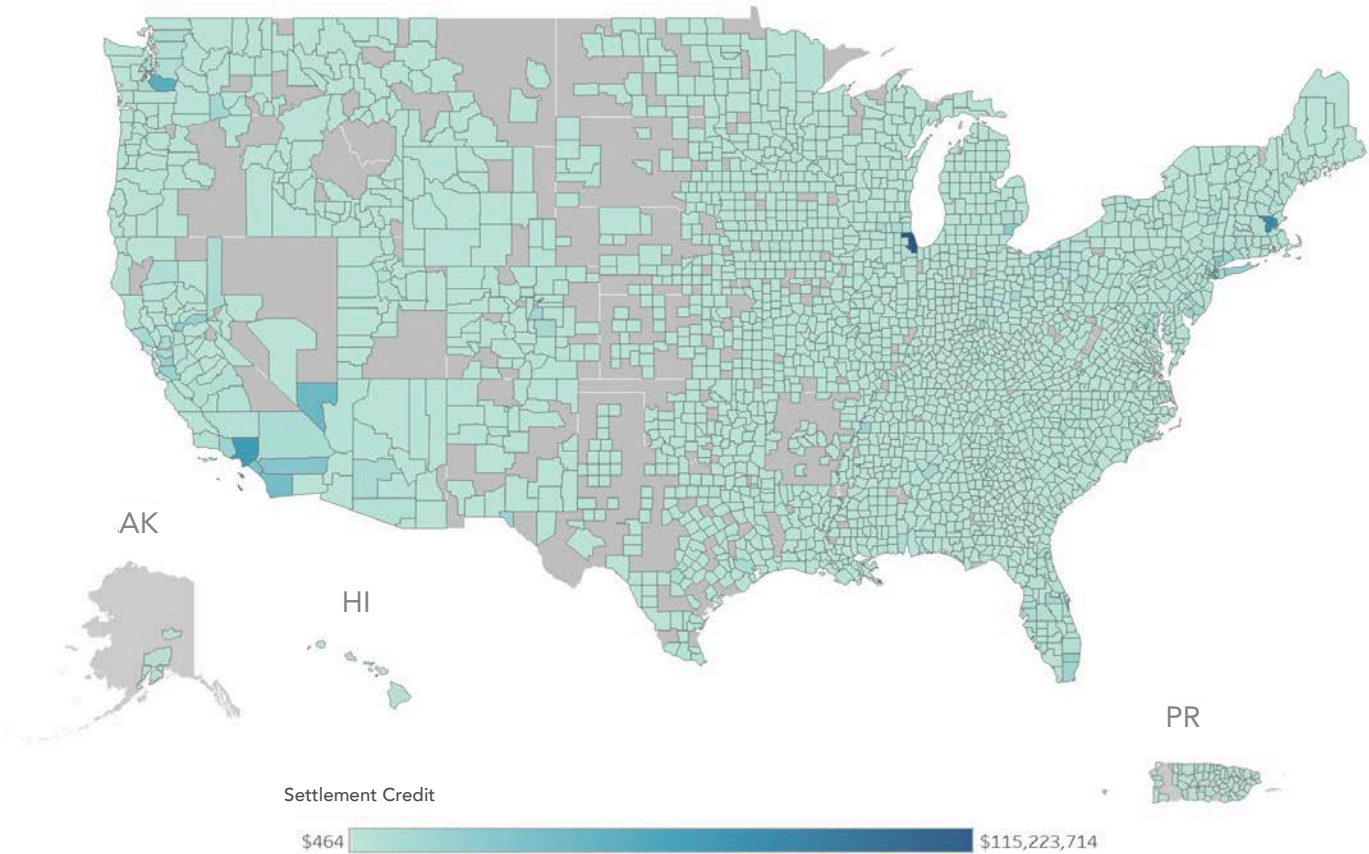


Figure 6, below, provides a map indicating the total amount of credit across all menu items except Menu Items 4D–F (anti-blight donations), by county. (Menu Items 4D–F provided relief to organizations that could operate statewide.) Figure 6 does not include State Minimums Bonus credit.

FIGURE 6: TOTAL CREDIT BY COUNTY



V. Citi's Compliance with Additional Relief Requirements

This Section discusses how Citi satisfied obligations that were not specific to crediting under Menu Items 1–5. It provides additional information regarding the State Minimums and related bonuses as well as information regarding Citi's consumer outreach and disclosure obligations.

In addition to the crediting requirements under Menu Items 1–5, the Settlement Agreement imposed other relief requirements on Citi. This section discusses Citi's satisfaction of the following such requirements:

- ▶ State-specific consumer relief ([subsection A](#))
- ▶ Consumer outreach ([subsection B](#))
- ▶ Disclosure of tax consequences ([subsection C](#))
- ▶ Fair housing ([subsection D](#))

A. State-Specific Consumer Relief—State Minimums and Bonuses

Separate from the crediting minimums applicable to certain menu items, the Settlement Agreement also imposed crediting minimums specific to the five Settling States. Citi had to earn—under any menu item—a minimum amount of credit for relief provided in each of those states.¹⁶ For example, Citi had to earn at least \$90 million for relief provided in California.

With crediting now completed, the Monitor can report that Citi satisfied those State Minimums.

In total, Citi earned \$936,229,996.69 in credit for relief provided to the Settling States under all menu items, excluding the State Minimums Bonus. Citi further received \$35,537,686.90 in bonus credit for relief provided to the Settling States under Menu Items 1, 2, 3, and 4A–C. For each of the Settling States, [Figure 7](#) shows how much Citi had to earn to satisfy each State Minimum, the amount of credit Citi received before the State Minimums Bonus was added, the State Minimums Bonus, and the total credit received.

FIGURE 7: CREDIT FOR SETTLING STATES

Settling State	Min. Required Credit	Credit Before State Min. Bonus	State Min. Bonus	Total Credit
California	\$90,000,000	\$326,707,314.82	\$9,311,404.66	\$336,018,719.47
Delaware	\$10,000,000	\$14,322,044.11	\$344,484.02	\$14,666,528.12
Illinois	\$40,000,000	\$189,103,684.90	\$13,051,371.30	\$202,155,056.20
Massachusetts	\$10,000,000	\$119,510,538.02	\$2,542,948.95	\$122,053,486.97
New York	\$90,000,000	\$286,586,414.85	\$10,287,477.97	\$296,873,892.82
Total	\$240,000,000	\$936,229,996.69	\$35,537,686.90	\$971,767,683.59

B. Consumer Outreach

The Monitor can now report that Citi has satisfied its obligation under the Settlement Agreement to conduct consumer outreach to help distressed homeowners and borrowers learn of the relief that might be available to them under the Settlement Agreement.¹⁷ Three forms of outreach were required by the Settlement Agreement:

- ▶ Hosting consumer outreach “Road to Recovery” events;
- ▶ Providing qualified staff for events sponsored by national and local nonprofit organizations; and
- ▶ Preparing informative materials that explained the consumer relief provided by Citi.

As required, Citi held at least four **Road to Recovery** events each year for the term specified by the Settlement Agreement, which ended on December 31, 2018. The goal of the Road to Recovery events was to allow borrowers to explore consumer relief opportunities with the added benefit of in-person assistance. Prior to each event, Citi conducted targeted borrower outreach, in multiple languages, through letters, emails, or phone calls with eligible customers and ensured that state Attorneys General, housing finance authorities, and local nonprofits were aware of the schedule of events. Details of each event, and confirmation of Citi’s annual compliance with this obligation from 2015 through 2018, can be found in prior Monitor’s reports.¹⁸

The Settlement Agreement obligated Citi to **provide a qualified staff of agents** to participate in and support additional events sponsored by national and local nonprofit organizations across the country each year, as invited. Citi periodically was invited to, and participated in, consumer outreach events throughout the country. During the first two years of the Monitorship—2014 and 2015—Citi participated in seventy-six homeowner assistance events sponsored by local government authorities and housing advocacy groups in seventeen states.

Citi also created a short, plain-language document, available online and translated into multiple languages, that **explained to borrowers** the forms of relief available under the Settlement Agreement. The Monitor reviewed the text of this document and confirmed that it satisfied the Settlement Agreement.¹⁹

C. Disclosure of Tax Consequences

Although Citi was not responsible for any tax consequences to borrowers who received consumer relief, the Settlement Agreement required Citi to “clearly disclose to borrowers [the] tax consequences of any relief offered and recommend that borrowers seek appropriate counsel as needed.”²⁰ The Monitor reports that Citi satisfied that obligation.

As detailed in the Monitor’s First Report, Citi prepared letters notifying relief recipients of potential tax consequences of the relief and encouraging the borrowers to consult a tax advisor. The Monitor reviewed in advance the text of the letter, confirming that it satisfied the requirements of the Settlement Agreement.²¹ In addition, prior to making credit submissions, Citi’s IRG conducted testing to confirm the eligibility of the consumer relief, which included, among other things, validating that potential tax consequences were disclosed to borrowers receiving consumer relief.

D. Fair Housing

Under the Settlement Agreement, Citi was required to ensure that consumer relief was not “implemented through any policy that violates the Fair Housing Act or the Equal Credit Opportunity Act.”²² The Monitor reports that Citi has complied with this requirement. This Report analyzes that compliance in [Section VIII](#).

VI. Analysis of the Settlement Agreement

This Section analyzes the effectiveness of the consumer relief Citi provided to individual homeowners by putting the Settlement Agreement in the broader context of private and governmental efforts—particularly other consumer relief settlements—to remedy the harms to homeowners caused by the 2007–2009 financial crisis.

With crediting under the Settlement Agreement now complete—and with many similar settlements intended to address harms caused as part of the 2007–2009 financial crisis also complete or nearing completion—this Report presents an opportunity to look more broadly at a host of issues directly and indirectly related to the Settlement Agreement and those other consumer relief settlements. Now that the financial crisis is more than a decade in hindsight, the settlements furnish a wealth of data and information that provide a window on the crisis and the response to it.

Below, the Monitor’s team comments on a number of questions that arise naturally from the implementation of the consumer relief settlements, including, among others:

- ▶ Critiques of the settlements—what worked, what did not work, what changed from the original April 2012 National Mortgage Settlement (NMS) to the later RMBS-related settlements (signed as late as January 2017), and were those changes beneficial?
- ▶ Perspectives on options that policymakers may consider in dealing with fresh crises—what policies might have had the most impact? What is the trade-off between faster relief versus more targeted relief?
- ▶ Empirical data about the impact on both the settling banks and the consumers who were helped—how much did the banks really have to pay for the consumer relief? How much did consumers actually benefit?
- ▶ Difficult questions regarding the impact of relief not just on individuals but also on communities—did the relief skew too much to those in default and not those in distress? Did some types of relief actually intensify blight rather than reduce it?

None of these questions is susceptible to easy answers. The Monitor’s team, however, sought to address them through a combination of data analysis, interviews, and review of academic and social science literature. The perspectives below are not intended to be of the caliber of peer-reviewed academic papers, which are likely to be written on the financial crisis for decades to come. Nor do they benefit from a comprehensive set of data that could be acquired or compiled only with an effort that goes far beyond the Monitor’s mandate. But they are intended to provide some useful information to those facing similar economic emergencies and considering how best to help consumers caught in such tsunamis.

A. The Impact of the Financial Crisis on Homeowners

1. The Depth of the Crisis

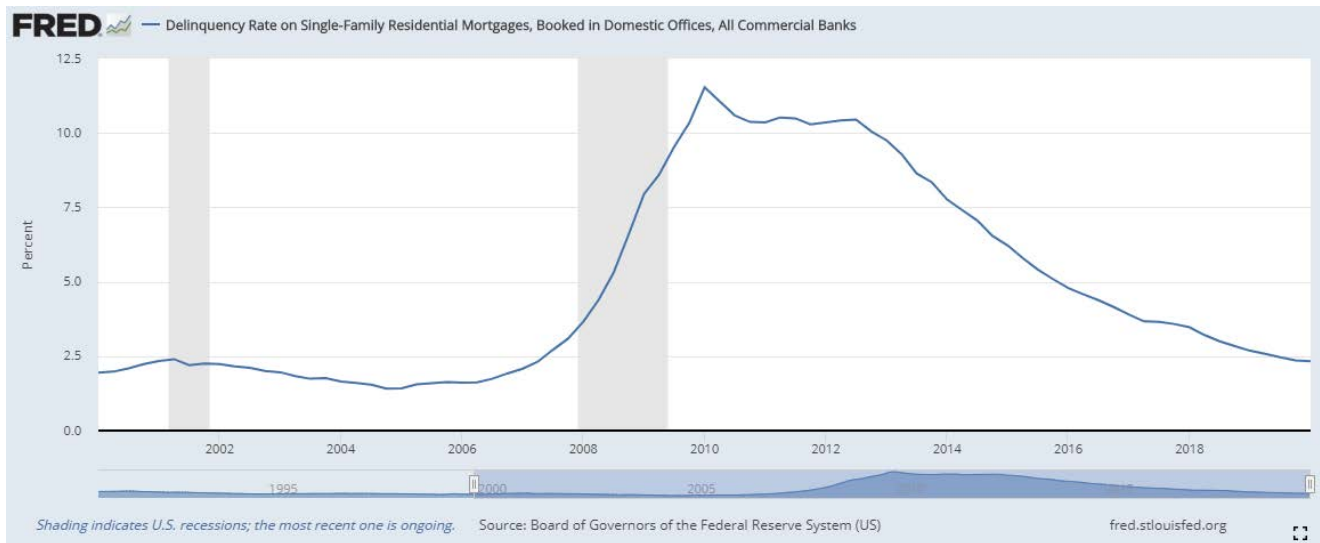
Branded as the Great Recession, the eighteen months from December 2007 to June 2009 witnessed a financial crisis described as the “longest, broadest and most severe downturn since the Great Depression of the 1930s.”²³ Among many factors, most analyses point to risky residential mortgage lending practices and securitization in the preceding years as a substantial cause of the crisis. Ultimately, the causes of the financial crisis have been and will be extensively analyzed and debated, with blame being assigned in all directions—to the banks, mortgage lenders and servicers, rating agencies, Wall Street, the government, and, to some extent, consumers.²⁴

The 2007–2009 financial crisis took a devastating toll on homeowners and the economy overall. The scope of that devastation—the “deep pain”²⁵ to the public caused by the crisis—has been quantified in various ways and from various angles. Whether measured by the massive loss of jobs,²⁶ the exceptional spike in unemployment,²⁷ the tumbling stock market,²⁸ or plunging household wealth,²⁹ it is clear that consumers took a punch.

In particular, the financial crisis led to an unprecedented number of distressed homeowners and home foreclosures. At the same time that disappearing jobs and rising unemployment left homeowners unable to keep up with mortgage payments, housing values fell dramatically. Even in the aftermath of the recession, housing prices continued to decline, making recovery that much more difficult for many homeowners. “From their 2006 peak to their 2011 trough, houses across the country lost roughly 25 to 35 percent of their value.”³⁰ That decline in housing prices meant that by the end of 2011, nearly one in four homeowners with a mortgage was “underwater”; that is, those homeowners owed more than their homes were worth.³¹ Overall, delinquency rates and foreclosures were up and homeownership rates were down.

Delinquency Rates. With the country slowly crawling out from recession, and housing prices continuing to slide, delinquency rates on residential mortgages—defined as payments past due thirty days or more—increased. Between the beginning of 2007 and the end of 2011, delinquency rates rose from 2.08% to 10.29%, peaking at 11.54% in the first quarter of 2010.³² [Figure 8](#), published by the Federal Reserve Bank of St. Louis, shows the trend in delinquencies of single-family residential mortgages over the past twenty years, from 2000 through 2019.

FIGURE 8: DELINQUENCY RATE ON SINGLE-FAMILY RESIDENTIAL MORTGAGES³³



During the crisis, some states saw higher delinquency rates than others. According to the 2011 *Financial Crisis Inquiry Report* from the Financial Crisis Inquiry Commission (the “Commission Report”), the “sand states” of Arizona, California, Florida, and Nevada “had the most problem loans.”³⁴ The rate of serious delinquencies—defined as mortgages ninety days or more past due and those in foreclosure—in these states significantly outpaced the rest of the country, rising to as high as 15% by late 2009.³⁵

Foreclosures. Unsurprisingly, with delinquent mortgage payments came foreclosures. Prior to 2007, foreclosure rates stood at less than 1.00%.³⁶ But from 2007 through 2010, foreclosure rates were on the rise: 1.03% (2007); 1.84% (2008); 2.21% (2009); and 2.23% (2010).³⁷ Foreclosure rates peaked in 2010, corresponding with 1,178,234 completed foreclosures in that year.³⁸ Foreclosure rates declined significantly in 2011, dropping from 2.23% down to 1.45%, and the rates continued to follow a downward trend. By 2018, foreclosure rates reached a thirteen-year low of 0.47%.³⁹

According to calculations by ATTOM Data and CoreLogic, from 2007 through 2010, over nine million homes were the subject of a foreclosure filing⁴⁰ and nearly 3.8 million foreclosures were completed.⁴¹ Some states were hit harder by foreclosures than others, with California and Florida having the most completed foreclosures for the ten-year period between 2007 and 2016.⁴²

Homeownership Rates. As a result of the spate of foreclosures stemming from the financial crisis, homeownership rates in the United States plunged to levels that had not been seen since the mid-1960s, falling lower than rates in many other developed countries.⁴³ According to the U.S. Census Bureau, after nearly two decades of growth, homeownership in the United States peaked in the fourth quarter of 2004 at 69.2% and then trended steadily downward to a low of 62.9% in the second quarter of 2016.⁴⁴ After that, rates generally trended upwards through 2019, with the homeownership rate in the fourth quarter of 2019 rising to 65.1%.⁴⁵

Even beyond the loss of homes—a devastating event for most borrowers—foreclosures often have negative ripple effects on borrowers, their families, and their communities. For a borrower, a foreclosure likely impacts creditworthiness, making future home purchases more difficult.⁴⁶ Those who have lost their homes may face challenges in finding a suitable place to live, and many will become renters, which, over time, may increase pressure on local rental markets and lead to decreased rental affordability.⁴⁷ On top of those quantifiable side effects, borrowers and families losing a home to foreclosure may also suffer the loss of the “less tangible benefits of owning a home,” including “increased civic engagement . . . [and] better health, school, and behavioral outcomes for children.”⁴⁸

Foreclosure can affect communities by dragging down property values. According to statistics posted by the Federal Deposit Insurance Corporation (FDIC), in the years leading up to the crisis, one foreclosure could result in as much as an additional \$220,000 in reduced property value and home equity for nearby homes.⁴⁹ In analyzing the “spillover effects” of foreclosure, The Center for Responsible Lending estimated in 2013 that about \$2.2 trillion in property value had been or would be lost by homeowners living in close proximity to foreclosed properties, with an estimated 95 million homeowners losing home equity because of neighbors’ foreclosures.⁵⁰ In addition, foreclosures can thrust additional costs upon local governments—in the years leading up to the crisis, one foreclosure could impose up to \$34,000 in direct costs on local government agencies, including inspections, court actions, police and fire department efforts, potential demolition, unpaid water and sewage, and trash removal.⁵¹

The statistics described above are just a sampling of the many measurements used to evaluate the depth and breadth of harms—direct and indirect—to homeowners stemming from the 2007–2009 financial crisis. In short, millions of homeowners found themselves financially distressed, delinquent on their mortgage payments, and facing foreclosure. And the damage brought on by the record number of foreclosures spread far beyond the families who lost their homes as neighbors and communities also felt the impact.

2. Causes of Homeowner Harm

Although it is undeniable that homeowners were greatly harmed by the financial crisis, the precise mechanism of that harm remains disputed. The two factors most cited as potential causes of foreclosure are “**negative equity**” and “**income shock**.” In this context, negative equity is being underwater on a home—owing more than the home is worth. Income shock is an unexpected or unpredictable change in a borrower’s income, often caused by job loss or illness.

There is some disagreement on the roles and importance of these two factors. The 2011 Commission Report described both as “typically necessary” for a default but asserted that negative equity was, “in the opinion of many, now the more important factor.”⁵² Other analyses, however, have focused on income shock as the key condition leading to foreclosure because it can leave a borrower unable to afford monthly payments due to changed circumstances.⁵³ Not surprisingly, other economists have proposed a “double trigger” hypothesis, where “[n]egative equity is one trigger, but it is a necessary, not sufficient, condition for default” and “negative income shock” is the second trigger.⁵⁴

This debate shapes views of what remedies were (and will be) most effective at helping struggling homeowners. According to former Treasury Secretary Timothy Geithner, in developing policy in response to the financial crisis, the government's "biggest debate was whether to try to reduce overall mortgage loans or just monthly payments."⁵⁵

Negative Equity. For those who conclude that negative equity is the key driver of foreclosure, principal reduction becomes the central approach to stemming the tide of foreclosures. A core question for this approach is how much principal must be reduced in order to reverse the impact of negative equity. That question leads to a focus on defined, debt-related metrics such as LTV (loan-to-value), which measures the ratio of the amount owed to the home's value. In this view, reducing or eliminating negative equity makes a borrower less likely to strategically default by giving the borrower more incentive to try to keep up with mortgage payments. Further, even if making payments proves impossible, having positive equity can allow the borrower to sell the home to pay off the mortgage with the proceeds rather than face foreclosure. Of course, this raises the question of what one is trying to accomplish. If the goal is to prevent foreclosure, then creating positive equity so that the homeowner can sell the property through a conventional sale is a success. But if the goal is to keep homeowners in their homes, such sales may not count as successes. As discussed below ([§ VI.B.1.d](#)), similar questions apply to measures enabling property transfers via short sales and to deeds in lieu of foreclosure.

Income Shock. For those who focus on income shock, the solution is not reducing principal in order to combat negative equity. Rather, the goal is to reduce the borrower's monthly payments to an affordable level. Although such payment reduction can be achieved by principal reduction, it can also be achieved by other means, including interest rate reduction, forbearance, or lengthening the term of the mortgage. From this perspective, a measure such as LTV is less important than lowering distressed borrowers' monthly payments to manageable levels.⁵⁶ This approach is consistent with FDIC statistics suggesting that many homeowners do not have savings sufficient to withstand job loss: 52% of employees live paycheck-to-paycheck, and nearly 42% of all American households do not have enough in liquid financial assets to support themselves for at least three months.⁵⁷

While the underlying causes of the 2007–2009 financial crisis have been and will continue to be examined extensively, it remains true that a significant number of homeowners found themselves suffering unprecedented harms as a result of the crisis. It is against this backdrop that policymakers and others sought to bring relief to those homeowners. Relief programs and efforts, of which the Settlement Agreement was but one piece of the puzzle, are examined in the following section.

B. Consumer Relief Efforts—Government Programs and Settlements Aimed Primarily at Individual Homeowners

The Settlement Agreement was part of the federal and state governments' efforts to provide relief to consumers and communities affected by the financial crisis. Specifically, it was one of a number of settlements that DOJ and, in some cases, other federal enforcement agencies or states entered into with a number of large financial institutions from 2012 to 2017 that included not only payments to the government but also relief designed to go directly to consumers and their communities ("consumer relief settlements").⁵⁸

Although many of the people receiving relief through the consumer relief settlements may have been personally harmed by the specific conduct that the federal government alleged against the banks in connection with the settlements, the settlements did not limit relief to the consumers directly affected by that conduct. Instead, the structure of the settlements focused on addressing the broader ills of the financial crisis, particularly by helping people to stay in their homes despite their financial struggles.

This subsection of the Report provides an overview of the kinds of relief offered to consumers, particularly relief offered to individual borrowers. For the consumer relief settlements, it further offers an overview of how those settlements gave credit to the banks. Specifically, [subsection B.1](#) provides an overview of the types of consumer relief provided to individual borrowers through government programs and the settlements. [Subsection B.2](#) then outlines the non-settlement consumer relief programs. [Subsection B.3](#) analyzes how the consumer relief and the credit awarded for such relief evolved over time in the consumer settlements. In so doing, this section examines the trade-offs inherent in creating and administering the settlements and lays the groundwork necessary to understand the following section, which examines the settlements' impacts on individuals and communities.

Given that anti-blight relief under the settlements tried to address community harms caused by the housing crisis not only by awarding credit for certain relief provided directly to communities but also by crediting the extinguishment of individual borrowers' first-lien loans, this subsection addresses some of the community-targeted anti-blight relief so that the reader can understand how it interacted with extinguishments for individual borrowers.

1. Overview of Types of Consumer Relief

Although the precise forms of consumer relief—and the names used to describe them—varied somewhat across the government programs and the consumer relief settlements, generally speaking, those efforts employed a common set of tools to provide relief to individual borrowers. Fundamentally, relief aimed at individual borrowers sought to address one or both of the potential triggers of the homeownership crisis discussed above: negative equity and income shock. In broad terms, such relief was designed to reduce the amount that the borrower owed on a loan, to reduce the loan's interest rate, or to otherwise change the borrower's loan terms such that the loan debt and/or the interest rate could be reduced. There

are, of course, ways to change a loan's terms that fall outside those categories; however, this Report focuses on the forms of relief emphasized by the federal consumer relief efforts and the consumer relief settlements, i.e., principal reduction and rate reduction.

There are two primary mechanisms to change a borrower's loan terms, including the amount owed or the interest rate: modification or refinancing. Given that the consumer relief efforts analyzed in this subsection aimed to help individual borrowers, the descriptions and analysis of consumer relief in this subsection focus on the *relief* itself rather than on the *mechanism* for providing it. As far as the borrowers were concerned, getting the relief was what mattered, not how they got it. For example, for a borrower, a net \$10,000 reduction of the amount owed would have the same effect whether such relief came via modification or refinancing. The same is true of a 3.0-percentage-point reduction in the interest rate.⁵⁹

However, many consumer relief efforts sharply differentiated between relief via modification and relief via refinancing because, for the banks, there were meaningful differences between the two mechanisms. The most important of those differences was that, as the names of each suggest, a modification changes the terms of an existing loan, whereas a refinancing replaces the existing loan with a new one. Thus, while a bank could modify a loan that it owned or, in some cases, that it serviced, it could not modify a loan that it neither owned nor serviced. If a bank was not free to offer a modification, it could only help the borrower through offering or facilitating a refinancing, possibly by covering closing costs or other refinancing costs.

a. Principal Reduction

Principal reduction, which could be accomplished via modification or refinancing, was primarily designed to attack negative equity by reducing how much borrowers owed on loans that had neither gone into foreclosure nor gone through foreclosure alternatives (short sales and deeds in lieu of foreclosure). This form of relief required the banks to forgive some portion of what a borrower owed. The banks could forgive the principal balance, any previously forborne amounts, or both.⁶⁰ Principal reduction generally reduced borrowers' monthly payments but, if coupled with a rate increase or reduction in term, did not necessarily have to do so. Unless otherwise indicated, this Report uses "principal reduction" to refer to relief that reduced but did not extinguish a debt.

Shortly after the financial crisis hit, there were significant calls for principal reduction as a strategy to rescue struggling homeowners. For many, principal reduction seemed a natural and intuitive response to what appeared to have caused the mortgage crisis—overinflated appraisals and mortgages that did not reflect the real value of the associated homes that borrowers had purchased. If the unreasonably high principal amounts that borrowers still owed could be reduced, the thinking went, the market might right-size and provide homeowners more manageable mortgages. Given those aims, the focus was generally on first-lien mortgages, which typically secure the loans with the largest balances and thus were presumed to be the primary source of most homeowners' mortgage-related debt.

Another goal of principal reduction was to discourage strategic default by homeowners with negative equity in their homes—that is, to discourage homeowners who owed more than the market value of their homes from walking away from their mortgages.⁶¹ Relatedly, there was some reason to believe that principal reduction could jump-start consumer spending in the economy more generally. Indeed, declines in consumer spending during the recession were traced to high ratios of household debt to household assets.⁶² The hope was that principal reduction could prevent strategic default by eliminating the negative equity believed to encourage it, and could increase consumer spending by redressing the household debt believed to inhibit such spending.⁶³

Unanswered questions, however, made it difficult to design and implement a broad principal reduction “fix” during, or even shortly after, the financial crisis. For example, could Congress even implement principal reduction without triggering the Takings Clause of the Fifth Amendment to the U.S. Constitution (which forbids taking private property for public use “without just compensation”),⁶⁴ other than through appropriating funds to pay the owners of the mortgage loans? Would principal reduction ultimately benefit investors by allowing more homeowners to pay their securitized mortgages? What level of principal reduction was enough to make a difference—was it necessary to bring the principal below 100% LTV, or would some higher number be sufficient to achieve the desired outcomes for individual borrowers and the economy more generally? And, over the long term, would whatever benefits there might be from principal reduction be offset by creating moral hazard—for instance, by causing individuals to bet on not paying their mortgages in hopes of a bailout?

These questions were robustly debated, with strong disagreements and strange bedfellows. For example, many investors—who stood to “lose” from reduced mortgage debts—nonetheless believed that properly structured principal reduction would lead to better returns on their investments because the cost of foreclosure was too substantial.⁶⁵ Yet Fannie Mae and Freddie Mac, which arguably were closest to the problems on the regulatory side and had the most significant influence on the post-crisis mortgage market, adamantly rejected principal reduction, arguing both that moral hazard concerns were too significant and that their responsibility to protect public funds prevented them from effectively “giving” money away.⁶⁶ And the Federal Housing Administration, which as a policy matter might have supported principal reduction, did not view itself as having the statutory authority to require principal reduction on the loans it backed.⁶⁷

Finally, some advocates argued that, given the many causes and impacts of the financial crisis, it was wrong to focus on principal, and it was far more important to focus on borrowers’ monthly payments. They predicted that reducing monthly payments, even temporarily and with principal stacking up for large payments down the road, would allow homeowners to weather the storm of the recession without losing their homes.

b. Rate Reduction

Rate reduction, which could be accomplished through modification or refinancing, was designed to counteract income shock by changing the financing terms to reduce monthly payments for borrowers who were current on their mortgages.

In the immediate aftermath of the financial crisis, policymakers focused much of their attention on people losing their homes (e.g., through foreclosures). For delinquent borrowers in danger of losing their homes, modifications to reduce interest rates were the primary response. But delinquent borrowers were not the only ones affected. Many people who managed to stay current on their mortgages faced economic hardship, sacrificing in other parts of their lives in order to pay their mortgages.

For these struggling homeowners, no immediate relief was available. Because the borrowers were current on their mortgages, mortgage owners and servicers had little incentive to provide modifications. Moreover, although interest rates were at historic lows, these borrowers were unable to secure rate reductions by refinancing through a different lender because their homes were underwater.⁶⁸ Refinancing requires paying off the existing mortgage before creating a new one, but that could not happen if the home appraised for less than the amount owed on the existing mortgage. Thus, for a substantial number of homeowners—current, but underwater—refinancing simply was not an option.

To incent lenders to provide refinancing that would allow rate reductions (and other changes to a loan) for such borrowers, a number of government programs were created. Freddie Mac and Fannie Mae also offered rate-reduction modifications to borrowers who were experiencing a financial hardship and who were ineligible for, or had failed to obtain a modification via, the federal Home Affordable Modification Program (HAMP).⁶⁹ (HAMP is discussed below, including in [Section VI.B.2.a.](#)) The scale of these programs, however, never matched the need: with more than one-fourth of homeowners underwater, a massive number of people could not benefit from one of the primary tools used to address the crisis (lowering of interest rates).

c. Extinguishment

Extinguishment of debt wipes clean the full amount owed on a particular loan. This relief was generally, though not always, applied to second or more junior liens or to debt that was no longer secured by any lien.

At the outset of the crisis, extinguishment was not viewed as a necessary response to the crisis. Among other things, the initial focus was on keeping people in their homes and paying down their first-lien mortgages, which required making first-lien mortgage payments manageable, not eliminating them altogether. Banks were unlikely to want to completely wipe out a given borrower's debt, particularly first-lien debt, which tends to be the largest mortgage loan on a given property. Moreover, doing so seemed like

an overreaction to the ills faced by individuals. After all, people had borrowed money, purchased a home, and lived in it. The home may have been appraised for too much, the mortgage terms may have been too onerous, and the economics of staying in the home may have become too challenging, but those issues conceivably could have been remedied by measures less drastic than totally extinguishing the debt.

As parties started looking beyond first liens and more broadly at borrowers' overall debt, extinguishment became more appealing. Efforts to help borrowers with their first liens through principal reduction could be stymied by the presence of second liens. First-lien creditors would ask, legitimately, why they should accept a reduction when the second-lien debt would not be reduced and made subject to the same terms. In light of that concern, addressing second-lien debt eventually came to play a more meaningful part in efforts to address first-lien debt. Following the April 2012 National Mortgage Settlement (NMS) and in conjunction with government and cross-industry efforts to address second liens such as the Second Lien Modification Program (2MP), banks regularly would consider significant reductions of—and often extinguishment of—second liens in order to allow a modification of the first lien to go forward.

Further, more junior liens and unsecured debt (such as deficiency balances, which are any loan amounts still unpaid after a foreclosure or a short sale that state law allows creditors to collect) became the subject of extinguishment. As discussed below, later settlements, like Citi's, involved substantial amounts of relief through extinguishment of junior or unsecured interests.

d. Short Sales and Deeds in Lieu of Foreclosure

Short sales occurred when a bank agreed to accept the proceeds of the borrower's sale of the property in exchange for the bank's release of the lien, even though the proceeds would not pay off the remaining debt. Banks could also accept deeds in lieu of foreclosure, which allowed borrowers to avoid the foreclosure process by voluntarily transferring their deeds to banks and moving out of their homes, often on a more generous timetable for relocation than foreclosure would have allowed. These forms of relief were not designed to keep homeowners in their homes. Rather, they aimed to put homes back into the market or to eliminate debt and provide the borrower a way to exit a mortgage without undergoing foreclosure.

Unlike principal reduction as used in the consumer relief settlements, short sales and deeds in lieu of foreclosure do not focus on reducing negative equity because they are not designed for borrowers who, with help, could remain in their homes. Instead, they are used when it has become clear that borrowers will have to leave their homes. Banks ordinarily use them in order to ease borrowers out of their homes more quickly, predictably, and cheaply than foreclosure allows. Used as a form of consumer relief in the settlements, they had the virtue of being more orderly and less stressful for borrowers than foreclosure; they may also have done less harm to borrowers' credit scores than foreclosure would have.

These forms of relief, however, came with drawbacks for both borrowers and banks. Short sales led to the release of the lien but not necessarily to the discharge of the total debt, which meant that homeowners could still be on the hook for the shortfall between the selling price and the total debt.⁷⁰ Banks could forgive the deficiency, but the forgiveness amount could then be treated as the homeowner's taxable income.⁷¹ Deeds in lieu of foreclosure did not extinguish junior liens, leaving either the borrower or the bank acquiring the lien at risk of foreclosure by the junior lienholder.⁷² The banks also had concerns that widespread use of short sales and deeds in lieu of foreclosure would encourage strategic default.⁷³ Finally, housing advocates wanted to focus on other types of relief that kept people in their homes.

Moreover, servicers were already having difficulty managing the large number of vacant properties due to foreclosure, and communities were not helped by having still more empty homes. As the crisis continued, increased federal subsidies, aimed at inducing banks to adopt alternatives to foreclosure, and added pressure from the Obama Administration on the Federal Housing Finance Agency (FHFA) to increase short sales for Freddie Mac and Fannie Mae borrowers resulted in greater use of these tools.⁷⁴ Under the NMS, the settling banks agreed to channel part of their debt reduction relief into short sales and could receive credit for short sales that specifically forgave borrowers' deficiency balances.

e. Anti-Blight Measures

Anti-blight measures—or, as later settlements called them, “community reinvestment and neighborhood stabilization” measures—were primarily intended to help affected communities in general rather than particular individual consumers. The goal was to prevent or mitigate the harms to neighborhoods associated with distressed or abandoned properties. However, although anti-blight relief was primarily intended to provide benefits to communities, some of these measures tried to achieve that goal by providing relief directly to individual borrowers.

Although the “anti-blight measures” could include a wide variety of activities, in the context of the financial crisis and the various settlements, they generally consisted of demolishing abandoned homes or of donating homes owned by banks after failed foreclosure sales (“real estate owned properties” or REOs) to willing recipients such as municipalities or nonprofits (or, in some cases, to disabled service members or relatives of deceased service members).

Overall, the purpose of anti-blight measures was to reduce the number of abandoned properties in a neighborhood in order to reduce the burdens on local governments of maintaining the properties, to make the neighborhood more pleasant for those who continued to live there, and to reduce harms to property values. In some communities, it was more cost-effective to acquire abandoned properties, demolish them, and then give the land to neighbors, both increasing their property value and eliminating the abandoned dwelling. Such measures reduced the burden on communities, many of which

were struggling during the financial crisis, by decreasing the number of properties that required municipal attention or that did not provide revenue in the form of tax payments or payments for municipal services such as water and trash collection.

Given the community-targeted nature of many forms of anti-blight relief, this Report does not include those forms among the forms of relief targeted at individual borrowers. However, from the beginning, the consumer relief settlements also treated certain forms of first-lien extinguishment as anti-blight relief, and such relief is relevant in this subsection and below (see § VI.C). In particular, as discussed below, under the Settlement Agreement, extinguishment of individual borrowers' first-lien debts was categorized as an anti-blight measure.

2. Overview of Non-Settlement Consumer Relief Efforts

By the time the consumer relief settlements were signed and the monitorships designed to enforce them began, the federal government had already undertaken various efforts to address homeowners' struggles to stay in their homes. To understand the Citi settlement and the other consumer relief settlements, it helps to know a little about those federal programs and, indeed, the broader context in which those programs operated.

a. Federal Consumer Relief Programs

Federal consumer relief programs designed to help homeowners avoid losing their homes came in many forms, often choosing to offset income shock, negative equity, or both. Two significant federal government relief programs—the Home Affordable Modification Program (HAMP) and the Home Affordable Refinance Program (HARP)—were introduced in March 2009.

HAMP focused on lowering monthly payments. HAMP began by encouraging first-lien modifications by providing incentive payments to banks to complete modifications. HAMP included detailed rules governing modifications, which led to the criticism that it was too inflexible to help borrowers.⁷⁵ In its initial form, HAMP was focused on using interest rate reductions to lower monthly payments, but in October 2010 it added the HAMP Principal Reduction Alternative program (HAMP PRA), which allowed for lowering monthly payments via principal reduction. Over time, additional revisions were made and components added to the HAMP program, and subprograms were rolled out, including the Second Lien Modification Program (2MP), the Home Affordable Foreclosure Alternatives (HAFA) program, and the Home Affordable Unemployment Program (UP).⁷⁶ The HAMP program closed to new applications on December 31, 2016, with a total of 1.7 million loans having been permanently modified through the program.⁷⁷

HARP focused on enabling current borrowers with Fannie Mae or Freddie Mac mortgages to refinance. In particular, HARP targeted borrowers who could not take advantage of falling interest rates because they did not have enough equity in their homes to refinance. Under HARP, which was created by the FHFA, borrowers with an

LTV above 80% were eligible, provided other conditions were met. Originally, the program had an LTV cap of 105%, which was revised to 125% in 2009, and then removed altogether in 2011.⁷⁸ HARP was only available to homeowners whose loans had been acquired by Freddie Mac or Fannie Mae prior to May 31, 2009. The “program peaked in 2012, after being enhanced to reach more borrowers,” though HARP continued, in one form or another, until December 2018.⁷⁹ In total, just under 3.5 million loans were refinanced through HARP.⁸⁰

Beyond HAMP and HARP, the federal government introduced several other initiatives aimed at helping distressed homeowners. Such programs and policies included the Federal Housing Administration Short Refinance Program, the provision of funding specifically for NeighborWorks America’s foreclosure mitigation counseling efforts, creation of the Hardest Hit Fund to assist housing finance agencies in states that saw the greatest declines in housing prices, and legislative efforts aimed at assisting military service members facing foreclosure.⁸¹

b. Other Consumer Relief Efforts

HAMP, HARP, and other federal initiatives were by no means the only programs launched after the financial crisis to help struggling homeowners. Some states and cities introduced their own loan modification programs. But the most significant programs—which far exceeded HAMP in terms of the number of loans modified—were proprietary modifications offered by banks to their customers. Those modifications, which often included payment reductions and sometimes included principal reductions similar to HAMP, did not have the strict requirements of the HAMP program and were thus deployed on a greater scale. While 1.7 million modifications were completed under HAMP, the non-profit home preservation organization HOPE NOW has estimated that 5.3 million proprietary modifications were completed during the same time frame—or roughly three proprietary modifications for each HAMP modification.⁸²

c. Time Lag for Consumer Relief

Although many of the federal (and state) programs and the banks’ proprietary programs did help homeowners, it is also true that the government and financial institutions lagged in providing help, whether because they got a late start or because they moved slowly once underway. Principal reduction was not significantly deployed until after the height of the financial crisis. Traditional rate reductions, including HAMP, were used but simply could not keep up. Indeed, in the 2011–2012 time frame, three years after the financial crisis hit with full force and several years after it arguably started, the number of newly initiated foreclosure actions outpaced the number of permanent mortgage modifications delivered under HAMP and proprietary programs combined.⁸³ In 2012 there were nearly as many completed foreclosures (853,000) as there were completed loan modifications (863,000).⁸⁴

The time lag between the crisis itself and the availability of HAMP, HARP, and other government programs undoubtedly affected those programs' ability to help suffering homeowners. While there were many homeowners still suffering in 2011, 2012, and beyond, there had also been many homeowners suffering earlier, in the immediate aftermath of the crisis, without any program to help them. Had banks been able to roll out proprietary modifications (which require no government program) more quickly, additional borrowers could have been helped. The government response also took time that many borrowers did not have.

If the proprietary and government programs started too late, so too did the consumer relief settlements analyzed directly below. Indeed, those came even later. The NMS was not final until the middle of 2012, and most NMS relief was provided in subsequent years. RMBS settlements, including the present Citi settlement, were rolled out from 2013 to 2017, with relief being provided in some cases a decade after the financial crisis. In the specific case of the Settlement Agreement, Citi provided most of the relief in 2014 and 2015.

Although, as discussed below, many of the borrowers affected by these settlements had loans that were originated at the height of the crisis, many borrowers harmed by the crisis were long gone from their homes by the time the settlements went into effect. At bottom, the lesson of the post-crisis settlements is that they simply are not a direct response to a housing crisis. Those who looked to the settlements to remedy the wide range of harms that befell American consumers were looking in the wrong place. Quicker legislative and regulatory action might have helped more people; settlements based on actual or threatened legal action down the road could not substitute for such more immediate action.

3. Analysis of Consumer Relief in the Settlements

Having sketched out the backdrop of the broader governmental and proprietary efforts to mitigate the harms caused by the 2007–2009 financial crisis, this Report now narrows its focus to the role played in those efforts by the federal settlements involving consumer relief, including the Settlement Agreement.

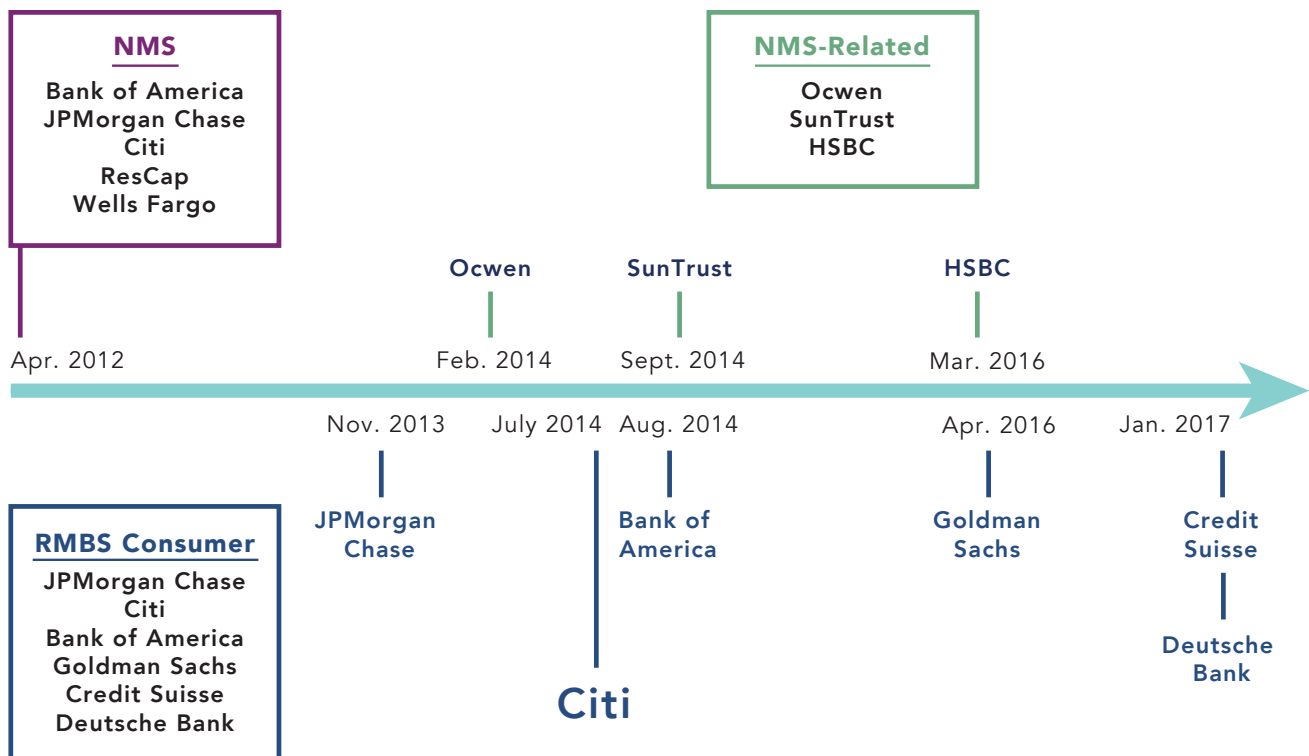
This subsection first provides an overview of the consumer relief settlements (3.a), lays out the kinds of relief provided by these settlements (3.b) and the key crediting factors for these settlements (3.c), and then analyzes the evolution of the consumer relief settlements generally (3.d).

a. Overview of the Consumer Relief Settlements⁸⁵

The consumer relief settlements divide into three categories:

- ▶ The five separate settlements involving allegations of robo-signing and other mortgage servicing misconduct that constituted the **National Mortgage Settlement (NMS)** (Bank of America, JPMorgan Chase, Citi, ResCap, and Wells Fargo).
- ▶ The three “**NMS-related settlements**” that followed the NMS and also resolved allegations relating to robo-signing and other mortgage-servicing misconduct (Ocwen, SunTrust, and HSBC). Although similar to the NMS, these later settlements deviated from the NMS in notable ways.
- ▶ Six “**RMBS settlements**,” some involving the same banks as the NMS, that resolved allegations related to packaging, securitizing, issuing, marketing, and selling residential mortgage-backed securities around the 2005 through 2007 time frame (JPMorgan Chase, Citi, Bank of America, Goldman Sachs, Credit Suisse, and Deutsche Bank). The signing dates of the RMBS settlements overlapped in time with the NMS-related settlements. Several other settlements—not included in the term “RMBS Settlements” for the purposes of this Report—involving the same basic allegations did *not* include any consumer relief component.

FIGURE 9: START DATES OF CONSUMER RELIEF SETTLEMENTS



The National Mortgage Settlement (NMS). The April 2012 NMS comprised five separate settlements between, on the one hand, DOJ and state attorneys general from 49 states and the District of Columbia (Oklahoma did not participate) and, on the other, the five largest U.S. mortgage servicers at the time: Bank of America, JPMorgan Chase, Citi, ResCap, and Wells Fargo. Those five servicers collectively accounted for more than 50% of the mortgage servicing market.⁸⁶

From late 2010 to early 2012, the parties engaged in negotiations ultimately leading to the NMS. In addition to substantial injunctive relief and traditional imposition of payments and penalties to state and federal governments, the NMS included the novel concept of consumer relief to help consumers and their communities. This relief included principal reduction, extinguishment, rate reduction refinancing and modifications for individuals who were not eligible for rate reductions under existing programs, and other forms of relief intended to keep borrowers in their homes or otherwise ameliorate homeownership-related problems resulting from the financial crisis. Under the NMS's approach to awarding credit for consumer relief, aid to consumers was nominally about 80% of the total financial penalty (approximately \$19.1 billion out of \$24.1 billion), though, as discussed below (§ VI.B.3.c and § VI.C), the actual amount of relief is debatable.

NMS-Related Settlements. From 2014 through 2016, the federal government and nearly all of the states also entered into the NMS-related settlements with Ocwen, SunTrust, and HSBC. The NMS-related settlements used the same monitor as the NMS, involved the attorneys general of the same forty-nine states and the District of Columbia, and also addressed allegations of misconduct related to mortgage servicing. Nonetheless, there were some notable differences between those settlements and the NMS. First, DOJ was not the only federal enforcement agency involved. In the Ocwen settlement, the Consumer Financial Protection Bureau (CFPB) was the sole federal signatory, and the CFPB and DOJ both signed the SunTrust settlement. (DOJ was the sole federal signatory to the HSBC settlement.) Second, the kinds of relief offered and the crediting structure associated with that relief differed from the NMS.

RMBS Consumer Relief Settlements. In the years that followed the NMS, DOJ, in conjunction with a few state attorneys general, entered into the six consumer relief RMBS settlements, including three with banks (Bank of America, JPMorgan Chase, and Citi) that had already resolved allegations of other mortgage-servicing misconduct in the NMS. Some of these settlements included small numbers of states as signatories.

Figure 10 shows the amounts of consumer relief required by relevant settlements, including (i) NMS, (ii) the NMS-related settlements, (iii) the six RMBS settlements involving consumer relief, and (iv) other RMBS settlements with the federal government that did not involve consumer relief. It also shows how much the financial institutions paid in traditional settlement payments and civil penalties. The civil penalties include payments made under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), a statute that allows the federal government to seek penalties on banks and individuals for specified types of misconduct. Settlements in dark blue are NMS

settlements; settlements in teal are NMS-related settlements; settlements in purple are RMBS consumer settlements; and settlements in black are RMBS settlements with the federal government that did not include consumer relief.

FIGURE 10: MINIMUM REQUIRED CONSUMER CREDIT AND MONETARY PAYMENTS

Settlement	Settlement Date	Consumer Relief Completed	Minimum Consumer Credit	Monetary Payment
Bank of America (NMS)	4/4/2012	6/17/2014	\$8,574,200,000	\$2,382,415,075
JPMorgan Chase (NMS)	4/4/2012	3/18/2014	\$4,212,400,000	\$1,121,188,661
Citi (NMS)	4/4/2012	3/18/2014	\$1,789,000,000	\$413,041,577
ResCap (NMS)	4/4/2012	1/23/2014	\$200,000,000	\$109,628,425
Wells Fargo (NMS)	4/4/2012	3/18/2014	\$4,337,000,000	\$1,005,233,716
Ocwen (NMS-related)	2/26/2014	4/28/2016	\$2,000,000,000	\$127,300,000
SunTrust (NMS-related)	9/30/2014	8/10/2017	\$500,000,000	\$468,000,000
HSBC (NMS-related)	3/14/2016	3/14/2017	\$370,000,000	\$100,000,000
JPMorgan Chase (RMBS consumer)	11/19/2013	9/22/2016	\$4,000,000,000	\$9,000,000,000
Citi (RMBS consumer)	7/11/2014	12/31/2018	\$2,500,000,000	\$4,500,000,000
Bank of America (RMBS consumer)	8/20/2014	3/17/2017	\$7,490,160,000	\$9,159,840,000
Goldman Sachs (RMBS consumer)	4/11/2016	ongoing	\$1,800,000,000	\$3,260,000,000
Deutsche Bank (RMBS consumer)	1/17/2017	11/20/2019	\$4,100,000,000	\$3,100,000,000
Credit Suisse (RMBS consumer)	1/18/2017	ongoing	\$2,800,000,000	\$2,480,000,000
Morgan Stanley (RMBS)	2/11/2016	n/a	n/a ⁸⁷	\$2,600,000,000
Société Générale (RMBS)	1/20/2017	n/a	n/a	\$50,000,000
Barclays (RMBS)	3/29/2018	n/a	n/a	\$2,000,000,000
Wells Fargo (RMBS)	8/1/2018	n/a	n/a	\$2,090,000,000
Royal Bank of Scotland (RMBS)	8/14/2018	n/a	n/a	\$4,900,000,000
HSBC (RMBS)	10/9/2018	n/a	n/a	\$765,000,000
Nomura Holding Am. (RMBS)	10/15/2018	n/a	n/a	\$480,000,000
GE-WMC (RMBS)	4/12/2019	n/a	n/a	\$1,500,000,000
Totals			\$44,672,760,000	\$51,611,647,454

b. Consumer Relief Categories and Corresponding Credit

Across the consumer relief settlements, the categories of relief available varied notably, as did the credit awarded for each. This subsection describes the categories of relief included in each of the three kinds of consumer relief settlements, noting significant points of similarity and difference, and further provides an overview of the credit awarded by category to the extent that such information is available.

i. NMS—Relief Categories and Corresponding Credit

Each of the NMS settlements offered the bank defendant involved in servicing mortgages the opportunity to provide relief to consumers from a range of menu items or paragraphs (for simplicity's sake, this Report refers to both as "menu items" unless otherwise indicated). Each NMS menu item or sub-menu item focused on different kinds of relief. For example, NMS Menu Item 1 focused on first-lien principal reduction, further subdivided among principal reduction for loans owned by the servicer, forgiveness of forbearance for loans held by the servicer, earned forgiveness for loans held by the servicer, principal reduction for loans serviced for an investor, and earned forgiveness for loans serviced for an investor.

Principal Reduction Relief. Ultimately, in the NMS, the five largest servicers agreed to provisions that would incent and require some amount of principal reduction effected by loan modifications;⁸⁸ even then, however, there were significant limitations on offering principal reduction. For example, a servicer faced legal uncertainty in providing principal reduction unless the servicer owned the loan or the loan's investors (or sole owner) authorized principal reduction. One of the many complexities of the RMBS market was that it was often unclear whether a servicer of a loan sold into a securitization—which was then sold in pieces to many investors—was authorized to engage in principal reduction, even if the servicer concluded that the investors would get a better return from principal reduction than from foreclosure. That uncertainty locked up the market for principal reduction, as most loans were held either in securities or by Fannie Mae and Freddie Mac, which refused to authorize principal reduction.

Rate Reduction Relief. The NMS required the settling banks to set up a program that would provide temporary or permanent rate reductions for borrowers who had first liens held by the settling bank and who had been current for at least twelve months on those mortgages. To be eligible for a rate reduction, these loans had to meet a lengthy list of criteria, including having an LTV greater than 100% and an origination date before January 1, 2009. Allowing banks to receive credit for rate reductions was a late addition in the negotiations of the NMS. At the time, it was not known how it would impact borrowers, but the primary goal was to provide at least some relief to consumers who had held on to their homes. The requirements and crediting mechanisms were as experimental

as anything else in the NMS. The NMS referred to its rate reduction program as a “refinancing program” but allowed the rate reductions to be effected either through refinancing or modification.

Anti-Blight Relief. The NMS and NMS-related anti-blight menu items, like the equivalent menu items in some later RMBS settlements (including the Settlement Agreement), provided credit for paying the costs associated with demolishing abandoned properties or donating REOs to municipalities or nonprofits. Also like some later RMBS settlements, including the Settlement Agreement, the NMS and NMS-related settlements treated debt reduction to individual borrowers as anti-blight relief, although the NMS awarded only \$0.50 of credit for every \$1.00 of property value, whereas the Settlement Agreement awarded \$1.00 of credit for \$1.00 of principal extinguished. The NMS and the NMS-related settlements explicitly imposed a variety of requirements aimed at providing relief to service members absent from the RMBS settlements.

Short Sale Relief and Deed in Lieu of Foreclosure Relief. By offering credit associated with short sales and deeds in lieu of foreclosure, the NMS aimed to enable consumers who could not make their mortgage payments to sell their houses to their lenders rather than go through foreclosure. Creditable relief under this menu item included payments from a bank defendant to an unrelated third-party bank that held a second lien; it also included forgiving “deficiencies,” i.e., loan amounts that a borrower still owed a bank *after* a short sale or deed-in-lieu transfer. Taken together, short sales and deeds in lieu of foreclosure constituted a substantial share of the credit awarded under the NMS (29.0%) and a lesser but still notable share under the NMS-related settlements (8.1%), but they did not feature in the RMBS settlements.

Post-Foreclosure Deficiency Waiver Relief. Much the same can be said about the need for relief in the form of deficiency waivers not creditable under the short sale/deeds in lieu menu item (e.g., waivers of post-foreclosure deficiency balances). Such relief constituted a minor share of credit awarded under the NMS (0.3%). Some of the NMS-related settlements allowed banks to seek credit for such deficiency waivers, but no credit for those deficiency waivers was issued under those settlements. Although the RMBS settlements did not contain a separate menu item for deficiency waivers, the effect of allowing extinguishment of unsecured debt was to permit Citi and other RMBS settlement signatories to receive significant total amounts of credit for forgiving unsecured debts that might have been creditable as deficiency waiver relief under the NMS.

Under the NMS, as under the other consumer relief settlements, no individual borrower was entitled to relief. Instead, the agreements specified maximums and minimums for various types of relief to eligible borrowers. Thus, each servicer was required to provide “enough” relief to fulfill its commitment, and each type of relief was valued differently, such that \$1.00 of relief for a consumer might count as only \$0.50 in credit for the servicer.

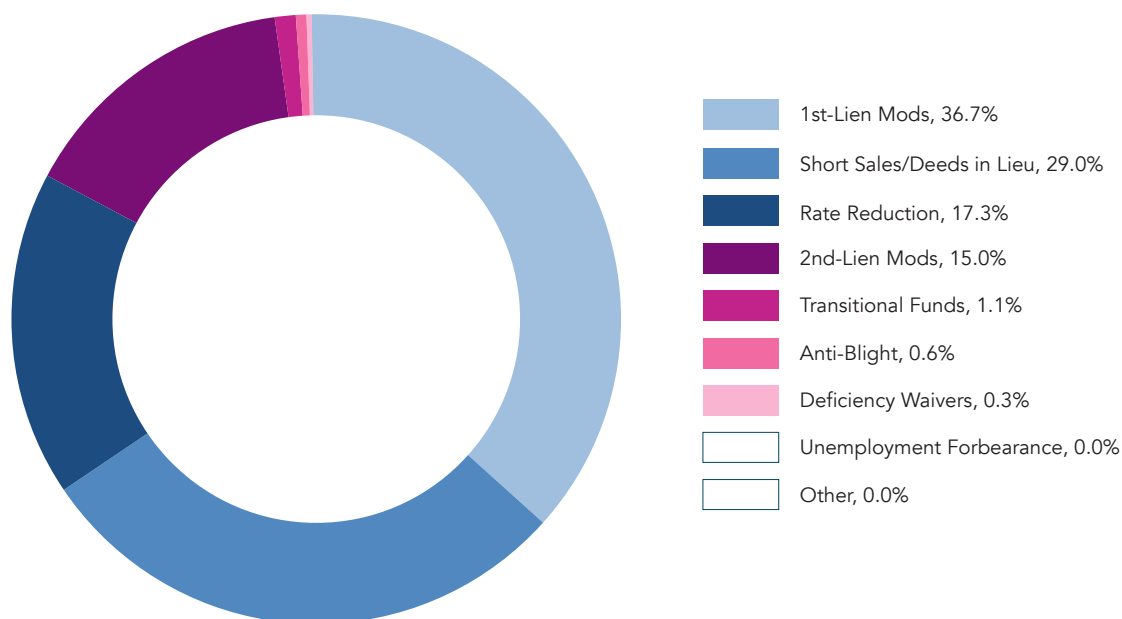
For the NMS, Figure 11, below, shows broken out by category of relief, the amount of relief provided, the units of relief provided, the credit awarded, the percentage of the total credit awarded per category of relief, the average credit received per unit of relief, and how many dollars in credit the banks received for each dollar of relief provided.

FIGURE 11: OVERVIEW OF NMS RELIEF AND CREDIT

Relief Kind	Relief Amount	Units of Relief	Credit	Pct. of Tot. Credit	Credit per Unit of Relief	Credit per Relief
1st-Lien Prin. Red'n	\$10,350,628,303	95,056	\$7,589,277,740	36.7%	\$79,840	\$0.73
2nd-Lien Prin. Red'n	\$15,122,743,180	220,370	\$3,105,152,359	15.0%	\$14,091	\$0.21
Transitional Funds	\$346,460,548	40,673	\$218,824,608	1.1%	\$5,380	\$0.63
Short Sales/ Deeds in Lieu	\$20,887,695,243	187,844	\$6,010,542,268	29.0%	\$31,998	\$0.29
Deficiency Waivers	\$545,189,022	9,362	\$54,518,902	0.3%	\$5,823	\$0.10
Unemployment Forbearance	\$0	0	\$0	0.0%	n/a	n/a
Anti-Blight	\$355,255,511	5,334	\$125,068,394	0.6%	\$23,447	\$0.35
Rate Reduction ⁸⁹	\$2,853,355,333	72,917	\$3,587,672,814	17.3%	\$49,202	\$1.26 ⁹⁰
Other	\$1,600,000	n/a	\$1,600,000	0.0%	n/a	n/a
Totals	\$50,462,927,140	631,556	\$20,692,657,086	100.0%	\$32,762	\$0.41

Figure 12, below, shows the percentage of credit awarded per category of relief under the NMS.

FIGURE 12: OVERALL NMS DISTRIBUTION OF CREDIT (\$20.7 BILLION TOTAL)



Consistent with the various maximums and minimums, each bank chose its own approach to complying with the NMS, including how it completed the required relief. For example, Bank of America received one-tenth of its credit from rate reductions, whereas nearly one-third of Wells Fargo’s credit came from rate reductions. A substantially higher percentage of Bank of America’s NMS credit came from principal reduction in the form of second-lien mortgage modifications than was the case for the other NMS banks. Twenty-three percent of Bank of America’s \$9.61 billion of credit came from second-lien modifications. The other four NMS settlements ranged from 4.7% (Wells Fargo) to 19.4% (Citi), with an average of 8.1% across all four.

ii. NMS-Related—Relief Categories and Corresponding Credit

1) Ocwen

In sharp contrast with the NMS itself, the NMS-related Ocwen settlement had only one menu item: **principal reduction** for underwater borrowers. Specifically, credit was available only for principal reduction affecting borrowers with first-lien mortgages on underwater properties with an LTV of at least 100%. Ocwen made 23,802 such modifications, receiving \$2.13 billion in credit.

2) SunTrust and HSBC

The structure of relief and credit for the NMS-related SunTrust and HSBC settlements more closely resembled the structure established by the NMS, though with notable differences.

Under the SunTrust and HSBC settlements, **principal reduction** via loan modifications retained many of the features from the NMS, although the eligibility requirements changed somewhat, often with the effect of expanding eligibility.

Rate reduction was required under the SunTrust settlement but not the HSBC settlement. The SunTrust settlement broadened the eligibility requirements and forms of relief permitted for refinancing both first- and second-lien mortgages from the requirements of the NMS.

The SunTrust settlement added a category of relief not found in the NMS: **new lending**. When offering relief under this category, SunTrust did not change the balance or the terms of existing loans but instead provided relief in the form of *new* purchase money mortgages to creditworthy, low-to-moderate income (LMI) homebuyers. To be eligible for relief, those LMI borrowers had to be: (1) first-time homebuyers; (2) buyers purchasing homes in economically struggling areas as defined by HUD (“Hardest Hit Areas” or HHAs); or (3) buyers who had previously lost homes to foreclosures or short sales. The purpose of such loans was to provide additional financing—on reasonable terms—to borrowers who otherwise might not be able to afford to purchase homes.

In contrast with the NMS and Ocwen settlements, which did not explicitly contemplate extinguishment as a form of principal reduction under the loan modification menu items, the HSBC settlement also explicitly allowed for **extinguishment** of first- and second-lien balances. The SunTrust settlement allowed for extinguishment of second-lien balances.

3) NMS-Related: Distribution of Crediting

Given both that Ocwen’s \$2.1 billion in credit was more than double the credit earned by SunTrust and HSBC combined (\$502.8 million and \$371.1 million, respectively) and that all of the relief credited under the Ocwen settlement went to first-lien principal reductions, the vast majority of relief credited by the NMS-related settlements was principal reduction. Approximately \$2.6 billion of the \$3.0 billion in relief credited was principal reduction, including extinguishment.

iii. RMBS—Relief Categories and Corresponding Credit

Collectively, the six RMBS consumer relief settlements provided much the same kinds of relief as the NMS and the NMS-related settlements, but, as time went by, the range of relief offered by the RMBS settlements changed. In broad strokes, the first three RMBS settlements—JPMorgan Chase, Citi, and Bank of America—provided a range of relief similar to that of the NMS and the NMS-related settlements. However, in contrast with the NMS and some of the NMS-related settlements, the RMBS settlements more generally permitted extinguishment.

The Settlement Agreement added a new category of relief—**affordable housing**—that became important in the RMBS settlements, even as traditional categories of relief became less central in the later three settlements: Goldman Sachs, Credit Suisse, and Deutsche Bank. The purpose and outline of the affordable rental housing provisions has been discussed at length in the Monitor’s Sixth Report, and further considerations regarding affordable housing are discussed below (§ VII and Appendix C).

Figure 13, below, indicates certain common categories of relief offered under the various RMBS settlements.

FIGURE 13: CERTAIN COMMON CATEGORIES OF RELIEF IN RMBS SETTLEMENTS

Date	Settlement	Prin. Red’n (incl. Extg.)	Rate Red’n	Anti-Blight	New Lending	Afford. Housing	Tax Relief
11/19/2013	Chase	Yes	Yes	Yes	Yes	No	No
7/11/2014	Citi	Yes	Yes	Yes	Yes	Yes	No
8/20/2014	Bank of America	Yes	No	Yes	Yes	Yes	Yes
4/11/2016	Goldman Sachs	Yes	No	No	No	Yes	No
1/17/2017	Deutsche Bank	Yes	Yes	Yes	Yes	Yes	No
1/18/2017	Credit Suisse	Yes	No	No	No	Yes	No

The Bank of America settlement, executed in August 2014, when it was unclear whether the Mortgage Forgiveness Debt Relief Act of 2007 would be extended through the end of 2015, also included \$490.2 million in a **tax consequences fund**. This fund was intended to pay the taxes associated with certain types of consumer relief so that borrowers would not end up owing taxes on that relief if the Act was not extended. The Citi settlement, executed at roughly the same time, took a different approach by requiring borrowers to pay any taxes owed and requiring only that Citi notify borrowers that there might be such tax consequences. (See § V.C above.)

Dealing with the tax consequences of debt forgiveness was one critical step that policymakers did take promptly to help struggling homeowners. Had the Mortgage Forgiveness Debt Relief Act not been repeatedly extended, borrowers receiving a financial lifeline in the form of principal reduction would have been hit with a potentially massive tax bill—all as a result of the inflated valuations that had gotten them into a bad mortgage in the first place. Without tax relief, many borrowers likely would have said “no thanks” to principal reduction, choosing to keep their debt load rather than have to pay a huge tax bill. As a result of extensions of the Act, there were no significant tax consequences for Citi relief recipients and

no need to pay taxes on behalf of borrowers who received consumer relief under the Bank of America settlement.⁹¹

Another form of creditable relief was **forbearance**—sometimes called “payment forgiveness” by the settlements. This relief consisted of not charging interest while a loan was in forbearance, i.e., while a borrower was not making the required payments on the loan. It is worth noting that, although forbearance relief does reduce the amount the borrower owes at the end of the forbearance period by preventing interest from accruing during that period, it does not actually reduce the principal owed and can lead to the borrower’s having to make a large balloon payment. Forbearance relief played no role in the NMS or the NMS-related settlements, but it was permitted by some of the RMBS settlements, including the Settlement Agreement.⁹² To date, forbearance has generally not been an important feature of consumer relief credit awarded under the RMBS settlements. Of the completed settlements, JPMorgan Chase received 7.4% of its total credit for such relief, Bank of America received 2.4%, and Citi and Deutsche Bank received no such credit. Crediting for Goldman Sachs and Credit Suisse is still ongoing. As of October 9, 2020, Goldman Sachs had earned \$1.7 billion of the total \$1.8 billion in credit required, and \$3.6 million was for forbearance relief. As of October 1, 2020, Credit Suisse had earned \$297.2 million of the total \$2.8 billion in credit required, and \$245.9 million was for forbearance relief. For the sake of clarity, under the RMBS settlements, it should be noted that such “forbearance” is distinct from “forgiveness of forbearance.” Whereas forbearance relief consists of not charging *interest* on the forborne amount, forgiveness of forbearance relief consists of forgiving the forborne amount itself.

c. Key Crediting Factors

The consumer relief settlements are, like any settlement, the products of negotiation. In the negotiations related to consumer relief, one can presume that the government officials were seeking to obtain, encourage, or promote relief that would have the maximum benefit for consumers and that the financial institutions were trying to minimize the ultimate cost (or to maximize the economic return) to them of providing relief. It is in the details of the “menus” of each settlement that these negotiations can be gleaned.

Those attempting to evaluate the success of the consumer settlements and the appropriateness of the relief offered under them often focus on two related but meaningfully distinct lines of inquiry. First, did those harmed by the financial crisis get enough help? Second, did the banks pay a high enough price for the alleged conduct that contributed to the financial crisis? The second line of inquiry includes asking whether certain relief can even count as a price paid as the result of the settlements, or whether the banks would have provided such relief even if there had been no settlements because providing that relief actually helped the banks. Both of these lines of inquiry involve complex areas of empirical and philosophical analysis that do not yield easy—or widely accepted—conclusions.

As to whether those harmed received enough relief under the settlements, the threshold question is whether the relief recipients were properly chosen. That is, should relief—at least so much relief—have been generally targeted at consumers with loans meeting specific criteria? Or would it have been better to have the banks pay money directly to a differently defined set of consumers who might not have such loans? For that matter, would it have been better for the banks not to provide relief to individual consumers at all but rather to pay into some common pool of money, possibly the treasuries of the states or the federal government? By 2018, DOJ had made a policy decision not to include consumer relief at all in its RMBS settlements but rather to simply impose civil penalties. (See [Figure 10](#).) But payment of funds directly to a state or federal treasury provides no assurance that the funds will be used to help distressed borrowers.

Even assessing whether those who *did* receive relief benefited sufficiently from it is far from straightforward. For example, at first glance, it seems simple enough to say that a \$20,000 reduction of the amount a borrower owes is worth \$20,000 to that borrower, at least so long as the borrower does not have to pay taxes on it. However, the timing and the nature of relief can significantly affect its real value to a borrower. For example, one way to forgive the principal owed on a loan is to leave the monthly payment unchanged but to shorten the term of the loan. (Such modifications are permitted under Menu Item 1 of the Settlement Agreement, though only at the option of the borrower.⁹³) A borrower struggling to make the monthly payment would not receive any immediate benefit from this approach. Consider a hypothetical borrower at imminent risk of foreclosure because the monthly mortgage payment is too high. Suppose that the borrower has fifteen years left on the mortgage and receives a modification forgiving \$20,000 and shortening the remaining term. Given that the monthly payment will not change for years after the modification, the borrower will remain at imminent risk of foreclosure despite the modification. If the borrower loses the home to foreclosure, say, a year after the modification, the borrower might effectively receive *no* relief.

On the other hand, if the same borrower received a \$15,000 modification that left the remaining mortgage term at fifteen years but immediately lowered the required monthly payment, that might let the borrower stay in the home. Here, the borrower not only would benefit by \$15,000 but also by not having to pay costs associated with foreclosure, including relocation costs and indirect costs resulting from a damaged credit score. And, of course, being able to stay in one's home also often has important intangible benefits, including reducing stress and disruption, allowing families to remain connected to communities, allowing children to stay in their familiar schools, and so forth. For this borrower, \$15,000 in well-timed relief would be significantly more valuable than \$20,000 in ill-timed relief. Indeed, many housing advocates argue that relief that actually keeps people in their homes is worth more than the money at stake.

Valuing the relief to communities—for example, under the anti-bligh menu items—can be highly dependent on the specific needs of a particular neighborhood at a particular time. For example, how much, if at all, a community benefits when a bank

donates a foreclosed home to the community depends on, among other things, whether the community can afford to maintain or demolish the home or whether it has mechanisms to find a new owner for the property. Successful programs can not only save the individual home, but also increase property values for neighbors. On the other hand, as discussed below (§ VI.C.4), principal forgiveness and lien release for vacant properties—which were viewed in the settlements as anti-blight measures—can actually *contribute* to blight by creating zombie properties that are more difficult for cities or counties to address.

As to whether the settlements forced the banks to pay enough, one thorny set of questions is how to measure “enough.” Is the appropriate measuring stick how much providing the relief punished the banks for their alleged bad actions? Or is the appropriate metric how much the relief helped consumers, regardless of the costs to the banks? Even setting aside those questions, before one can attempt to assess whether the banks paid a high enough price, one must try to determine what the banks actually paid, i.e., how much providing the relief *actually* cost them. This is a complex question with unclear and speculative answers. For example, under a number of settlements, banks received credit for forgiving bad debt, loans for which the banks had already given up ever getting repaid but had not pursued foreclosure on because the foreclosure costs exceeded what the banks expected to recoup at a foreclosure sale. Such relief arguably cost the banks nothing, although they always collect on some percentage of their bad debt (directly or through sales of debt to others). Similarly, modifying or refinancing loans can, as many have recognized, be net positive for a bank because keeping a borrower in his/her home and paying the mortgage is often better for the bank than foreclosing; although this might “cost” the bank less, it is clearly what housing advocates most wanted to promote.

Further, in asking whether the banks paid enough *under* the consumer relief settlements, one can ask whether they paid enough *as a result of* those settlements. That is, how much of the relief that the banks provided under the settlements came only because those settlements were in place, and how much of it would the banks have provided anyway because providing the relief helped them as well as consumers?

Finally, the asymmetries of the relief—where the value to the consumer diverges from the cost to the bank—reflect value judgments more than mathematical exercises. Writing off bad debt may have little cost to banks, but can have a major impact on a consumer immediately and in the future as the individual seeks to obtain future credit. In many respects, consistent with how many settlement negotiations occur, the most value can be unlocked by recognizing and taking advantage of those asymmetries.

While this question of how to judge each element of relief is complex and laden with subjectivity, the settlements themselves, through the use of eligibility criteria, credits,

and bonuses, assign values to different kinds of relief. As discussed below, the settlements evolved significantly over time, and those changes—including the changing values assigned to various forms of relief—had a real effect on the types of relief provided and the impact of the relief.

i. Crediting Factors—NMS and Beyond

The key factors shaping how the banks received credit for the relief they provided—and thus shaping what kinds and amounts of relief the banks chose to provide—under the consumer relief settlements fall into the following categories:

- ▶ Eligibility criteria
- ▶ Formulas for crediting
- ▶ Maximums and minimums for kinds of relief
- ▶ Bonuses and penalties

Each category is discussed in turn below, noting how the foundational NMS handled each category as well as pointing out certain key differences in how later settlements—including this Settlement Agreement—handled each.

Eligibility Criteria. Such criteria were designed to make sure that banks received settlement credit only for certain kinds of relief directed at certain kinds of recipients. For example, under the NMS, most principal reduction and all rate reductions had to relate to occupied properties. Principal reduction and rate reduction also imposed eligibility requirements for the LTV, debt-to-income (DTI) ratio, and the loan’s unpaid principal balance (UPB).

Over time, in successive settlements, a number of the eligibility requirements evolved, in almost all circumstances, to allow more loans to be eligible for relief of different kinds and/or more credit to be available to settling financial institutions. For example, under the NMS, in general, a bank could receive credit for providing first-lien principal reduction relief only if a loan met criteria for both delinquency and pre-modification LTV (greater than 100%). Under the Settlement Agreement, first-lien principal reduction relief was creditable (under Menu Items 1A and 1E) if a loan was either delinquent or had an LTV greater than 100%. The Settlement Agreement also offered other ways for such loans to be creditable, including the borrower’s having missed two or more payments during the term of the loan.

Many of these changes reflected the changing housing market. As time passed after the financial crisis, there were fewer distressed borrowers that the banks could consider for relief—perhaps because they had been helped by an earlier

governmental program, a proprietary modification program, or even a consumer relief settlement. Thus, the banks “needed” a broader set of borrowers to be eligible in order to meet their settlement commitments. To a great extent, it is difficult to assess whether these changes in eligibility criteria were “good,” “bad,” or anything else. Perhaps borrowers who were underwater but did not “need” principal reduction received it in some circumstances. But the changes in eligibility criteria do reflect the reality that, with each passing year after the financial crisis, it became harder and harder to focus the relief on those most harmed by the crisis.

There was at least one change in the eligibility criteria that had a material impact on the relief provided. In the original NMS, the vast majority of relief had to be provided in relation to occupied homes. In a very real sense, a goal of the NMS was to keep people in their homes—and a requirement that the home be occupied helped achieved that goal. As time went by, however, the occupancy requirement changed. Whereas the NMS Monitor interpreted the NMS and the NMS-related settlements to require that 100% of the credit for first-lien loan modifications be for occupied properties, in subsequent settlements, including the Settlement Agreement, there was no requirement that the property be occupied.

With some types of relief—especially complete extinguishments of first-lien debts and releases of those liens, which were a significant part of the Settlement Agreement—the elimination of the occupancy requirement meant that relief could be provided to a borrower who still owed the debt but was long gone from the property. Such relief may have been welcome, but the borrower also may have had many reasons not to return to the property. Indeed, because such extinguishments did not require working with the borrower, a borrower who had left the property may not even have known about the relief. As a result, a property could remain vacant and unattended, with all of the harms to the surrounding community and no prospect of a foreclosure to get the property back in circulation. That said, for first-lien modifications, the bank generally had to work out the modification with the property’s owner, meaning that there was a borrower still connected to the property with many first-lien principal reduction modifications and that eliminating the occupancy requirement may have had limited impact on that type of relief.

Formulas. Various formulas determined how much credit a bank received for each dollar of relief given. In most cases, these were straightforward calculations in which the relief amount was adjusted by a multiplier to get the credit amount. Under the NMS, there were many multipliers that varied greatly in amount. For example, for every \$1.00 of new forbearance for unemployed homeowners that a bank facilitated, it received only \$0.05 in settlement credit. In contrast, a bank could receive as much as \$1.00 in settlement credit for every

\$1.00 of other kinds of relief given, including certain kinds of loan modifications. Principal forgiveness for first-lien mortgages received \$1.00 in credit for every \$1.00 of relief for the portion of a loan with an LTV less than or equal to 175% but only \$0.50 in credit for every \$1.00 of relief for the portion of a loan with an LTV greater than 175%.

Giving more credit for principal reductions that brought the LTV below 175% appears to reflect the belief that borrowers were going to benefit more from lowering the LTV from, say, 175% to 100% than from 250% to 175%, because at 175% the borrower would still be far underwater. Advocates argued that borrowers' incentive to pay was greater the lower the LTV. And, where the principal reductions needed to reduce the LTV also led to lower monthly payments, reducing the LTV often improved not only borrowers' *motivation* to pay but also their *ability* to pay. Further, providing greater credit for reductions below 175% LTV also presumably reflects the greater likelihood that the lender could actually collect on debt for properties below that level, which meant that forgiving such debt would cost a bank more than forgiving debt that it likely would never collect.

In the case of rate reductions under the NMS, the formula for determining how much credit a bank received was slightly more complicated. It consisted of subtracting the new interest rate from the old interest rate, multiplying that difference by the UPB, and then applying a multiplier: $(\text{Old Rate} - \text{New Rate}) \times \text{UPB} \times \text{Multiplier}$. The multiplier used depended upon whether the new interest rate was permanent or temporary; if permanent, it was determined by how many years were left on the mortgage.

These formulas had a significant impact on the choices banks would make. From the bank's perspective, they would be most likely to undertake the types of relief that gave them the most credit for the least cost or, possibly, that gave the bank the greatest economic benefit independent of the settlement (e.g., modifying loans such that borrowers could continue to make payments rather than go into foreclosure). As discussed below with respect to bonuses, that certainly meant providing relief quickly, in specified states, or in specified areas, if bonuses for doing so were available. But it also meant that each bank would seek out mismatches in the credit versus the cost.

Some criticized the NMS for giving banks any credit for waiving deficiency balances—i.e., monies owed after a foreclosure or a short sale—that were not creditable under any other menu item, but the amount of credit was only ten cents on the dollar, less than the bank might have been able to receive by selling the debt to a debt collector. As an additional safeguard, the NMS put a cap on the amount of credit that a bank could receive by waiving deficiency balances. In the end, the amount waived by the five banks was \$545,189,022, although they received only \$54,518,902 in credit.

One significant change in the formulas that may have affected bank behavior was how second liens were handled. Under the NMS, banks could get credit for second-lien principal reduction, with the credit varying for three different categories of loans: ninety cents on the dollar for performing loans, fifty cents on the dollar for seriously delinquent loans, and ten cents on the dollar for non-performing loans. That meant that, for the most delinquent and least valuable second loans, the banks could get very little credit (ten cents). As settlements proceeded, the three categories of second liens became two—banks could get \$1.00 in credit for extinguishing performing second liens and \$0.40 in credit for extinguishing liens on seriously delinquent or non-performing loans. Although that change lowered the credit available for certain second liens (seriously delinquent but still “performing”), it raised the credit for non-performing loans—creating a strong incentive to banks to extinguish old second liens that had little value to the banks.

In addition, subsequent settlements, including the Settlement Agreement, provided a similar amount of credit—\$0.40—for extinguishment of junior liens and unsecured debt. For these less valuable liens/interests, reduction of the bank’s interest was not sufficient: extinguishment was required in order to count toward the \$820 million minimum for credit under Menu Item 1 and Menu Item 4A. While that benefited the consumer, it also meant that large amounts of credit—at forty cents on the dollar—were available for liens/interests that were unlikely to be worth that much, especially the unsecured interests.

The impact of these changes can be seen in the relief provided under the Settlement Agreement, where Citi extinguished large numbers of second liens and lesser interests. Of the 44,264 loans receiving credit for principal forgiveness under Menu Item 1, 42,326 were submitted under Menu Item 1H, which applies to junior liens and unsecured loans. Nearly 1,000 more (983) were submitted under Menu Item 1D (second liens). All loans submitted under Menu Items 1D and 1H were extinguished. Once again, such extinguishment may have been valuable to the consumer, but its cost to the bank was relatively low.

Maximums and Minimums. Putting in place floors and ceilings for different forms of relief helped dictate how much of a bank’s total credit obligation it could satisfy by providing such relief. Under the NMS, banks could receive no more than 12.5% of their total credit for forgiveness of forbearance amounts on existing loan modifications, no more than 12% of their credit for anti-blight relief (including principal forgiveness in lieu of foreclosure), no more than 10% of their credit for deficiency waivers not credited under any other menu item, and no more than 5% of their credit for enhanced borrower transitional funds.

Subject to certain exceptions, under the NMS, banks had to receive at least 30% of their total credit from first-lien loan principal reduction modifications and 60% of their total credit for first- and second-lien loan principal reduction modifications

combined. Each bank had different rate reduction minimums. Bank of America had to earn \$948 million of rate reduction credit (11.1% of its total consumer relief credit). Chase had to earn \$537 million (12.75%). Citi had to earn \$378 million (21.1%). ResCap had to earn \$15 million (7.5%). Wells Fargo had to earn \$903 million (20.8%).⁹⁴ Once a bank reached its rate reduction minimum, some of the remaining credit could be used to help satisfy some of its first-lien principal credit (25%) and its second-lien principal credit (75%) obligations.

Although the maximums and minimums in subsequent agreements varied widely, overall the emphasis on principal forgiveness for first liens that would result in a modified loan (as distinct from an extinguishment) declined. The result was that, in later settlements, banks had greater incentive to focus relief on liens below the first position or non-performing loans. For example, the NMS did not allow for principal reduction or extinguishment of loans below the second position or unsecured loans, but the Bank of America RMBS settlement and the Settlement Agreement both did. Under those RMBS settlements, 21.9% of Bank of America's credit came from junior liens and unsecured loans, as did 20.2% of Citi's.

Bonuses and Penalties. The consumer relief settlements offered bonuses and penalties to encourage or discourage providing relief in certain ways, including providing relief on a certain timeline or in certain geographic areas. Under the NMS, the banks received a 25% bonus for loan modifications and rate reduction provided within the first year of the credit period. The banks had to provide enough relief to earn all of the required credit by the time the three-year crediting period came to an end. They also had to provide enough relief to meet 75% of their credit obligations within the first two years of the crediting period. Failure to earn all of the required credit within three years after also failing to meet the two-year requirement would lead to a penalty equal to 140% of the shortfall. As discussed below, the penalties became more forgiving in later settlements.

The bonuses unquestionably had a direct impact on how banks provided consumer relief. The bonuses for "early" relief drove banks to provide relief as quickly as possible—which generally was a good thing, although it also incentivized the banks to give relief to the "easiest" populations possible, rather than waiting for consumers to come through the door seeking help in later years. In some cases, it may also have encouraged banks to focus on maximizing the amount of relief offered before the bonus deadline with the knowledge that some of that relief might turn out not to be creditable.

In subsequent settlements, the bonuses increased and compounded. In the RMBS settlements, more categories or subcategories of relief became subject to significant crediting increases for relief offered at the right time, to the right recipient, or to the right extent. Indeed, the factors causing the increase—in both bonuses and multipliers—often stacked upon one another. Thus, \$1.00 of relief might be multiplied and awarded bonuses such that it became worth

far more in credit to the banks. For example, under the Bank of America RMBS settlement, \$1.00 of first-lien principal forgiveness received \$1.00 in base credit. However, if the bank forgave principal for a loan guaranteed by the U.S. Department of Veterans Affairs, the \$1.00 in forgiveness became worth \$1.75 in credit. If the bank forgave enough principal to drop the loan's LTV below 75%, the \$1.75 was multiplied by 1.25 and became worth \$2.19. If the bank provided the forgiveness early enough to qualify for the enhanced early crediting bonus, the \$2.19 was multiplied by 1.50, becoming worth \$3.28. If the home securing the loan was in an HHA and the bank had already exceeded its HHA minimum for the relevant menu item, that \$3.28 was multiplied by 1.15, becoming worth \$3.77 of total credit for each \$1.00 of forgiveness.

ii. NMS vs. RMBS: Principal Reduction and Extinguishment

To the extent that data are available, they suggest that changes in crediting factors meant that the RMBS settlements offered more credit than prior settlements for the same kinds of relief.

First, the fact that the RMBS settlements had bonus categories not included in the NMS means that bonus credit was awarded under those settlements that was not awarded under the NMS. However, one cannot say how much such bonus credit was awarded in total, in large part because not all consumer settlement monitors separately reported the amounts of bonus credit awarded for relief under a given menu item; some included the bonus amounts in the total credit amounts for that menu item without itemizing it.

The Bank of America monitor did separately report the bonus credit awarded because the bank awarded relief leading to credit in excess of (1) the credit minimums for loan modifications in HHAs and (2) the state credit minimums for loan modifications, new lending, and anti-blight relief. All told, Bank of America received \$163.6 million of such bonus credit, none of which would have been available to it for providing the same relief under its NMS settlement. As detailed above (§ IV.B), under the Settlement Agreement, Citi also received bonus credit (\$35.5 million) for exceeding state credit minimums.

Under Citi's NMS settlement, Citi's bonus for providing early relief would have been roughly comparable to that bonus under the Settlement Agreement. Under its NMS settlement, Citi received a 25% bonus credit for first-lien modifications, second-lien modifications, and rate reductions for current borrowers completed within one year of the crediting start date. Under the Settlement Agreement, Citi received a 15% bonus for all consumer relief credit issued within fifteen months of the crediting start date. However, as with Bank of America, Citi's State Minimums Bonuses under the Settlement Agreement have no analogue under the NMS.

Second, beyond those specific bonuses, under at least the completed RMBS settlements, there appears to have been an increase in the credit received per dollar of relief for principal reduction and extinguishment. Given that three of the banks that participated in completed RMBS settlements—JPMorgan Chase, Bank of America, and Citi—also participated in NMS, one can make some comparisons about how the two sets of settlements handled debt reduction relief.⁹⁵

To enable comparisons between each bank’s NMS relief and crediting and the relief and crediting under its RMBS settlement, the tables below largely preserve the forms of relief and credit identified by the NMS and reported by the NMS monitor. However, those categories have been renamed to indicate the nature of the relief provided rather than the mechanism that provided the relief. In particular, what the NMS calls “loan modifications,” this Report refers to as “principal reduction” or “extinguishment.” The tables and analysis below refer to principal reduction and extinguishment collectively as “debt reduction.”

1) NMS vs. RMBS: JPMorgan Chase

Both JPMorgan Chase settlements allowed the bank to earn credit for first-lien principal reduction and second-lien debt reduction. Under the NMS, \$250.4 million of the \$2.16 billion of credit JPMorgan Chase earned for first- and second-lien debt reduction was for second-lien extinguishment. In reporting on second-lien debt reduction, the JPMorgan Chase RMBS monitor did not distinguish between principal reduction and extinguishment.⁹⁶

Figure 14, below, compares relief and credit for principal reduction (potentially including extinguishment) under JPMorgan Chase’s NMS settlement and its RMBS settlement, indicating for each settlement how much debt reduction relief the bank provided, how much credit it received for that relief, and how much credit it earned per dollar of debt reduction relief.

FIGURE 14: NMS VS. RMBS CREDIT PER DOLLAR OF DEBT REDUCTION RELIEF—JPMORGAN CHASE

	NMS			RMBS		
	Relief	Credit	Credit per Relief	Relief	Credit	Credit per Relief
1st-Lien Prin. Red’n	\$2,914,871,594	\$1,851,496,721	\$0.64	\$1,510,357,400	\$1,357,668,869	\$0.90
2nd-Lien Prin. Red’n/ Exting.	\$2,234,144,251	\$308,672,792	\$0.14	\$737,147,863	\$360,785,046	\$0.49
Anti-Blight Exting.	\$0	\$0	n/a	\$0	\$0	n/a
Total	\$5,149,016,045	\$2,160,169,513	\$0.42	\$2,247,505,263	\$1,718,453,915	\$0.76

Overall, JPMorgan Chase earned substantially more credit per dollar of debt reduction under the RMBS settlement (\$0.76) than under the NMS (\$0.42).

Although the RMBS settlement agreement is not explicit on this point, it appears that forgiveness of forbearance relief was directed only at first-lien loans.⁹⁷ Figure 14, above, therefore treats the \$300,000,000 in credit that JPMorgan Chase earned for such relief as first-lien principal reduction credit. With credit allocated in that manner, JPMorgan Chase received approximately 40% more credit per dollar of first-lien principal reduction relief under the RMBS settlement than under the NMS. It received three and a half times more credit per dollar for second-lien debt reduction relief.

2) NMS vs. RMBS: Bank of America

Both Bank of America settlements allowed the bank to earn credit for principal reduction and second-lien extinguishment. The NMS monitor reported that Bank of America received \$2.2 billion in credit for providing \$9.7 billion in second-lien extinguishment relief. This was the only credit Bank of America received under the NMS for relief that reduced or eliminated second-lien debts. The RMBS settlement had only one menu item specifically targeted at second-lien debt, and that menu item required that the debt be extinguished. The RMBS settlement also had a menu item for junior liens and unsecured debt; although that menu item allowed for either principal reduction or extinguishment, the RMBS monitor reported all credit earned under that menu item as junior-lien extinguishment.

Figure 15, below, compares relief and credit for principal reduction (potentially including extinguishment) under Bank of America’s NMS settlement and its RMBS settlement, indicating for each settlement how much debt reduction relief the bank provided, how much credit it received for that relief, and how much credit it earned per dollar of debt reduction relief.

FIGURE 15: NMS VS. RMBS CREDIT PER DOLLAR OF DEBT REDUCTION RELIEF—BANK OF AMERICA

	NMS			RMBS		
	Relief	Credit	Credit per Relief	Relief	Credit	Credit per Relief
1st-Lien Prin. Red’n	\$4,869,347,311	\$3,365,196,272	\$0.69	\$1,697,995,120	\$3,596,733,790	\$2.12
2nd-Lien Prin. Red’n/ Exting.	\$9,655,705,939	\$2,210,934,257	\$0.23	\$67,274,425	\$76,521,480	\$1.14
<i>Subtotal: 1st- & 2nd-Lien</i>	<i>\$14,525,053,250</i>	<i>\$5,576,130,529</i>	<i>\$0.38</i>	<i>\$1,765,269,545</i>	<i>\$3,673,255,270</i>	<i>\$2.08</i>
Junior-Lien Exting.	n/a	n/a	n/a	\$3,402,660,476	\$1,534,521,483	\$0.45
<i>Subtotal: 1st-, 2nd-, & Junior-Lien</i>	<i>\$14,525,053,250</i>	<i>\$5,576,130,529</i>	<i>\$0.38</i>	<i>\$5,167,930,021</i>	<i>\$5,207,776,753</i>	<i>\$1.01</i>
Anti-Blight Exting.	\$0	\$0	n/a	\$258,040,915	\$296,594,622	\$1.15
Total	\$14,525,053,250	\$5,576,130,529	\$0.38	\$5,425,970,936	\$5,504,371,375	\$1.01

Like JPMorgan Chase, Bank of America earned substantially more credit per dollar of debt reduction under its RMBS settlement (\$1.01) than under the NMS (\$0.38). As with JPMorgan Chase's RMBS settlement agreement, although Bank of America's RMBS settlement agreement is not explicit on this point, it appears that principal forgiveness of forbearance relief was directed only at first-lien loans.⁹⁸ Figure 15 therefore treats Bank of America's \$565,181,334 in credit for such relief as first-lien principal reduction credit. With credit allocated in that manner, Bank of America received about three times more credit per dollar for first-lien principal reduction relief under the RMBS settlement than under the NMS. It received nearly five times as much credit per dollar for second-lien debt reduction relief. Under its RMBS settlement, Bank of America earned nearly five and a half times as much for combined first- and second-lien non-anti-blight debt reduction. Indeed, the table understates the amount of credit and the amount of credit per dollar of such debt reduction relief that Bank of America received under the RMBS settlement because some unknown portion of the \$163.6 million in bonuses the bank received for exceeding state minimums was derived from credit for such debt reduction relief, and the table does not include that portion.

Crediting for junior-lien extinguishment follows this pattern of the RMBS settlement awarding more credit per dollar of relief than the NMS. Bank of America earned more than a quarter of its RMBS debt reduction credit by providing junior-lien extinguishments. Given that the NMS did not offer credit for such relief, one cannot directly compare the amounts of credit per dollar of relief that Bank of America received under the NMS and the RMBS settlement. However, the RMBS settlements have generally treated junior-lien relief as worth less than second-lien relief, as in the Bank of America settlement, under which second-lien relief received more than twice as much credit per dollar of relief than did junior-lien relief. Even so, junior-lien relief under the Bank of America RMBS settlement received about twice as much credit per dollar of relief than did second-lien relief under the NMS.

3) NMS vs. RMBS: Citi

Both Citi settlements allowed the bank to earn credit for principal reduction, second-lien extinguishment, and anti-blight extinguishment. Under the NMS, \$240.0 million of Citi's \$348.6 million in credit for second-lien debt reduction was for extinguishment. Under the Settlement Agreement, all of Citi's \$23.2 million in credit under the menu item specifically dedicated to second-lien debt reduction (Menu Item 1D) was for extinguishment.

Unlike the Citi NMS settlement, the Settlement Agreement allowed Citi to earn credit for reducing junior-lien debt and unsecured debt. All of its \$515.7 million in credit for the menu item dedicated to junior or unsecured debt (Menu Item 1H) was for extinguishment.

Although Menu Items 1G and 2A were focused on rate reduction, they also offered credit for, among other things, debt reduction that made it possible for borrowers to get rate reductions through refinancing. None of that debt reduction relief, for which Citi received \$73.8 million in credit, went to extinguishment. The loans receiving relief under Menu Items 1G and 2A did not belong to any one specific rung in the lien priority hierarchy (i.e., first, second, or junior).

Figure 16, below, compares relief and credit for principal reduction (including extinguishment) under Citi’s NMS settlement and the Settlement Agreement, indicating for each settlement how much debt reduction relief the bank provided, how much credit it received for that relief, and how much credit it earned per dollar of debt reduction relief. The “Other Debt Reduction” category consists of principal reduction relief credited under Menu Item 1G or Menu Item 2A of the Settlement Agreement.

FIGURE 16: NMS VS. RMBS CREDIT PER DOLLAR OF DEBT REDUCTION RELIEF—CITI

	NMS			RMBS		
	Relief	Credit	Credit per Relief	Relief	Credit	Credit per Relief
1st-Lien Prin. Red’n	\$695,316,336	\$524,062,757	\$0.75	\$23,879,526	\$27,531,179	\$1.15
2nd-Lien Prin. Red’n/ Exting.	\$1,530,203,988	\$348,564,573	\$0.23	\$59,922,437	\$23,234,979	\$0.39
Junior & Unsec’d Prin. Red’n/Exting.	n/a	n/a	n/a	\$1,162,889,565	\$515,655,822	\$0.44
Other Debt Red’n	n/a	n/a	n/a	\$63,089,300	\$73,821,752	\$1.17
Anti-Blight for Loans	\$312,812,924	\$82,625,807	\$0.26	\$399,541,790	\$455,964,990	\$1.14
Total	\$2,538,333,248	\$955,253,137	\$0.38	\$1,709,322,618	\$1,096,208,721	\$0.64

Like JPMorgan Chase and Bank of America, Citi earned substantially more credit for each dollar of debt reduction relief under the Settlement Agreement (\$0.64) than under the NMS (\$0.38). In terms of non-anti-blight relief, Citi earned over 50% more credit for every dollar of relief under the menu item dedicated to first-lien relief (Menu Item 1A) and almost 70% more credit under the menu item dedicated to second-lien relief (Menu Item 1D). It earned nearly double the credit per dollar of relief for extinguishing junior or unsecured debts (Menu Item 1H) than it earned under the NMS for reducing second-lien debt. In terms of anti-blight relief, Citi received more than four times as much credit per dollar of relief under the Settlement Agreement than under the NMS.

Also, as with the Bank of America RMBS settlement, some of the dollars of credit per dollar of relief indicated in the table above are slightly understated given that Citi received \$35.5 million in bonus credit for relief offered on loans credited under Menu Items 1 through 4C for exceeding credit minimums in Settling States (see § V.A above). That bonus credit is not included in the relief entries in the table above.

d. Evolution of Consumer Relief in Settlements

As seen in the prior discussion and subject to a number of caveats, over time the settlements generally allowed bank defendants to receive more credit by providing relief with fewer and looser restrictions. Eligibility criteria grew more forgiving, and maximums and minimums imposed fewer limits. In some cases, those changes had significant impacts on the nature of the relief provided.

Simply because the RMBS settlements—especially the later ones—offered larger credit multipliers and greater flexibility does not necessarily make them poorly designed or unhelpful to consumers. For example, the fact that the final four RMBS settlements all offered 150% bonuses for especially fast first-lien principal forgiveness may well reflect a policy judgment that if principal relief was going to be at all useful by 2014—or later—it stood a far better chance of being so early in the crediting period, rather than months or years later. The weakening of eligibility criteria and minimums and maximums over time may reflect the practical reality that, the further in the past the financial crisis became, the more difficult it became for the banks to find loans that would have satisfied the earlier, more stringent criteria, either because the borrowers had already suffered foreclosures or because they had managed to improve their financial situations, perhaps as the result of receiving relief under a prior settlement. Indeed, by the later RMBS consumer relief settlements, it had been roughly a decade since the financial crisis began, meaning that no matter how well-designed the settlement or how rigorous its requirements, it had become even less likely that any relief would actually ameliorate harms caused by the crisis, especially any harms that the crisis had directly caused to particular relief recipients.

That relaxation of requirements may find its clearest expression in the Deutsche Bank settlement. That settlement had familiar categories of relief: loan modifications (including principal forgiveness and lien release), rate reduction, new lending, and affordable housing. At first, Deutsche Bank stated that it planned to provide loan modifications as part of satisfying its \$4.1 billion consumer relief obligation, and the settlement monitor reported on those plans. However, the settlement imposed no minimums and few maximums on any particular category of relief; two years into the monitorship, the settlement monitor reported that Deutsche Bank would change course and satisfy its consumer relief obligation solely by financing the origination of purchase money mortgages to creditworthy borrowers who lived in HHAs, who had lost a primary residence to a foreclosure or short sale, or who were first-time low- to moderate-income

homebuyers.⁹⁹ Purchase money mortgages are typically loans from a seller to a purchaser offered when the borrower cannot qualify for a more traditional loan; under its RMBS settlement, Deutsche Bank received \$10,000 in credit for each qualifying loan.¹⁰⁰ All of Deutsche Bank’s creditable relief came in the form of more than \$84 billion in new lending, earning the bank just over the required \$4.1 billion in consumer relief credit.¹⁰¹ Thus, all of the credit earned was for a form of relief designed more to *put* borrowers into homes than to keep them in their current homes. As the Deutsche Bank monitor noted, “The change in plans . . . may disappoint distressed homeowners and others, including the many individuals who have reached out to the Monitor over the past two years, hoping to receive different types of consumer relief[.]”¹⁰²

Another area where relaxing requirements may prove significant is the penalty that could be imposed on any bank that failed to provide enough relief by a specified cut-off date. Under the NMS and the NMS-related HSBC and SunTrust settlements, any bank failing to provide sufficient relief to satisfy its total credit requirement would have had to make a cash payment worth up to 140% of any credit shortfall. Under the NMS-related Ocwen settlement and the first three RMBS consumer relief settlements—Chase, Bank of America, and Citi—a bank with a credit shortfall as of the cut-off date would have had to make a cash payment equal to the shortfall amount. None of those banks had a credit shortfall, so none had to pay a shortfall penalty. The potential penalties in the last three RMBS consumer relief settlements—Goldman Sachs, Deutsche Bank, and Credit Suisse—are more forgiving. Each year after the cut-off date, a bank with a shortfall will have 5% added to that shortfall. But rather than pay cash, the banks need only provide additional consumer relief to cover the shortfall plus any penalties and, indeed, cannot be forced to make up the shortfall in any other way.

C. The Impact of Settlement Relief Provided to Individual Homeowners

This section provides some assessment of the major types of relief provided to individual borrowers in the settlements—first, as a general matter, and then as to the relief Citi provided in this settlement. Specifically, after providing some framing for the Monitor’s assessments ([subsection 1](#)), this section reviews principal reduction, particularly first-lien principal reduction ([subsection 2](#)), rate reduction ([subsection 3](#)), and extinguishment ([subsection 4](#)).¹⁰³ Subsections 2–4 each begin by analyzing how the relevant form of relief contributed to nationwide efforts to reduce harms caused by the 2007–2009 financial crisis and then provide analysis focused specifically on the characteristics and effects of that relief under the Settlement Agreement.

1. Considerations in Assessing Relief to Individual Homeowners

Deciding how to evaluate the various settlements requires selecting an appropriate yardstick, and there is significant disagreement as to what that yardstick might be. One set of disputes involves whether the settlements provided enough relief. Here, asking whether the relief

offered *meaningful* help to some struggling people may yield a different answer than asking whether it offered *enough* help, given how many people were struggling. Those who defend the settlements can point to the large quantities of relief provided and the large numbers of people who received that relief. Those who critique the settlements can point to how the need for relief vastly exceeded the relief provided. A second set of disputes involves not whether the settlements provided enough consumer relief but rather whether they should have provided *any* consumer relief in the first place.

Adequacy of Consumer Relief Provided. It is certainly true that the settlements caused banks to pay significant sums to the federal and state governments and required that banks earn large amounts of credit for providing relief to large numbers of people. The consumer relief settlements described above (the NMS, the NMS-related settlements, and the RMBS consumer relief settlements) collectively required banks to earn roughly \$82 billion in total credit: \$37 billion in payments to the government and \$45 billion in consumer relief credit. As discussed above (§ VI.B.3.c), the relationship between credit and relief is often unclear or contested, as is the relief's effectiveness. Nonetheless, \$45 billion in credit represents a significant amount of relief provided to a great many people, and without the settlements, some of that relief would have come even later or never. The NMS monitor concluded that the NMS "was a valuable and effective resolution of outstanding claims" that, among other things, provided relief to more than 600,000 families when that relief was needed rather than after potentially protracted litigation.¹⁰⁴

Critics of the settlements point out that the settlements were insufficient to repair the damage they tried to address. There is a yawning chasm between the total number of homeowners and renters affected by the financial crisis and the number of homeowners and renters helped by the consumer relief provisions of the settlements. In most contexts, \$82 billion or even \$45 billion are tall mountains of money. But they are anthills compared to the trillions of dollars of economic harms allegedly caused by the financial crisis. (Section VI.A, above, provides a discussion of the scope of harms to homeowners.)

Indeed, even compared to the scope of other consumer relief programs, the consumer relief settlements were relatively small. For example, HAMP offered 1.7 million loan modifications, and HARP offered 3.5 million loan refinancings.¹⁰⁵ The NMS and the NMS-related settlements collectively offered approximately 356,000 loan modifications, 74,000 refinancings, and 690,000 instances of all forms of relief. Although not all relief in the RMBS settlements has been credited, in terms of credit requirements, the overall scope of those settlements' consumer relief is roughly comparable to that of the NMS and NMS-related settlements. Similarly, the banks' 5.3 million proprietary modifications offered relief to several times as many consumers as all of the consumer relief settlements are likely to offer, once the remaining RMBS consumer relief is credited.

However, in critiquing the scale of the settlements, it is important to bear in mind that the settlements were but one of many tools intended to attempt to address the financial crisis. The consumer relief settlements were never intended to be comprehensive and were never understood as the sole mechanism of response. Those who stack the settlements up against the

harm of the financial crisis and find them to be wanting are using the wrong yardstick. While serious critique can be made of the consumer relief settlements, the effort to suggest that somehow the entire financial crisis should have been addressed through them is misguided. Many other levers were pulled in an effort to help the economy, and various government programs were implemented to address the financial crisis. The point is that *all* of those tools, when combined, likely proved insufficient for many of those harmed by the crisis. That is an important lesson for policymakers as they consider responses to current and future crises.

Appropriateness of Providing Consumer Relief. Other critics say that the problem with the consumer relief settlements was not the amount of the consumer relief but rather the fact that there was consumer relief. These critics argue that the settlements were not appropriate because they sought to engineer where settlement dollars went—a role that should be left to the legislatures, rather than federal and state officials (or banks). The argument here is that, to the extent that the settlements were an exercise in policymaking in the form of deciding what types of consumer relief would be most likely to help homeowners, those choices should have been left to others. Instead, the settlements should have confined themselves to collecting penalties and, possibly, to directing specific relief to consumers with demonstrable claims against particular banks.

It is certainly true that the consumer relief settlements went beyond obtaining monetary relief of the sort common in settlements involving alleged misconduct affecting consumers. To begin with, although the consumer relief settlements did obtain money intended to compensate the government agencies harmed and to pay state and federal treasuries in the form of penalties, obtaining that traditional form of monetary relief was not their sole or even primary focus. Rather, a substantial portion of the settlements was consumer relief. Overall, roughly 54% of the “payments” required by those settlements came in the form of consumer relief credit minimums (roughly 80% for the NMS and NMS-related settlements and roughly 40% for the RMBS settlements). Further, unlike many settlements, where the only consumers eligible to receive relief are those who can show that they were directly harmed by a specific action by a specific defendant, the consumer relief made available in the consumer relief settlements could and can be provided to *any* consumer experiencing certain kinds of distress, whether or not a particular bank defendant caused that distress. Nor were the banks required to provide consumer relief to everyone who met specific criteria or who might have alleged a specific harm; rather, banks simply needed to do enough consumer relief to satisfy the settlements’ minimum credit requirements.

This choice to decouple the relief provided from a demonstration of specific harm to a specific consumer by a specific bank likely will be discussed for years. The reasons for the choice are several, but they principally reflect two hypotheses. First, the amount of effort that would have been required to determine, on a case-by-case basis, the harm that might be done to a specific borrower was so enormous that doing so would have delayed and diminished the relief that could be provided quickly. In other words, rough justice quickly was better than more precise justice slowly. Second, whatever the specific acts that might have harmed a specific homeowner, the harms of the financial crisis were systemic. Those who may have been misled by banks were not the only ones harmed.

With respect to the first hypothesis, there is some empirical evidence in support of pursuing rough justice. Notably, in parallel with the NMS, the Office of the Comptroller of the Currency and the Federal Reserve directed financial institutions to engage third-party consultants to conduct an Independent Foreclosure Review process to identify harmed homeowners. That review was widely criticized for costing hundreds of millions in consultant fees but yielding little in terms of individual borrower relief.¹⁰⁶ It was ultimately halted, and the regulators opted for a sort of rough justice more akin to the financial payments made to the state attorneys general in the NMS.¹⁰⁷

With respect to the second hypothesis, a point in favor of offering relief broadly is that both the conduct alleged against the banks and the harms arising from such conduct were systemic, rather than confined to a narrow set of particular borrowers. The NMS and NMS-related settlements, while alleging all sorts of potential misrepresentations in the origination of loans, were focused initially on robo-signing and other violations by mortgage servicers, which often were not specific to particular borrowers. The RMBS settlements were not about misleading statements to individual borrowers at all, but rather about misleading statements to investors purchasing large tranches of securitized home loans. Consumers were allegedly harmed by the downstream effects of such statements, including a financial crisis that resulted in significant part from the economic contraction following the collapse of residential mortgage values and the securities those mortgages backed.

To be sure, the structure of the consumer relief also had clear downsides. First, one could not distinguish between relief that a bank would have provided absent a settlement and relief that a bank provided only because a settlement compelled it to do so. To some extent, given the number of modifications the banks were already doing and the economic incentives they had to keep borrowers in their homes, this was a problem that would have occurred with respect to virtually any settlement, absent one restricted to requiring a bank to pay cash directly to consumers. Second, because there was no requirement that a specific consumer demonstrate harm caused by the bank, there was always the risk that some or much of the relief would go to individuals who were not actually harmed by the financial crisis. This risk only increased over time, in part because many of those harmed by the financial crisis suffered that harm before relief became available under the consumer settlements. For people who lost their homes from 2007 to the beginning of 2012, when the consumer relief settlements began, the settlements simply came too late to keep them in their homes.

2. Principal Reduction

a. Principal Reduction Generally

When the consumer relief settlements were executed, the impact that principal reduction might have on individual homeowners was both unclear and sharply disputed. Even now that crediting under most of the consumer relief settlements has concluded, important questions remain about the design, implementation, and outcome of principal reduction relief.

Principal reduction was a controversial consumer relief tool both in the government programs and the consumer relief settlements. Disputes as to whether it would meaningfully help consumers and what effect it would have on the banks delayed its introduction and reduced the scale of its implementation. By the time it was tried in earnest, many of the people who might have been helped by principal reduction, if indeed it would have helped them, were long gone from their homes.

Even those who supported principal reduction as a tool often struggled to point to data that either validated its benefits or provided guidance as to *how much* principal reduction was necessary to help individual borrowers or the economy more broadly. The implicit assumption of HAMP and ultimately the NMS was that borrowers needed to be brought down to 120% LTV—close to, but not quite, above water—in order to meaningfully impact the borrowers' ability to stay in their homes.

Those sorts of LTV reductions usually required reductions to the first-lien mortgage. Thus, especially in the beginning, principal reduction was primarily understood to be *first-lien* principal reduction. Although government programs and the consumer settlements allowed for second-lien principal reduction, and although the RMBS settlements further allowed for junior-lien principal reduction, such principal reduction was generally not understood as a goal in itself. Rather, it was often regarded as a means to facilitate the real goal, i.e., first-lien principal reduction.

Since that time, however, more data have become publicly available, and researchers have engaged in more systematic analyses about the effects of principal reduction. Among other things, these data come from the NMS and subsequent settlements, as well as HAMP. Although we anticipate research will continue for years, if not decades, the following initial observations can be made:

- ▶ *Evaluating the effectiveness of principal reduction, in a vacuum, remains difficult because principal reduction was provided too late, to too few borrowers.* Principal reduction was first systemically offered through HAMP PRA in 2010.¹⁰⁸ Principal reduction, moreover, was provided only episodically, and only to a small number of borrowers. HAMP PRA generated only approximately 219,000 modifications with principal reduction.¹⁰⁹ Although private-label principal reductions—i.e., reductions of mortgage debts issued by private institutions and not guaranteed by the federal government—became available following the introduction of HAMP, they made up only a little over a third of private-label loan modifications.¹¹⁰ Principal reduction similarly played a small role in other post-financial crisis RMBS settlement agreements. Accordingly, any assessment of the effectiveness of principal reduction must necessarily be limited by its late deployment to relatively small numbers of borrowers.
- ▶ *The risk of moral hazard from principal reduction may be overstated.* Some policymakers hesitated to recommend principal reduction as a foreclosure mitigation strategy out of concern that principal reduction would encourage borrowers able

to pay their monthly mortgage payments, but in negative equity, to deliberately default on their mortgages. Studies of actual borrower behavior, however, found the opposite to be true. Underwater borrowers “remain deeply averse to walking away from their mortgages until they reach high levels of negative equity, in part due to morality” and perhaps in part due to the possibility that default may seriously harm their credit for years.¹¹¹

- ▶ *Principal reduction may be most effective when it targets cash flow issues and brings borrowers into positive equity.* The most effective use of principal reduction may be to combine it with monthly payment reduction, and to bring borrowers into positive equity.¹¹² Decreased borrower cash flow due to income shock (caused by job loss, illness, or something else) is a major cause of mortgage default.¹¹³ As a consequence, principal reduction that focuses only on bringing a borrower out of negative equity, without also addressing cash flow issues by reducing the monthly mortgage payment, is less effective at reducing default risk than principal reduction that does target cash flow.¹¹⁴ And some studies have suggested that principal reduction that merely reduces, but does not eliminate, negative equity has no effect on default risk at all.¹¹⁵ That said, principal reduction that reduces both the monthly payment *and* negative equity lowers a borrower’s risk of re-default more significantly than payment reduction through interest rate reduction or arrears capitalization.¹¹⁶

b. Principal Reduction under the Settlement Agreement

As with the NMS, principal reduction was intended to be a centerpiece of the Settlement Agreement, although it arguably ended up playing a more modest role than intended.

Certainly, the Settlement Agreement afforded Citi a number of ways to receive credit for principal reduction. Under Menu Item 1, Citi could earn credit for reducing a borrower’s unpaid principal balance through principal forgiveness for first liens (Menu Item 1A), principal forgiveness of forbearance (Menu Item 1B), principal forgiveness (including extinguishment) for second liens (Menu Item 1D), balance forgiveness for first liens (Menu Item 1E), and principal forgiveness (including extinguishment) for junior liens or unsecured interests (Menu Item 1H).¹¹⁷ Under Menu Item 2A, it could also earn credit for principal reduction facilitating rate reductions. For first-lien and, in some cases, second-lien principal reduction, Citi could earn dollar-for-dollar credit for providing relief. It could earn forty cents on the dollar for other principal reduction. Citi also received incentive bonuses of 15% added credit for reductions made by October 1, 2015, and for reducing certain borrowers’ LTV ratios below 100%.¹¹⁸

The Settlement Agreement also shaped its eligibility requirements and credit minimums to encourage principal reduction despite changed economic conditions. Because the Settlement Agreement was negotiated during a period of post-crisis market improvement—namely declining default rates and increasing housing prices—it differed in significant respects from NMS, which was negotiated in the immediate aftermath of the crisis.

As to eligibility requirements, in contrast to the NMS's 120% LTV target, the Settlement Agreement required Citi to reduce first-lien principal balances to 100% LTV or below for the relief to be creditable. Lowering the LTV target for first-lien principal reduction—as well as its other less stringent provisions relating to principal reduction—thus reflected the significantly smaller number of mortgages Citi owned that would benefit from principal reduction, in part because the housing market had improved, and in part because Citi had already provided relief under the NMS that might otherwise have qualified for credit under the Settlement Agreement. As to credit minimums, the Settlement Agreement required Citi to provide enough relief under Menu Items 1 and 4A to earn at least \$820 million in credit under those menu items, with a “good faith” cap of \$553 million on the credit it could receive for relief under Menu Item 4A.¹¹⁹

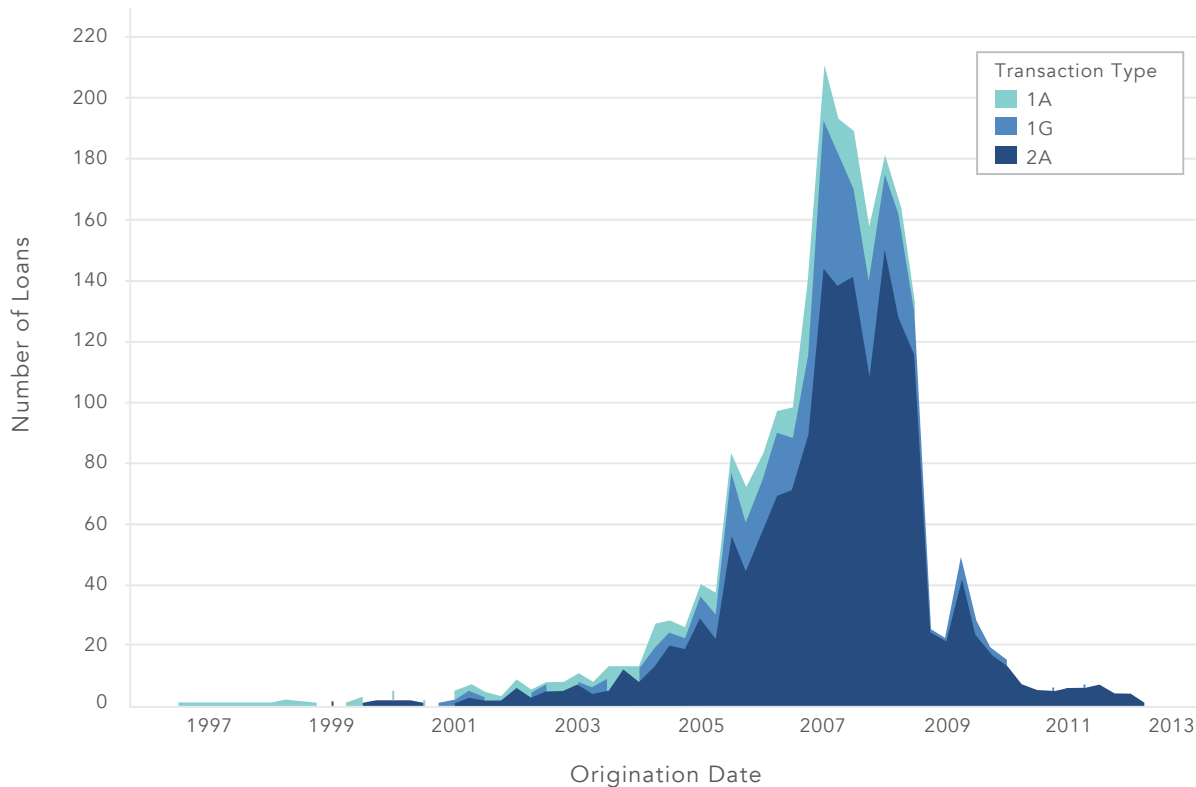
The Settlement Agreement further allowed Citi to earn credit from principal reduction modifications made under its own proprietary modification programs, as well as under government programs, including HAMP. However, if Citi received incentive payments under any government program, its credit would be reduced to reflect those payments. As discussed in prior reports,¹²⁰ under certain circumstances, the HAMP process could result in borrowers' receiving relief that reduced their principal but that also, over time, slowly and steadily *increased* their interest rates. The Monitor determined that while this outcome was permissible under HAMP, it would be contrary to the spirit of the Settlement Agreement. Citi ultimately agreed not to submit HAMP modifications that reduced borrowers' principal for Menu Item 1A credit if those modifications also increased borrowers' interest rates. Citi likewise accepted the Monitor's position that, while qualifying HAMP modifications could be eligible for crediting under the Settlement Agreement, the Settlement Agreement did not permit Citi to claim credit for *all* HAMP modifications.

Overall, Citi reduced \$86,968,826 in principal and received a cumulative total of \$101,352,931 in credit.

- ▶ **Percentage of Total Credit.** Of the total credit Citi earned pursuant to the Settlement Agreement, 4% was earned through principal reduction—as noted in [Figure 3](#), above, this came out to reduction in principal for 2,546 loans.
- ▶ **Temporal Distribution.** Almost 80% of loans—232 loans in 2005, 416 in 2006, 749 in 2007, 503 in 2008, and 118 in 2009—receiving principal reduction credit from Citi were originated between 2005 and 2009, a period roughly covering the financial crash, as well as its immediate run-up and aftermath.

Figure 17, below, shows the number of originations per quarter for loans receiving principal reduction relief, broken down by menu item. Menu Item 1A loans are in teal; Menu Item 1G loans are in blue; and Menu Item 2A loans are in navy.

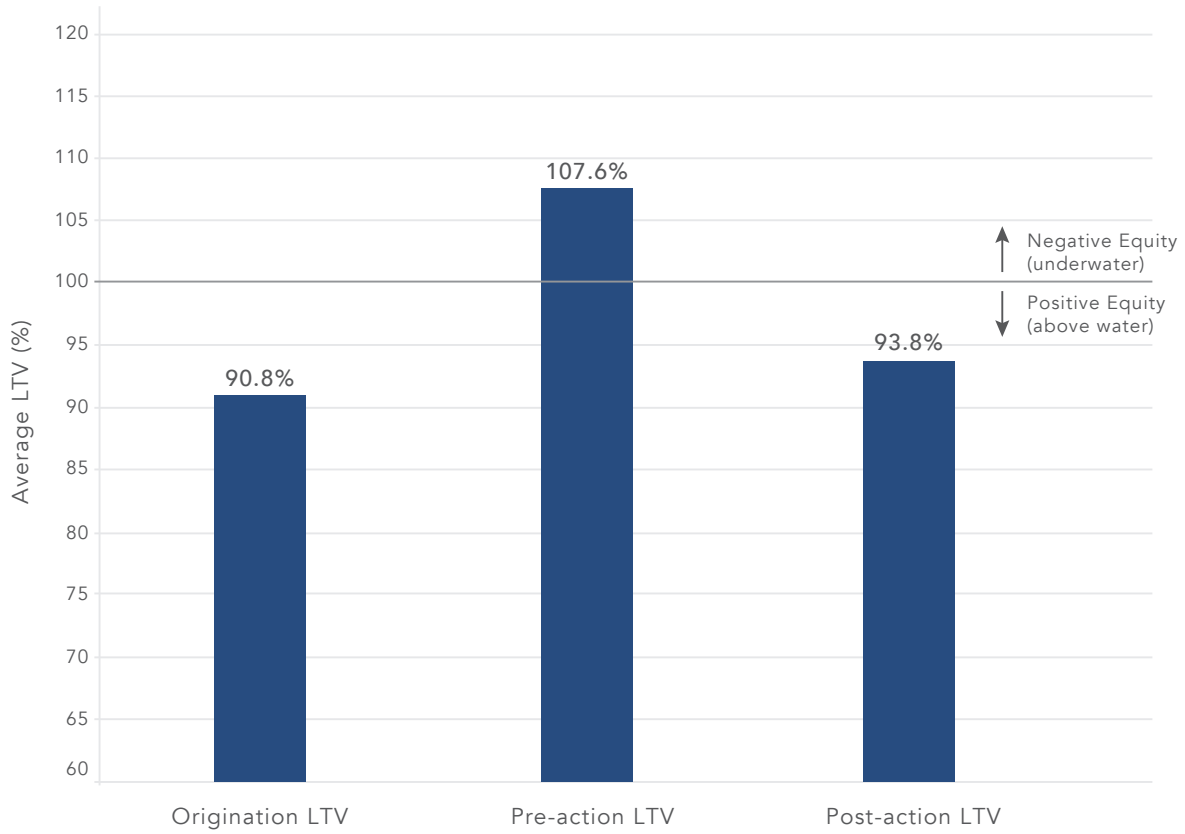
FIGURE 17: NUMBER OF ORIGINATIONS PER QUARTER FOR LOANS RECEIVING PRINCIPAL REDUCTIONS



- ▶ **Positive Equity.** Of the loan modifications for which Citi received principal reduction credit, 2,130, or almost 84% of such modifications, reduced the borrower’s LTV from above 100% to between 95% and 100%. Citi received \$4,813,976 in incentive credit for these modifications.

Figure 18 shows the average LTVs at different times for loans receiving principal reductions: at origination, immediately before relief (“pre-action”), and immediately after relief (“post-action”). A loan with an LTV below 100% (i.e., a loan where the amount owed is less than the value of the home) has positive equity and is above water. A loan with an LTV over 100% has negative equity and is underwater. Notably, although principal reductions were effective at getting homeowners above water, the average LTVs after Citi’s principal reductions were still not as low as they had been at origination.

FIGURE 18: AVERAGE LTV AT ORIGINATION, PRE-ACTION, AND POST-ACTION FOR PRINCIPAL REDUCTION LOANS

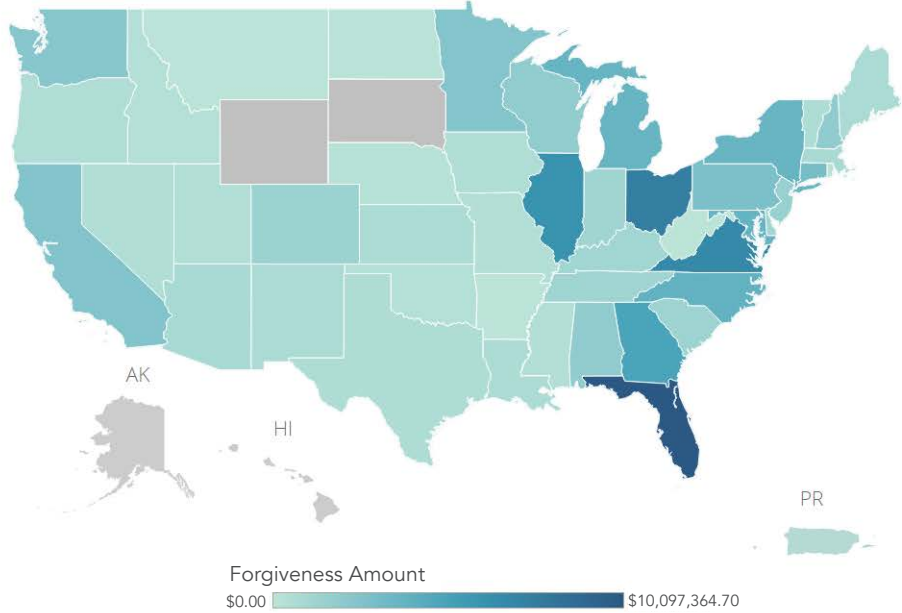


► **Geographic Distribution.** The figures below show the geographic distribution of principal reduction relief Citi made under the Settlement.

Figure 19, below, shows the total amount forgiven under the Settlement Agreement by state.

FIGURE 19: FORGIVENESS AMOUNTS BY STATE FOR PRINCIPAL REDUCTION LOANS

State	Total Forgiveness Amount
FL	\$10,097,365
OH	\$7,438,641
VA	\$6,701,864
IL	\$6,101,083
GA	\$4,884,812
NC	\$3,902,395
MD	\$3,785,170
MI	\$3,666,487
NY	\$3,656,262
CT	\$2,958,823
38 other states & territories	\$33,775,924
Grand Total	\$86,968,826



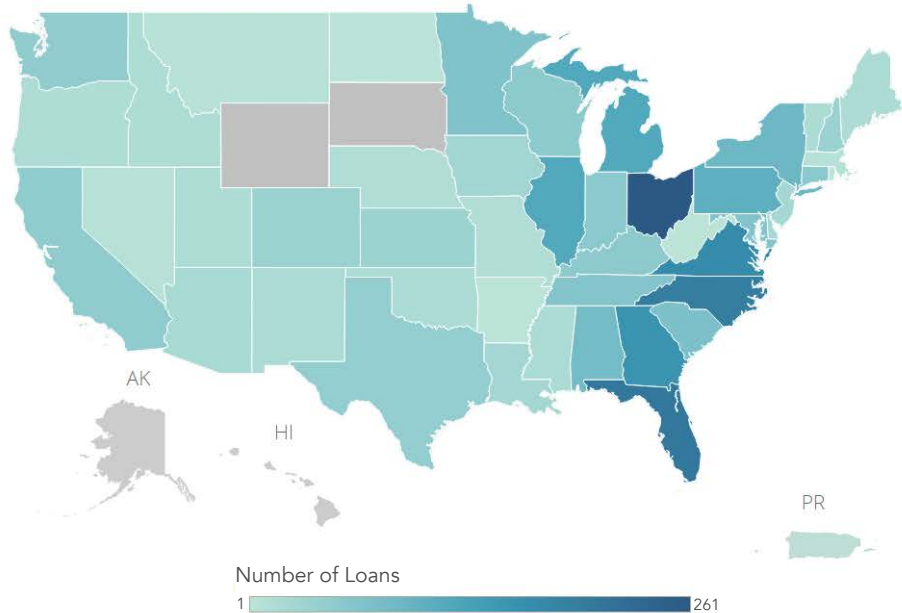
Principal Reduction Stats:

Average	Median	Minimum	Maximum
\$34,159	\$24,740	\$0	\$349,587

Figure 20, below, shows the number of loans receiving principal reduction under the Settlement Agreement by state.

FIGURE 20: LOAN VOLUME BY STATE FOR PRINCIPAL REDUCTION LOANS

State	Number of Loans
OH	261
FL	205
NC	195
VA	169
GA	155
IL	118
MI	118
PA	105
NY	89
AL	82
38 other states & territories	1,049
Grand Total	2,546



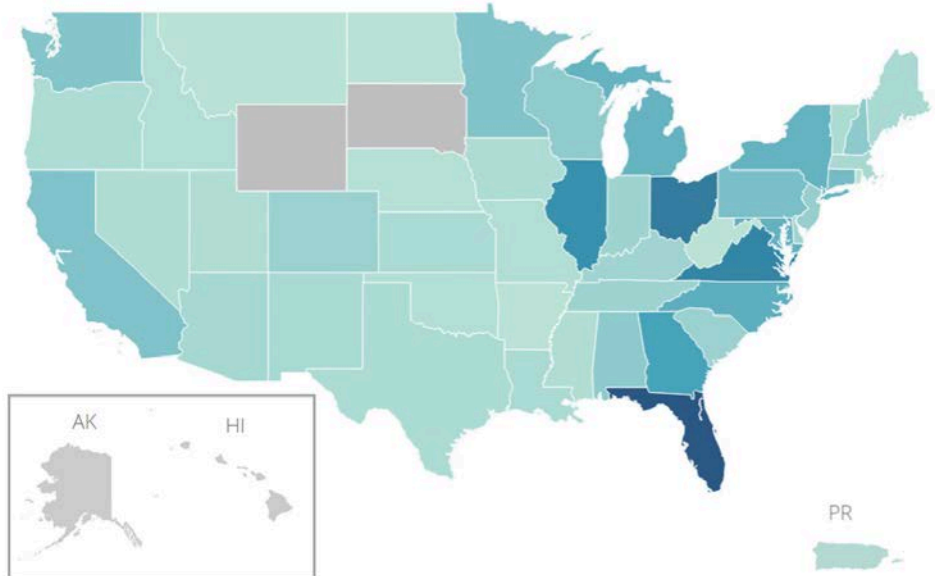
Principal Reduction Loan Volume Stats per State:

Average	Median	Minimum	Maximum
53	31	0	261

Figure 21, below, shows the amount of credit awarded for principal reduction relief offered under the Settlement Agreement by state. Total credit does *not* include State Minimums Bonuses.

FIGURE 21: CREDIT AMOUNTS BY STATE FOR PRINCIPAL REDUCTION LOANS

State	Total Credit Amount
FL	\$11,657,035
OH	\$8,643,670
VA	\$7,887,538
IL	\$7,015,947
GA	\$5,658,860
NC	\$4,611,468
MD	\$4,387,933
NY	\$4,278,304
MI	\$4,252,203
CT	\$3,444,653
38 other states & territories	\$39,515,320
Grand Total	\$101,352,931



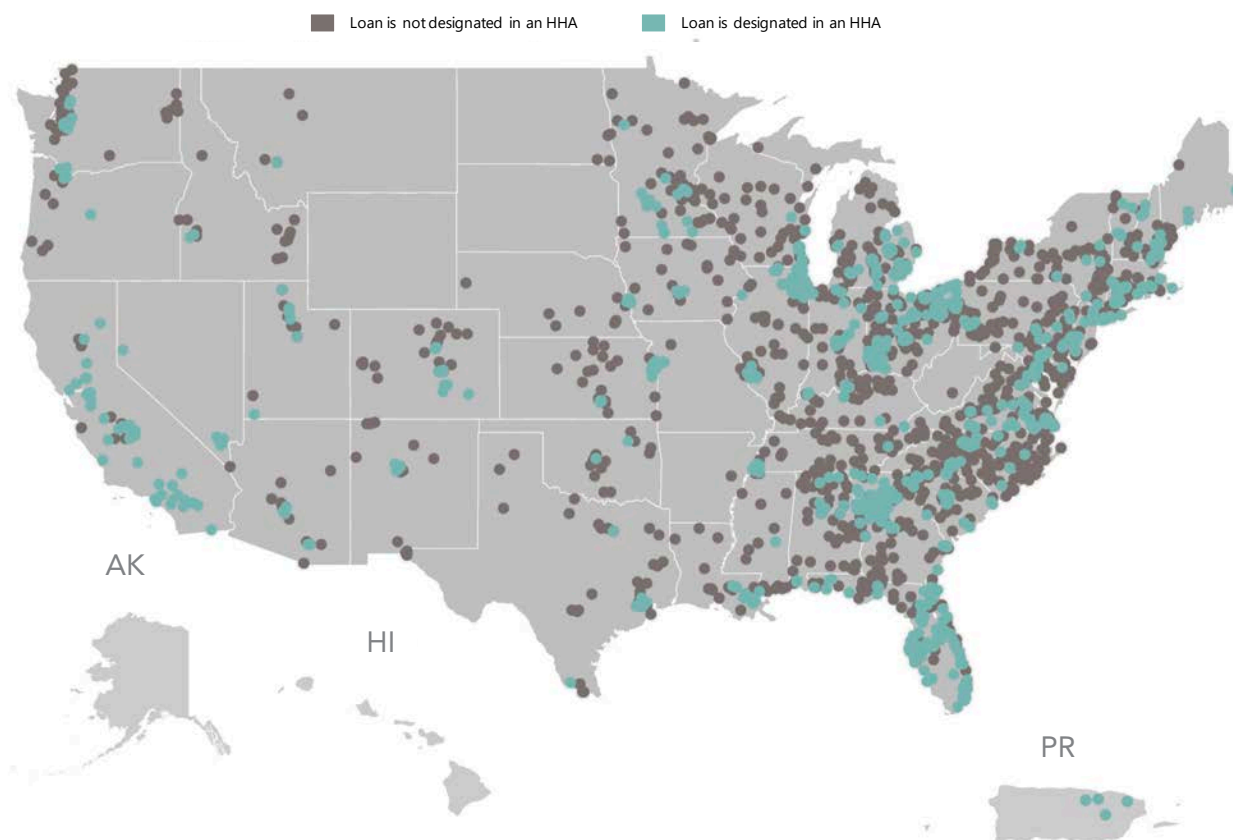
Principal Reduction Credit Stats:

Average	Median	Minimum	Maximum
\$39,809	\$28,804	\$43	\$404,397



Figure 22, below, shows the geographic distribution of the loans receiving principal reduction relief under the Settlement Agreement, color-coded to indicate whether or not the relief went to borrowers in Hardest Hit Areas. Identifying Hardest Hit Areas under the Settlement Agreement is discussed further in [Section C of Appendix B](#).

FIGURE 22: PRINCIPAL REDUCTION LOAN LOCATIONS BY HARDEST HIT AREA



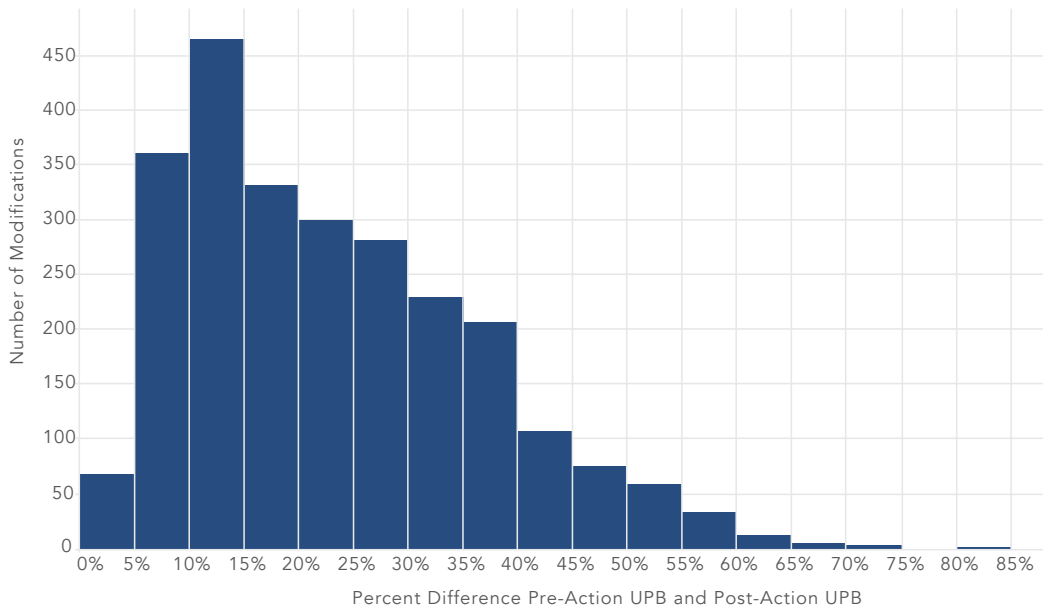
► **Payment Reduction.** Citi loans modified pursuant to Menu Item 1A (first-lien principal forgiveness) had an average pre-modification UPB of \$174,204, an average pre-modification rate of 6.77%, and an approximate term of thirty years. The monthly payment of principal and interest for the loan with these characteristics would be \$1,132.20.

After Citi's relief reduced the principal owed, the same Citi loans had an average post-modification UPB of \$122,628, an average post-modification rate of 4.23%, and an approximate average remaining term of thirty-four years. The monthly payment of principal and interest for the loan with these characteristics would be \$567.24.

The reduction in monthly payment from pre- to post-modification principal and interest would be \$564.96, which represents a reduction of 49.90%. This reduction in principal and interest would exceed the 10% mortgage payment reduction needed to reduce the default rate by 22%, as reported in the JPMorgan Chase study.¹²¹

Figure 23, below, is a histogram of loans receiving principal reduction relief showing the number of loans that had their UPBs reduced by specified percentage ranges. In the figure, the vast majority of loans had a UPB reduction of more than 10%; of these loans, the most common UPB reduction was around 12%. Very few loans had UPB reductions of less than 5%.

FIGURE 23: UPB REDUCTION PERCENT FOR PRINCIPAL REDUCTION LOANS



3. Rate Reduction

a. Rate Reduction Generally

Rate reduction was another common consumer relief tool used in the government programs and settlements, and there is little doubt that rate reductions encouraged by the various settlements helped homeowners. At a basic level, lowering a borrower’s interest rate in order to decrease monthly payments is *always* helpful to a borrower provided the borrower stays in the house long enough for the payment reduction to offset any closing costs incurred by refinancing. But the more salient questions about rate reduction relief in the consumer relief settlements were (1) whether the rate reductions encouraged by the settlements would have occurred in any event (or were additional); (2) whether facilitating rate reductions for those in their homes was a “better” strategy than principal reduction for those about to lose their homes; and (3) how much of a rate reduction (and how much of an incentive) is necessary to achieve maximum results.

The answers to these questions remain elusive. Among other things, those who emphasized rate reduction focused on helping those who were still making payments but were suffering, while those who emphasized principal reduction focused on those in serious risk of default and foreclosure. There is some subjectivity inherent in deciding to prioritize who “should” receive relief.

Still, as with principal reduction, the data from the NMS, subsequent settlements, and federal programs, as well as the research done in the past several years, have provided information about rate reduction, its impact, and its value. Based on this, the following observations can be made:

- ▶ *Although rate reduction was a cost-efficient and effective method of reducing default risk for borrowers, government incentive programs that were too restrictive for borrowers, and too permissive for banks, hampered its efficacy. Because rate reductions resulted in reduced monthly mortgage payments, this relief both helped to reduce delinquency and foreclosure and to increase non-housing consumer spending.¹²² This form of relief thus could have been a boon to struggling borrowers and a stagnant economy. Rate reductions were also a more cost-efficient method of reducing the risk of default than principal reduction.¹²³ Despite these virtues, government programs designed to encourage and facilitate rate reductions were significantly underused by mortgage owners and servicers.¹²⁴ These shortfalls had many causes, including the voluntary nature of the programs,¹²⁵ overly restrictive program design that limited participation to only certain type of mortgages,¹²⁶ and eligibility criteria that excluded borrowers most in need of relief.¹²⁷*
- ▶ *Incentivizing banks to reduce interest rates (through modifications or refinancings) for borrowers who are struggling, but still paying an underwater mortgage, could have been a cost-effective and expeditious approach to blunt a crisis. As a means of payment reduction, lowering an interest rate has its limits, but it can quickly be deployed to drive down a monthly payment. Moreover, when targeted at the right population—those underwater but either struggling to make payments or newly delinquent—it can, when combined with other tools, mitigate the subsequent waves of delinquencies and foreclosures.*
- ▶ *Distressed borrowers generally did not have access to the historically low interest rates touted following the financial crisis. Facilitating much lower interest mortgage rates for consumers—like the almost free capital offered to banks and other large institutions—might have been an effective strategy to help distressed borrowers. Those who lived through the financial crisis remember countless advertisements touting historically low interest rates, which may have contributed to the view that such rates were available to everyone. The reality, however, is that credit depends on perceived creditworthiness; as a result, many borrowers were never going to be offered 3% rates. As discussed below, the average pre-reduction rate for borrowers receiving rate reduction relief under the Settlement Agreement was above 9%. There were certainly many other borrowers who had relatively high interest rates*

and thus could have benefited from rates similar to the post-reduction rates Citi provided under the Settlement Agreement (between 4% and 5%). Had the government had a program that more directly benefited such borrowers (such as by incentivizing banks that provided significant and immediate rate reduction), it is possible that distressed borrowers could have received more relief quickly.

b. Rate Reduction under the Settlement Agreement

Citi received credit under Menu Item 2A when it directly reduced a borrower's interest rate as well as when it facilitated rate reductions by other lenders or servicers.

For direct rate reduction ("loan modification rate reduction" or "LMRR"), credit was available under Menu Item 2A for any rate reduction so long as the reduction was offered at no cost to the borrower. LMRR relief was available for any loan regardless of its performance status. If Citi provided a rate reduction greater than 200 basis points and fewer than 400 basis points,¹²⁸ Citi received credit based on a formula estimating the amount of future interest payments foregone. If the rate reduction equaled or exceeded 400 basis points, Citi received an additional 25% credit.

Citi could also receive credit for facilitating a "third-party rate reduction" (TPRR) of a borrower's interest rate. TPRR relief consisted of paying refinancing-related costs (e.g., closing costs) or, as detailed in the Monitor's Third Report, providing principal reduction so that borrowers could reduce their interest rates by refinancing with non-Citi lenders or servicers.

The Settlement Agreement neither obliged Citi to provide rate reductions to, or to facilitate refinancings by, any particular borrowers nor obliged Citi to limit credit to relief provided to borrowers who otherwise were unable to refinance. The Settlement Agreement did, however, require Citi to earn at least \$299 million in credit for providing rate reductions and related relief under Menu Item 2A, reflecting the belief that rate reductions can have tangible impacts on distressed borrowers.

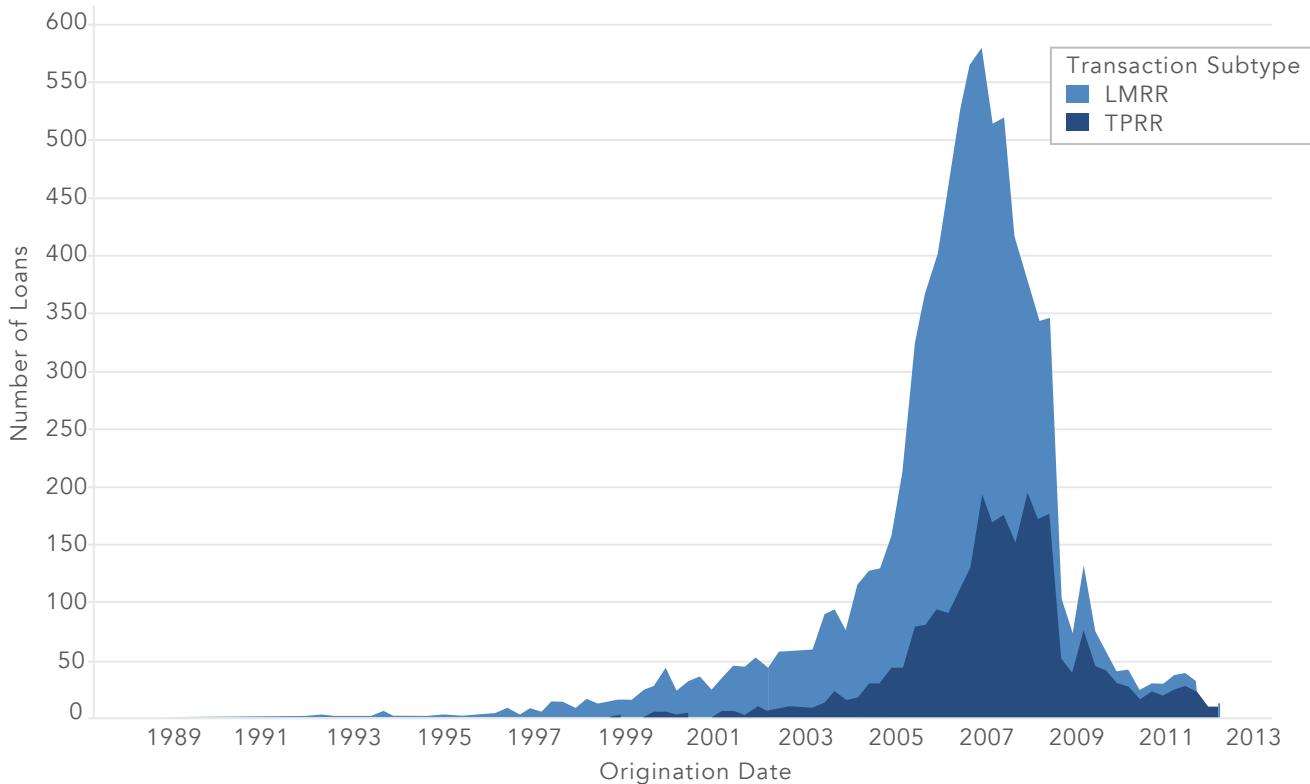
Overall, Citi received a cumulative total of \$389,806,390 in credit and aided the refinancing of 8,288 loans.

- ▶ **Percentage of Total Relief.** Of the total relief Citi provided through the Settlement Agreement, 9% was earned through rate reductions and 7% more was earned through relief designed to help borrowers secure rate reductions by refinancings through other banks. This is noteworthy because it suggests that, for whatever reason, the combination of incentives in the Settlement Agreement for Citi to facilitate rate reductions did not make this form of relief as attractive as others. While Citi went beyond its required minimum, it did not use rate reductions for a substantial portion of the overall relief.

- ▶ **Temporal Distribution.** Like the loans receiving principal reduction, the majority of loans to which Citi provided rate reduction relief—1,938 loans in 2006, 2,028 in 2007, and 1,170 in 2008—were originated during the ramp-up period to the housing crash.

Figure 24, below, shows the number of originations for loans receiving rate reduction relief, by quarter. LMRR loans are in blue; TPRR loans are in navy.

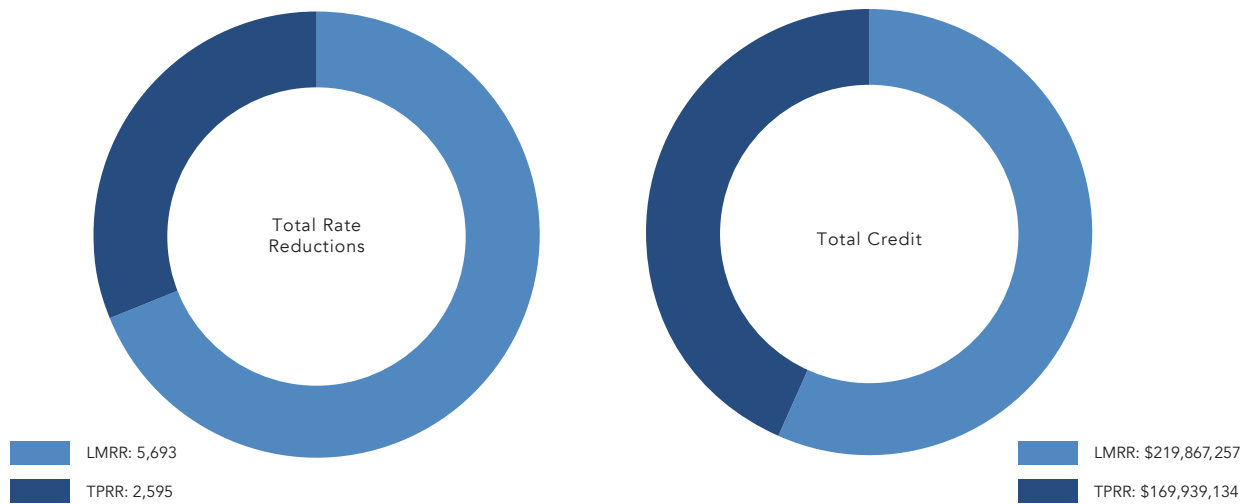
FIGURE 24: NUMBER OF ORIGINATIONS PER QUARTER FOR LOANS RECEIVING RATE REDUCTIONS



- ▶ **Third-Party Rate Reduction.** Citi received a disproportionately high percentage of credit for loans that received TPRR, when compared with the volume of loans that received TPRR. As a consequence, Citi’s average credit amount for TPRR was higher than that for LMRR.

Figure 25, below, shows the proportion of TPRR in relation to LMRR by number of loans and by total credit amount, as well as the average amounts of credit and the average percentage point rate reduction for each.

FIGURE 25: PROPORTIONS OF TPRR AND LMRR FOR RATE REDUCTION LOANS



Reduction Type	Average Credit	Average Rate Reduction
LMRR	\$38,621	5.26 percentage points
TPRR	\$65,487	4.45 percentage points

Geographic Distribution. The figures below show the geographic distribution of rate reduction relief Citi made under the Settlement Agreement.

Figure 26, below, shows the volume by state of loans receiving rate reduction relief.

FIGURE 26: LOAN VOLUME BY STATE FOR PRINCIPAL REDUCTION LOANS

Top 10 States:

State	Number of Loans
NC	541
OH	505
FL	452
NY	448
PA	437
TX	434
CA	432
GA	416
IL	346
VA	334
42 other states & territories	3,943
Grand Total	8,288

Rate Reduction Loan Volume Stats per State:

Average	Median	Minimum	Maximum
159	106	1	541

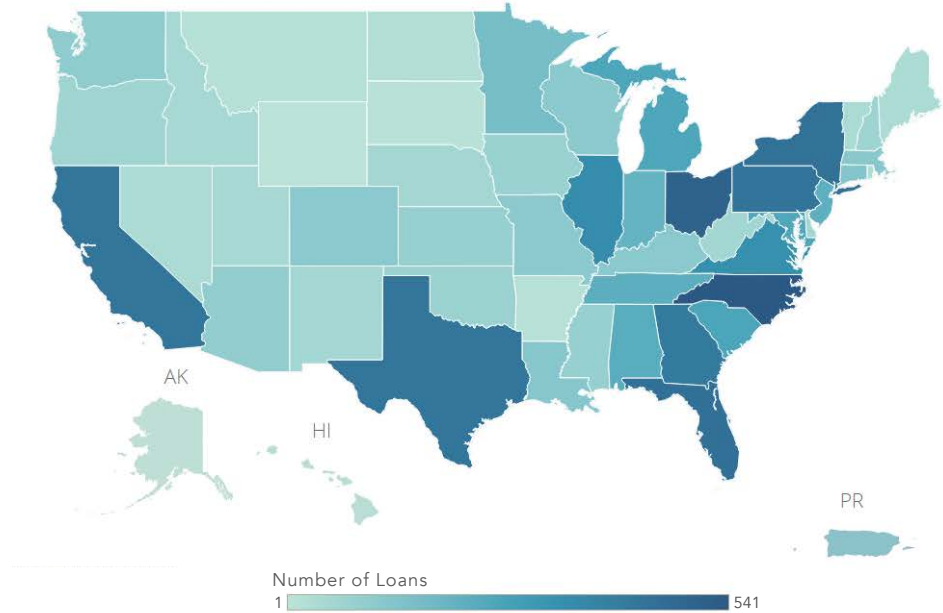


Figure 27, below, shows the amount of credit awarded by state for rate reduction relief. The credit shown does not include State Minimums Bonuses.

FIGURE 27: CREDIT AMOUNTS BY STATE FOR RATE REDUCTION LOANS

State	Total Credit Amount
NC	\$28,244,985
NY	\$23,261,692
VA	\$22,486,878
OH	\$21,961,347
CA	\$19,670,881
GA	\$19,347,408
PA	\$18,716,863
FL	\$18,715,683
TX	\$17,430,461
IL	\$12,909,216
42 other states & territories	\$187,060,976
Grand Total	\$389,806,390

Rate Reduction Credit Stats:

Average	Median	Minimum	Maximum
\$47,033	\$36,943	\$230	\$483,000

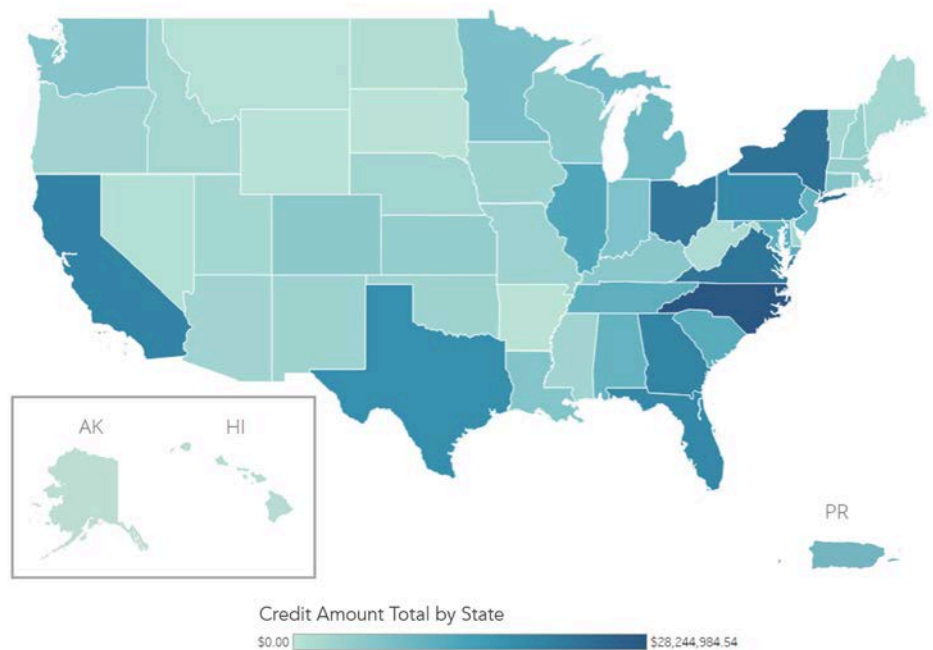
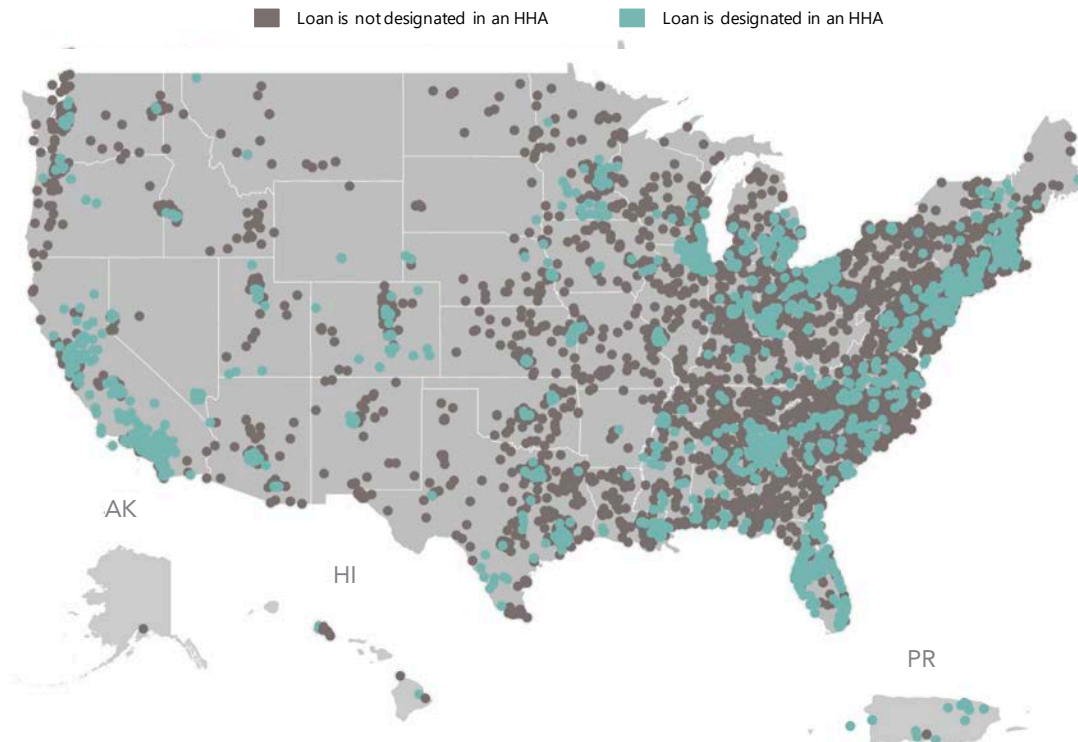


Figure 28, below, shows the geographic distribution of the loans receiving rate reduction relief under the Settlement Agreement, color-coded to indicate whether or not the relief went to borrowers in Hardest Hit Areas. Identifying Hardest Hit Areas under the Settlement Agreement is discussed further in [subsection C of Appendix B](#).

FIGURE 28: RATE REDUCTION LOAN LOCATIONS BY HARDEST HIT AREA



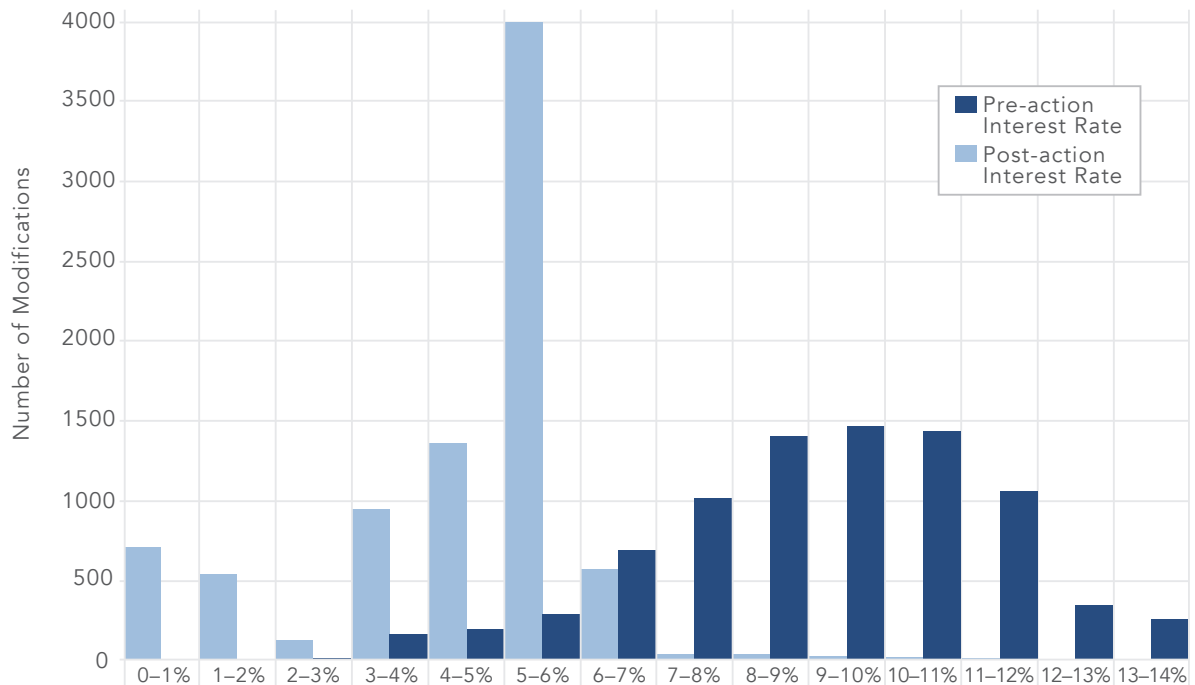
- ▶ **Payment Reduction.** In addition to receiving credit under Menu Item 2A for reducing borrowers' rates directly or helping borrowers reduce their rates by refinancing with a third party, Citi also received credit under Menu Item 1G ("Assistance to borrowers to refinance outside Citigroup") for relief that allowed them to refinance with a third party. As with Menu Item 2A TPRR relief, Citi could earn credit under Menu Item 1G for principal reduction that enabled a third-party refinancing and for paying costs related to refinancing with a third party. Menu Item 1G also awarded credit for providing HUD-approved counseling regarding refinancing provided that Citi was not otherwise obligated to provide that counseling. Loans receiving relief under Menu Items 1G and 2A had an average pre-reduction UPB of \$109,819.12, an average pre-reduction rate of 9.10%, and an approximate term of twenty-six years. The monthly payment of principal and interest for the loan with these characteristics would be \$919.90.

Citi loans changed pursuant to Menu Items 1G and 2A had an average pre-reduction rate of 9.10%. After Menu Item 1G and 2A relief, the same loans had an average initial post-reduction rate of 4.50% and an average lifetime post-reduction rate of 4.89%.

They also had an average UPB of \$90,615.50 and an average approximate term of twenty-seven years. For a loan with the average UPB and the average term, the post-reduction monthly payment of principal and interest would be \$474.81 for the initial post-reduction rate and \$495.66 for the lifetime post-reduction rate. For such a loan, the relief would reduce the borrower’s monthly payment for principal and interest by \$424.24 (46.12%).

Figure 29, below, is a histogram showing the interest rates immediately before the rate reduction relief (“pre-action”) and immediately after that relief (“post-action”) for loans receiving rate reduction relief. The interest rates of the affected loans before relief are in navy; the rates after relief are in light blue. For step loans, the histogram treats a loan’s lifetime maximum rate after reduction as its post-action rate.

FIGURE 29: PRE-ACTION INTEREST RATES AND POST-ACTION INTEREST RATES FOR RATE REDUCTION LOANS



4. Extinguishment

a. Extinguishment Generally

In the NMS and under HAMP, extinguishment of debt—as distinguished from principal reduction that merely reduced but did not eliminate a debt—was not a primary tool for consumer relief. For the most part, extinguishment was focused on second liens as a means to allow a first-lien principal reduction to go forward.¹²⁹ As noted above, only in

subsequent settlements did extinguishment—focused mainly on written-off first liens, second and more junior liens, and unsecured debt—become a significant portion of consumer relief.

At first glance, extinguishment seems like the most pro-consumer form of relief. And, of course, it does help consumers to eliminate their debts. Relief from the burden of debts—new or old—can give individuals a fresh start, including the opportunity to live in a home free and clear or to buy a new home.

However, the story of extinguishment—for individuals and communities—is more complex. In most cases, including Citi's approach to extinguishment under the Settlement Agreement, a mortgage owner or servicer will choose to extinguish only those debts on which it would be unlikely to collect if they were not extinguished. That includes old debt, debt on houses that are worth far less than the mortgage, and debt on houses in poor neighborhoods. In all of these cases, the institution likely has written off this debt and may no longer be seeking to collect (or may believe that the cost versus the return on collection is not sufficient to justify its continued pursuit). Thus, this is debt that, while it remains, is unlikely to be paid. Indeed, if the borrower has sought the protections of the federal bankruptcy laws, collection of unsecured debt would even be unlawful.

So if no one would ever demand payment, how much does extinguishment really help? Of course, without extinguishment, the debt would remain, harming credit scores and affecting the perceived financial situation of the borrower. But, as a practical matter, there is good chance that many of these borrowers would not have repaid these debts—separate from any tax obligations they might face. And if Congress had not changed the tax treatment of extinguishments, borrowers would have had to treat the extinguishment as income—turning the benefit of extinguishing a \$100,000 mortgage into a tax bill of perhaps \$20,000 or more. If a borrower could not have paid, for example, \$1,000 per month (\$12,000 per year) toward a mortgage payment, an unexpected \$20,000 tax bill might have been disastrous.

For the individual, with the tax consequences addressed, extinguishment is valuable, but hardly the equivalent of being given, as untaxable income, the amount of money that was extinguished. For the institution, extinguishment of charged-off debt is relatively cheap when compared with principal reduction and other loan modifications for current loans. Indeed, from a bank's point of view, extinguishment of charged-off debt may be the cheapest form of consumer relief available. Like the borrower, the institution has already moved on from the debt: it is written off the books, and the institution is no longer spending money seeking to collect. To be sure, mortgage owners or servicers do collect material amounts of money on old, written-off debts or sell them. There is an actual cost to the bank to wiping out the debt. But it is nowhere near dollar-for-dollar.

Extinguishment has an impact on more than just the individual borrower and the lender. Indeed, by including Menu Item 4A relief (first-lien extinguishment) with the other anti-blight relief credited under Menu Item 4, the Settlement Agreement makes clear that Menu Item 4A relief was intended not just to benefit individual borrowers but also to stabilize neighborhoods.

Extinguishment may have had a paradoxical effect, however. As noted above, in many cases, the borrower has moved on from the home and mortgage on which they are delinquent—sometimes years before extinguishment. During that time, the borrower may have changed cities or experienced any number of life-changing events, such as moving out of state or even dying. The bank may no longer have a way to reach the individual. Thus, when debt is extinguished, the borrower may not be in a position either to live in or to sell the property, even if they now own it free and clear; further, they may not be able to resolve any tax liens or do repairs necessary to sell the property. The Settlement Agreement’s lack of an occupancy requirement—whether occupancy by the owner or someone else—likely compounded these problems. In many cases, not only was the borrower no longer in the home, nobody was in the home.

So the property may sit vacant. There is no mortgage, there will be no foreclosure, and there is no near-term opportunity to get the home back into circulation. This is particularly likely to be an issue with extinguishing first-lien debt, which could sever the borrower’s last remaining tie to the property. In contrast, extinguishing lower-priority debt (second liens, junior liens, and unsecured loans) would not affect a first-lien mortgage, except to make it more palatable for the institution holding the first lien to modify the terms of its mortgage. From this point of view, extinguishing lower-priority debt functions like principal reduction of a first-lien mortgage: without eliminating the first-lien mortgage, it reduces but does not extinguish the total amount that the borrower owes.

As discussed below, it may be that for the consumer relief settlements, including the Settlement Agreement, the most relevant factor in determining whether relief benefited communities was not the category of relief—principal reduction versus extinguishment—but rather whether the relief enabled the borrower to continue living in the property. Of course, that was exceedingly unlikely to happen if the borrower had *already* left the property before relief was offered, which appears to have happened with some frequency with anti-blight first-lien extinguishments.

For the community, properties that cannot be put back into circulation are a significant negative. Vacant houses contribute to blight, drag down property values, and slow community efforts to bring neighborhoods back. Many mayors and community leaders would rather have banks foreclose on a property—and perhaps knock the house down—than leave it to rot. A significant question raised by these settlements is whether it would have been better to encourage some different behavior—foreclosure and donation or extinguishment conditioned on occupancy—rather than straight extinguishment.¹³⁰

Given the limited study of extinguishment as a form of relief, only a few comments can be made, although some real-world examples of the downsides of extinguishment are discussed in the next section:

- ▶ *As with other forms of relief, addressing the tax consequences is critical to making extinguishment a viable form of relief.* Although fact patterns will vary with respect to individual consumers, for many, relief—especially extinguishment—will have far less of a chance to help homeowners if it is not coupled with eliminating or minimizing the tax consequences.
- ▶ *Extinguishment has to be tethered more closely to the goals sought to be achieved, either keeping people in their homes (owner-occupied properties) or working more closely with communities to address issues of blight.* Extinguishment as a blunt instrument does benefit consumers but may not achieve the objectives of responding to a housing crisis if it is not more closely tied to addressing actual housing, rather than simply paper debt.

b. Extinguishment under the Settlement Agreement

Extinguishments played a substantial role in the Settlement Agreement. Citi could earn various amounts of credit for a variety of extinguishments, including dollar-for-dollar credit for extinguishing first liens (Menu Items 4A and 1E) and second liens (Menu Items 1D and 1F), and forty cents on the dollar for extinguishing seriously delinquent and non-performing second liens, junior liens, and unsecured mortgage debt (Menu Items 1D and 1H).

To limit the amount of extinguishment credit submitted, the Settlement Agreement imposed a “good-faith cap” of \$553 million on the amount of credit Citi could submit under Menu Item 4A. The presence of a cap reflects the fact that, as discussed above, although extinguishment does have tangible benefits for borrowers, it is different—in terms of its impact on the borrower and cost to the bank—from other relief, such as principal reduction. As explained in the Monitor’s Ninth Report, however, the settlement also authorized some types of extinguishment under Menu Item 1E, which was not subject to a good-faith cap. Thus, there was a risk that Citi could receive an excessive amount of credit for extinguishment, such that it would have crowded out other forms of relief.

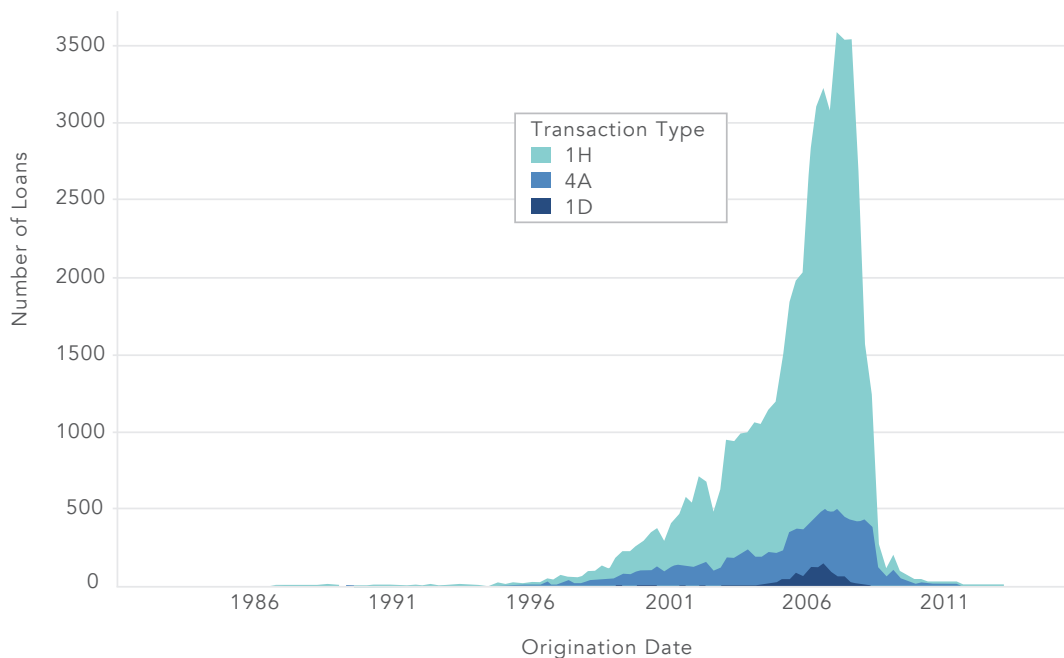
Ultimately, of the total credit Citi received through the Settlement Agreement, 39.0% was in the form of extinguishments, including 17.9% for first-lien anti-blight extinguishment under Menu Item 4A. Given constraints imposed by credit reporting by other settlements, it is difficult to reliably compare the amounts of extinguishment provided under those settlements. However, it is worth noting that Citi received substantially more anti-blight credit under the Settlement Agreement than, at least to date, any bank received under any other consumer relief settlement, including Citi under the NMS. In fact, under the NMS, Citi offered \$312.8 million in relief for anti-blight extinguishment, receiving \$82.6 million in credit (4.6% of Citi’s total NMS credit). Under

the Settlement Agreement, Citi provided \$399.5 million in anti-blight extinguishment relief, receiving \$456.0 million in credit (17.9% of total credit). Further, Citi was the only NMS defendant to receive credit for such relief under the NMS, and its \$82.6 million in credit accounted for only 0.4% of total NMS consumer credit. Of the RMBS settlements, it appears likely that Bank of America will be the only other bank to receive credit for anti-blight extinguishment.¹³¹ Bank of America received \$296.6 million in such credit (4.2% of its total credit).

- ▶ **Temporal Distribution.** Most of the loans that received extinguishment relief from Citi—largely loans receiving relief under Menu Item 4A (first-lien extinguishment)—were originated just before the housing bubble burst. For loans that received Menu Item 4A relief, most were originated between the third quarter of 2005 (308 originations) and the third quarter of 2008 (384 originations), with a peak of 444 originations in the second quarter of 2007. Far fewer of these loans were originated after the third quarter of 2008, with the number of originations declining sharply from 384 in the third quarter to 128 in the fourth quarter.

Figure 30, below, shows the number of originations of loans receiving extinguishment credit by quarter for all menu items under which Citi earned such credit. Menu Item 1H loans (junior liens) are in teal; Menu Item 4A loans (first liens) are in blue; and Menu Item 1D loans (second liens) are in navy.

FIGURE 30: NUMBER OF ORIGINATIONS PER QUARTER FOR LOANS RECEIVING EXTINGUISHMENTS



As noted in the Monitor's Ninth Report, Citi's broad-based program of extinguishment to satisfy its Settlement Agreement obligations led to the discovery of data issues related to the status and position of Citi liens. In an effort to understand this problem and to examine directly the impact of extinguishments on communities and neighborhoods (including the possibility of creating properties in which no interest holders were present), the Monitor's team conducted site visits in those regions where Citi's extinguishment relief was very concentrated, in late 2017 and early 2018. In all, the team visited eleven cities—Atlanta, Baltimore, Birmingham, Charlotte, Chicago, Cleveland, Detroit, Memphis, Pittsburgh, Youngstown, and St. Louis—and viewed a total of 318 properties. It made the following observations:

- ▶ *Extinguishments did not appear to help stabilize already unstable neighborhoods.* Of the 318 homes securing a mortgage loan for which the "Relief Borrower" received relief under the Settlement Agreement that the team visited, 91 (29%) were clearly abandoned properties, and 22 (6%) had been demolished.¹³² The vast majority of abandoned properties and vacant lots—as well as a smaller portion of the seemingly occupied Relief Borrower homes the team observed—were in blighted neighborhoods where disrepair, abandonment, and vacant lots were common.
- ▶ *Extinguishment may have been too late for underwater borrowers.* Of the 318 Relief Borrower homes the team visited, 175 were underwater when Citi extinguished the loans.¹³³ Of these, 98 had not made payments in the three years prior to receiving relief, suggesting they had been underwater for at least that long, as home values generally had been rising since 2012. Although receiving extinguishment on a mortgage in negative equity appears useful in theory, 47 of these 175 extinguished loans' properties were abandoned and 5 were vacant lots either at the time of, or within a year of, receiving relief.
- ▶ *Many of the extinguished loans were originated between the housing boom in the early 2000s and just before the housing crash.* For the vast majority of the 318 homes the Monitor's team visited (296), the loans were originated between 2000, when the housing market was booming, and 2008, at the tail end of the market before the crash. Of these 296 loans, 228 were in counties that saw at least a 25% decline in the number of manufacturing jobs from 1990 to 2007, thus appearing to have become unstable due to deindustrialization—i.e., before the housing market crash. This either demonstrates the impact of lending practices leading up to the housing crash, by showing that Relief Borrowers were able to mortgage homes in long-blighted neighborhoods, or demonstrates the disproportionate impact of the housing crisis on long-suffering neighborhoods (or both).
- ▶ *To promote neighborhood stabilization, extinguishment may be counterproductive, and other reinvestment mechanisms are likely more effective.* Around a third of the Relief Borrower homes that were abandoned, and around half of the homes that had been demolished, were in otherwise stable neighborhoods.¹³⁴ Citi was still able to earn dollar-for-dollar credit for *all* of the abandoned and vacant homes that received

extinguishment relief, even under the Monitor’s rigorous validation protocol,¹³⁵ because an enforceable lien on the property still existed at the time of Citi’s offer of relief. In these cases, extinguishment may have decreased the property values of the surrounding houses—which, in turn, may contribute to the destabilization of the neighborhood.¹³⁶ Policymakers should continue to monitor this activity to determine whether community stabilization can be achieved more effectively through other interventions, including incenting institutions to foreclose, renovate, and sell at a loss; to underwrite smaller mortgages that under normal business the banks might not deem worth the costs of underwriting; or to provide no-interest financing (or even vouchers and gift cards) to repair properties.¹³⁷

- ▶ *For extinguishment to meaningfully benefit individual borrowers, it should be targeted toward living, identifiable owner-occupants.*¹³⁸ There are numerous processes that institutions could be forced to follow prior to providing debt extinguishment. Tying credit eligibility for extinguishment relief to a requirement that the relief property be occupied, for example, could have decreased the number of Relief Borrowers who received extinguishment too late for it to have helped keep them in their homes. As the results of the Monitor’s team’s site visits illustrated, no such requirements existed here, however, and Citi’s decision to effectively extinguish its charged-off book was permissible under the Settlement Agreement. But this approach resulted in Citi’s earning dollar-for-dollar credit for relief that had no demonstrable effect on the community (and perhaps little to no impact on the individual borrower).

These observations are perhaps best captured by the properties themselves. Below are narratives of the loan histories for some of the abandoned and demolished properties that the Monitor’s team observed during its site visits.¹³⁹ These properties are merely examples of the many properties that the Monitor’s team visited. Each tells a story of the financial crisis—both for an individual borrower and for a community—that was likely replicated throughout the country in the wake of the crisis.

i. Vacant Lots

1) Vacant Lot #1

In Youngstown, Ohio, the Monitor’s team observed a vacant lot where a Relief Borrower property had been. The property, first purchased in the mid-1980s for \$60,000, was transferred to the Relief Borrower in the mid-1990s for \$0, which suggests that the property may have been inherited by the Relief Borrower or otherwise conveyed via a familial relationship. During the year of transfer, the property was valued by the local tax appraiser at roughly \$74,000. The highest appraisal value of the property was just under \$110,000, ten years after the year of transfer. The property was not appraised again until the middle of the financial crisis. By then, the property was worth just over \$45,000—a loss of over half of its highest value, and about \$15,000 less than the property’s original purchase value. The next tax

appraiser record for the property, a few years later, lists it as demolished. That year, only the land was valued, at just over \$16,000. After a reappraisal later that same year, the land was valued at a little under \$14,000. The county acquired the land, for \$0, three years later. By then, the land was worth only around \$8,000.

Citi originated its loan with the Relief Borrower during the mid-2000s, for just under \$80,000—roughly around the same time that the property reached its highest value, and for around \$30,000 less than that value.¹⁴⁰ The Paid-To Date for the loan (i.e., the date through which the borrower had been current on the mortgage payments) was in 2010. In 2015 (a year after the property appears to have been demolished), the borrower still owed \$78,000 to Citi, which offered to extinguish the debt and release its first lien as relief under Menu Item 4A.

To the Monitor's team, the neighborhood surrounding this vacant lot appeared to be a fully occupied, middle-class, suburban subdivision. Nearby properties were largely split-levels and two-story houses in good condition, with large maintained lawns. A newly built elementary school was just blocks away. A commercial road, with a grocery store, gas stations, a big-box retail store, and a few strip malls with unoccupied storefronts, bordered the subdivision.

The Monitor's team observed no signs of plans to rebuild on the lot. The absence of vacant lots elsewhere in the neighborhood suggests that the demolition of the property did not destabilize the area. But the value of the land has remained static—in 2018, the county conveyed the property, for \$0, to individuals who appear to be neighboring property owners; that year, and the following year, the land was again appraised for roughly \$8,000.

2) Vacant Lot #2

Another vacant lot in Youngstown had once been the site of a Relief Borrower property purchased by the Relief Borrower during the early 1990s for around \$14,000. The tax assessor value of the property rose to a little under \$23,000 a few years later, and to its highest value, about \$27,000, a few years after that. From the mid-2000s to the early 2010s, the value began to slip—first to just over \$25,000, then to around \$15,000 in the middle of the financial crisis. By 2014, the property had been demolished: tax assessment records valued the land at less than \$1,100. A year later, the land was worth only around \$300. The county acquired the property during the following year (after Citi had released its lien and extinguished the debt) for \$0 and transferred the property to a corporation that same year, again for \$0.

Citi originated its loan with the Relief Borrower during the mid-2000s for around \$23,000. Citi charged the loan off its books in 2010. A year after the property was demolished, Citi offered the Relief Borrower about \$19,000 in Menu Item 4A relief (first-lien extinguishment).

Unlike the prior example, the neighborhood surrounding this vacant lot was rife with vacant lots and abandoned houses in dilapidated condition. A large abandoned building, which may have been an apartment complex, was on the same block. On the commercial thoroughfare on the edge of the subdivision were similarly vacant storefronts. The occupied houses in the neighborhood, however, were in fair or good condition.

The Monitor's team observed no signs of plans to rebuild on the lot. The widespread abandonment and vacancy in the neighborhood suggests that the neighborhood had been destabilized for some time.

3) Vacant Lot #3

In Atlanta, Georgia, the Monitor's team observed another former Relief Borrower property that had become a vacant lot. The Monitor's team could not find the initial purchase price for the property, but in the early 2000s—the earliest appraisal date available in the public record—the county tax assessor valued the property at around \$55,000. The property value steadily increased each year, until its highest valuation at just over \$90,000, during the financial crisis. The following year—again, in the middle of the financial crisis—the property's value plummeted, to less than \$30,000. During the following two years, the property's value continued to fall, to just over \$20,000. Though the value increased to roughly \$36,000 over the next two years, it again dropped to just \$14,000 in the mid-2010s. The Monitor's team observed a vacant lot at the property address in early 2017, but tax assessor records for 2017 value the land and property at \$14,000. The vacancy is recorded in tax assessor records for 2018, however, which value only the land at less than \$13,000.

The Relief Borrower's loan with Citi was originated in late 2007, for around \$88,000, an amount that closely aligned with the property's appraisal value in that year, about \$84,000. The loan's Paid-To Date was in 2011, a year after the property's value shrunk to just under \$30,000. A few years later, Citi offered the Relief Borrower over \$86,000 in Menu Item 4A relief (first-lien extinguishment). In November of that same year, the Relief Borrower sold the house to an individual owner, for around \$14,000. As such, this reflects an example of where extinguishment relief did provide tangible benefits to the borrower—they were relieved of a debt that likely prevented them from selling the house and were able to recoup some money through the subsequent sale.

The neighborhood surrounding this vacant lot appeared to be fully occupied and low-to-moderate income. It was near an elementary school, a large park and recreation center, a significant amount of public transportation, and three major universities.

The Monitor's team again observed no sign of plans to rebuild on the lot. Demolition, however, may have benefited the neighborhood by removing blight and thus increasing property values. A few years after Citi provided

its relief, the new individual owner sold the land to a corporation for around \$55,000; the tax assessment value of the land for the following year was just under this sale price.

4) Vacant Lot #4

In Charlotte, North Carolina, the Monitor's team observed a vacant lot where a Relief Borrower property, conveyed through an apparent family transfer for \$0 in the early 2000s, once stood. A few years after the transfer, the property was valued by the tax assessor at just over \$51,000. Over a decade later—and during the financial crisis—the property gained over \$15,000 in value. But a few years later, the property's value dropped to around \$58,000. And two years after that, the property had been demolished. The remaining land was valued at about \$10,000.

Citi originated a loan with the Relief Borrower for about \$37,000 in the mid-2000s, an amount notably lower than the appraisal value of the property at that time. The loan's Paid-To Date was in late 2012, not long after the property's highest valuation. Citi, however, charged off the loan a little less than two years later; during this same year, the property lost nearly \$10,000 in value. A year after that, Citi offered the Relief Borrower just under \$30,000 in Menu Item 4A relief (first-lien extinguishment)—around \$7,000 less than the original loan amount. That same year, the property was set for demolition.

The neighboring houses were small, seemingly occupied, and in fair condition. The neighborhood itself appeared to be an area zoned for both residential and industrial use; a railroad track was nearby.

Although the Monitor's team again observed no signs of plans to rebuild on the lot, demolition may have led to an increase in property values, and possibly new construction. In 2019, the land was reassessed for over double its last-assessed value, and late that same year it was purchased for around \$28,000 by individual owners.

ii. *Abandoned Properties*

1) Abandoned Property #1

In Bessemer, Alabama, the Monitor's team found what appeared to be an abandoned Relief Borrower property, first purchased in the late 1990s for around \$50,000. Publicly available tax assessor records for the property begin in the early 2000s and show the Relief Borrower as the owner; at that time, the property was valued at about \$58,000. The property hit its peak value a few years later, at a little over \$80,000. From there, the value remained fairly stable over a seven-year period that spanned the financial crisis, hovering in the mid-to-high \$70,000s for three years.

Just a few years before that, however, in the mid-2010s, the county began the tax sale process following a year of unpaid property taxes. No taxes were paid on the property for the subsequent three years. Then, with the time allotted for tax “redemption” having lapsed and the taxes still unpaid, the county probate judge issued a tax deed transferring title of the property from the Relief Borrower to a corporation for taxes, costs, and expenses (a sum of less than \$1,100). During this period, the property was appraised at around \$55,000—around \$5,000 more than its purchase price nearly twenty years prior.

Citi originated its loan to the Relief Borrower during the mid-2000s for just under \$58,000. Citi charged the loan off its books about a decade later. The following year, Citi offered the Relief Borrower a little over \$56,000 in Menu Item 4A relief (first-lien extinguishment), and two years later the tax deed was issued, transferring the property to a local corporation that rented out homes.

The property was in a rural area, with few houses nearby. At the time of the Monitor’s team site visit, the property’s windows were boarded and its yard was overgrown. The Monitor’s team, however, did not observe other abandoned properties or vacant lots in the vicinity. The neighborhood appeared to be stable and middle to lower-middle class. Because the transfer history for the property is less than clear, drawing firm conclusions about the effects of extinguishment for the neighborhood is challenging. The Relief Borrower may have let the property go vacant as early as 2013, the first year property taxes went unpaid, or in 2014, when the process for a tax sale appears to have commenced. If so, then the property may have been abandoned when Citi offered extinguishment in 2015, and this relief would have been of no consequence to neighborhood stabilization.

2) Abandoned Property #2

In Cleveland, Ohio, the Monitor’s team observed another abandoned Relief Borrower property, which the Relief Borrower had purchased during the early 1990s for a little under \$17,000. Publicly available tax assessor records for the property begin in the mid-1990s and show the value of the property steadily increasing every few years: from around \$35,000 to start, to the property’s peak value, during the late 2000s, of over \$56,000. In 2009, the property’s value began to trend downward, ultimately ending up below \$20,000.

The property may have been abandoned around 2014, when a permit was issued for a “board-up” of the property. The Monitor’s team observed the property in February 2017, when the house was abandoned but still standing. As of 2018, the property appears to have been demolished; public records value only the land, at just over \$7,000.

Citi originated its loan to the Relief Borrower in 2001, for over \$70,000—nearly twice the tax assessor’s valuation of the property at that time. The loan’s Paid-To Date was a year after the property’s value began to decline, pushing the Relief Borrower further underwater. During the year after the property may have become vacant, Citi offered the Relief Borrower around \$63,000 in Menu Item 4A relief (first-lien extinguishment). The Relief Borrower is still recorded as the owner in the public record.

The Monitor’s team observed that the property was one of many abandoned homes in the neighborhood. Just across the street from the property were an abandoned house and a large vacant lot. Boarded-up houses and vacant lots mixed with occupied properties in fair condition. Given that the Relief Borrower appears to have left the property before the relief offer and that the property was razed after the offer, relief appears to have had no effect on rehabilitating the property or the surrounding neighborhood.

3) Abandoned Property #3

In Gastonia, North Carolina, the Monitor’s team also observed an abandoned Relief Borrower property purchased by the borrower in the early 1980s for around \$1,000. Publicly available tax assessor records for the property begin in the late 2000s. From then until 2011, the property was valued at just under \$58,000. In 2011, well into the financial crisis, the value decreased to less than \$50,000 and remained there until 2015. During the next few years, the property was valued at around \$25,000, roughly half its highest valuation. In 2019, the value dropped further, to less than \$17,000.

Based on public records, which include a photograph of the property, the property was boarded up and abandoned as early as 2014—around three years before the Monitor’s team visited the property. The Relief Borrower, however, is still listed as the owner of the property, and, as of 2019, property taxes had been paid in full.

Citi originated its loan to the Relief Borrower in the early 2000s for around \$24,000. The Paid-To Date for the property was in 2010. Almost a year after the county public records documented the property as abandoned, Citi offered to extinguish the remaining balance on the loan, which was a few hundred dollars less than the origination amount.

The property was in a rural area surrounded by mobile homes that appeared to be in fine condition and fully occupied. But the property was the only non-mobile home in the area; its condition may not have led to further destabilization in the area, but it may have discouraged new development of additional non-mobile homes. Relief, then, appeared to have left the community no worse off, but possibly no better.

5. Conclusions Regarding Relief Provided to Individual Homeowners

As the analysis above shows, it is difficult to generalize about how much principal reduction, rate reduction, or extinguishment helped individual homeowners or their communities. It is clear that the Settlement Agreement and other consumer relief settlements helped many borrowers. But it also seems likely that different choices in settlement design might have provided even more help to borrowers while also avoiding some significant pitfalls. The same amount of relief—especially principal reduction relief—might have done more good had it been provided earlier, particularly if it had come in time to help those borrowers who ended up losing their homes, or who made painful sacrifices to keep their homes, before the banks began providing settlement relief. Principal reduction and rate reduction might have had a more powerful impact if they had been provided simultaneously to the same borrower, to lower monthly payments soon after the borrower suffered income shock.

Thus, earlier relief designed to lower monthly payments might have eased the burden of the financial crisis for more borrowers and kept more people in their homes. And, as discussed above in terms of extinguishment relief, keeping borrowers in their homes—or at least keeping *someone* in those homes—also may benefit communities. Solutions that eliminate debt without enabling a home to remain or become occupied may provide little or modest benefit to individual borrowers, while tangibly harming community stability.

VII. Menu Item 5 and America's Affordable Rental Housing Shortfall

This Section of the Report analyzes Citi's affordable rental housing relief by discussing the need for affordable rental housing, the basics of the affordable rental housing market, and the nature and effectiveness of the relief that Citi provided.

Citi's affordable rental housing relief under the Settlement Agreement (Menu Item 5), like affordable housing relief under other RMBS settlements, took the form of subordinated debt lending to developers who were rehabilitating or building affordable housing units. Thus, in contrast with the relief provided to individual borrowers discussed in [Section VI.C](#) above, affordable rental housing relief was not designed primarily to help individual homeowners at risk of foreclosure. Instead, it resembled non-extinguishment anti-blight relief in that it sought to mitigate the damage of the financial crisis by directing relief at the community (ultimately helping individuals find rental units at reasonable prices).

A visualization tool regarding affordable rental housing credit and relief under the Settlement Agreement is available on the Monitor's website:

[Affordable Rental Housing](#)

This tool is scheduled to be available for one year after the publication of this Report.

Subsection A, below, provides an introduction to Menu Item 5 and affordable rental housing. **Subsection B** assesses the effectiveness of affordable rental housing consumer relief by focusing on three issues: (1) incentivizing investment in affordable rental housing; (2) the crediting methodology in the Settlement Agreement; and (3) the Settlement Agreement’s emphasis on Difficult Development Areas (DDAs). **Subsection C** provides an assessment of the impact of Citi’s lending on the recipient affordable rental housing developments.

A. Introduction to Menu Item 5 and Affordable Rental Housing

Menu Item 5 allows Citi to claim credit in connection with its lending to developments that create or restore affordable rental housing for low- and moderate-income renters. Overall, Citi received credit for its lending related to 137 affordable rental housing developments. Figure 31, below, shows the distribution of credit of these developments by county.

FIGURE 31: MAP OF MENU ITEM 5 (AFFORDABLE RENTAL HOUSING) CREDIT BY COUNTY



Affordable housing, including affordable rental housing, was a late addition to the consumer relief settlements, first introduced in this Settlement Agreement and then included in the subsequent RMBS consumer relief settlements (Bank of America, Goldman Sachs, Credit Suisse, and Deutsche Bank). One could ask why *rental* housing should be a type of “relief” for harms that were absorbed by homeowners. Given, however, the significant post-crisis decline in home ownership and the nation’s serious need for affordable rental housing, the rental housing provisions did address ills caused or intensified by the financial crisis.

During and after the financial crisis, the number of U.S. households that rented their housing grew substantially, including households that lost their homes during the crisis.¹⁴¹ The share of U.S. renter households peaked at approximately 36% in 2016, dropping slightly to approximately 35% in 2019 (representing almost forty-four million U.S. renter households).¹⁴²

Many renter households are struggling to pay rent, and there is a shortfall of rental housing that low-income households can afford. In general, in the aftermath of the financial crisis, rents went up faster than other costs. From approximately 2011 to 2017, median rent increased at a rate exceeding the annual rate of non-housing inflation by more than a full percentage point, and from 2012 to 2019, the Consumer Price Index for primary residence rental costs rose more than four times faster than non-shelter items.¹⁴³ Indeed, during roughly that same period, the median asking rent for new apartments increased 27% in real terms, but real median renter income increased only 16%.¹⁴⁴ In 2017, the \$1,550 median asking rent for new apartments was affordable for only 31% of renter households; by mid-2019, the median rent for new apartments was \$1,620.¹⁴⁵ A notable contributing factor to this disproportionately fast growth in asking rent for new apartments is that units built in the wake of the financial crisis tended to cater to higher-income households.¹⁴⁶

Some estimates indicate that in this rental landscape, nearly half of America's renter households are "cost-burdened"—meaning that their housing is not "affordable"—because rent payments consume more than 30% of their income.¹⁴⁷ Recent estimates indicate that about a quarter of renter households are "severely cost-burdened" because they pay more than 50% of their income toward rent.¹⁴⁸

Although there has been a dramatic rise in the percentage of higher-income renters since 2011, the majority of renters have low incomes, with the median renter household perhaps making roughly half as much as the median homeowner household.¹⁴⁹ Rapidly rising rents and the inadequate growth in the number of affordable rental units—combined with wage stagnation—prevent low-income renter households from enjoying the benefits associated with affordable housing, including positive outcomes in education, employment, physical health, and mental health.¹⁵⁰ For example, in 2018, severely cost-burdened renter households making less than \$15,000 per year typically had only \$225 left over each month for all other expenses.¹⁵¹ With so much of their income going to rent, cost-burdened renter households often struggle to pay for other necessities such as food, health care, child care, and utilities.¹⁵² Further, renters are often particularly vulnerable to income shock because they have little or no financial cushion. Compared to homeowners, renters tend to have substantially lower net worths and cash reserves. In 2016, the median renter household had a \$5,000 net worth and \$800 in cash savings, while the median homeowner household had a \$230,000 net worth and \$7,300 in cash savings.¹⁵³

Renters with lower incomes are more likely to be cost-burdened. In 2018, 83% of renters with annual incomes below \$15,000 were cost-burdened, 72% of them severely, and 79% of renters earning from \$15,000 to \$29,000 were cost-burdened.¹⁵⁴ In comparison, at the same time, only 6% of renters making at least \$75,000 were cost-burdened.¹⁵⁵ And the problems associated with rental cost burdens are particularly acute for "very low-income" renter households, defined as households making no more than half of Area Median Income (AMI). From 2001 to 2015, the number of such households grew from 14.9 million to 19.2 million, though by 2019 it had dropped to 17.6 million.¹⁵⁶ According to HUD, in 2015, 8.3 million

very low-income renter households were severely cost-burdened and/or living in housing with serious deficiencies.¹⁵⁷ Also according to HUD, from 2005 to 2015, the number of very low-income renter households with “worst case” needs for housing assistance rose from 5.99 million to 8.30 million, a trend affecting all racial and ethnic groups and all types of households.¹⁵⁸ HUD defines “worst case” rental housing needs as the needs of renter households that (1) are very low-income, (2) do not receive HUD housing assistance, and (3) are severely cost-burdened and/or live in severely inadequate conditions.¹⁵⁹

HUD concluded in a 2017 analysis that the “unmet need for decent, safe, and affordable rental housing continues to outpace the ability of federal, state, and local governments to supply housing assistance and facilitate affordable housing production.”¹⁶⁰ Recent estimates indicate that HUD’s public housing, project-based assisted housing, and Housing Choice Voucher program combine to provide rental housing assistance to only about a quarter of very low-income renter households.¹⁶¹ Further, as noted in the Monitor’s Sixth Report, key sources of federal funding have been declining since the financial crisis. The HOME Investment Partnerships Program (HOME) is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.¹⁶² From 2010 to 2019, appropriations for HOME declined from \$1.8 billion to \$1.25 billion.¹⁶³ From 2005 to 2018, housing-related disbursements from HUD’s Community Development Block Grants (CDBG) decreased from \$1.2 billion to \$800 million.¹⁶⁴

Further, the stock of affordable rental housing appears likely to shrink substantially in coming years. Some estimates indicate that by the late 2020s, rent restrictions on roughly a million units will expire, including the restrictions on about a half million units funded with investment spurred by the federal low-income housing tax credit statute (LIHTC) (26 U.S.C. § 42).¹⁶⁵ LIHTC incentivizes the construction or rehabilitation of affordable housing by offering tax credits for investing in affordable housing developments.

In addition to those projected losses of existing LIHTC units, changes to the tax code resulting from the Tax Cuts and Jobs Act of 2017 (TCJA) may substantially reduce the number of new LIHTC units created each year, in large part because lowering the corporate tax rate from 35% to 21% reduces potential investors’ need to purchase tax credits.¹⁶⁶ This is of particular concern because LIHTC is arguably the single most important source of funding for affordable rental units, and some estimates suggest that under the TCJA, LIHTC will create substantially fewer affordable rental units.¹⁶⁷

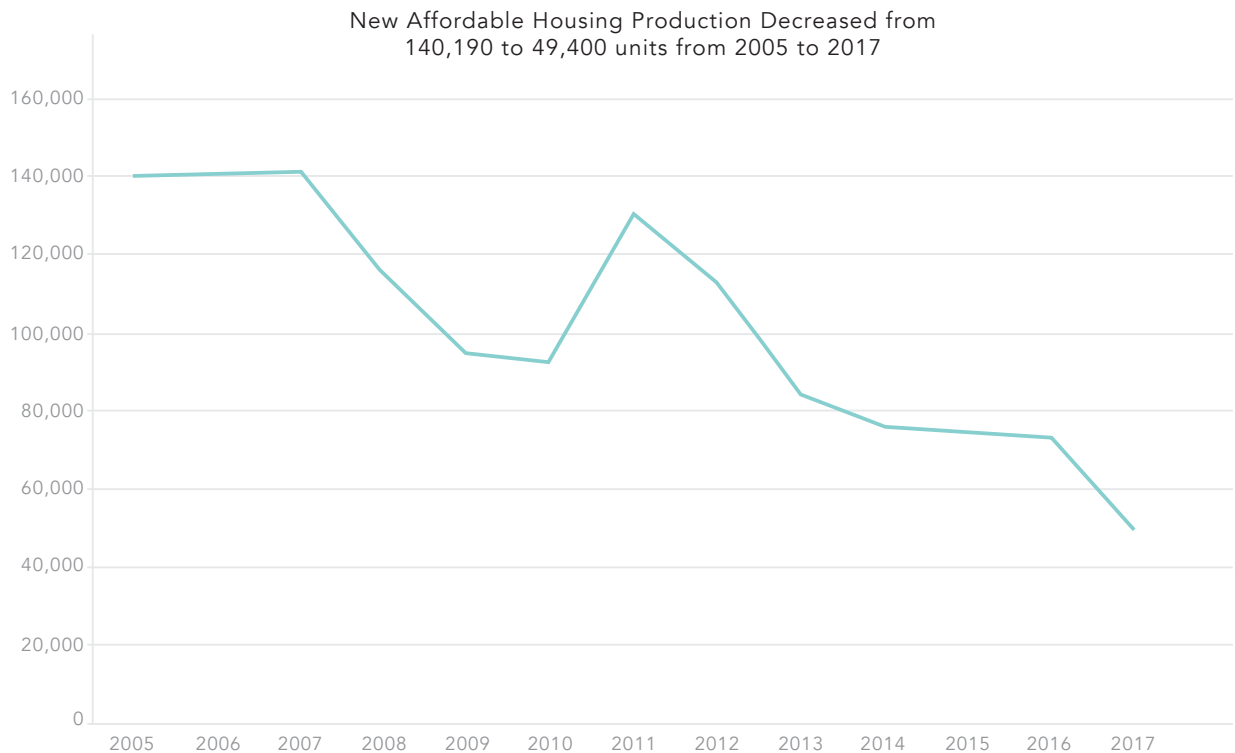
As discussed in the Monitor’s Sixth Report, the LIHTC program does not distribute money directly to affordable rental housing developments.¹⁶⁸ Instead, it offers tax credits to encourage investors to help finance construction or renovation of affordable housing units that otherwise might not be economically viable. If the lower corporate tax rates introduced by the TCJA do make LIHTC tax credits less attractive to potential investors, that could meaningfully reduce the funds available for potential LIHTC projects. Although the large majority of Menu Item 5 projects were planned before the TCJA’s amendments to the tax code, for those projects that Citi undertook to fund after those amendments, the additional funding may have been especially important to the projects’ viability.

The economic turmoil resulting from the COVID-19 pandemic may also impact the availability of affordable rental housing. For example, if people lose their homes on a scale approaching (or exceeding) the losses caused by the 2007–2009 financial crisis, there may be another sharp

increase in renter households that puts pressure on the stock of affordable rental housing. And while the various local, state, and federal rent and eviction moratoria may help keep renters in their apartments, at least in the short term, they may also harm commercial landlords' ability to repay their mortgages, which may cause problems for their tenants.

Even setting aside any effect of the TCJA or the COVID-19 pandemic, HUD data indicate that annual production of LIHTC-funded affordable housing has been decreasing in recent years. As indicated in Figure 32, below, HUD data show that in 2017, roughly one-third as many new affordable housing units received LIHTC funding as received such funding in 2005.

FIGURE 32: LIHTC-FUNDED UNITS PER YEAR (2005–2017)¹⁶⁹



B. Assessing the Effectiveness of Affordable Rental Housing Relief

Menu Item 5 aimed to reduce the shortfall of affordable rental housing by requiring Citi to provide financing critical to building or preserving affordable rental housing units. The goal was to create rental housing that would be affordable from the start, would remain affordable for a significant period, and would serve people who actually needed affordable rental housing. In an effort to meet those goals, the Settlement Agreement required that all lending credited under Menu Item 5 go to “developments that are equivalent to affordable housing developed through LIHTC.”¹⁷⁰ In the end, nearly all of the Menu Item 5 developments not only were equivalent to LIHTC developments but in fact were LIHTC developments.

Given the novelty and complexity of this form of relief, Menu Item 5 and similar affordable housing provisions in other consumer relief settlements raise a number of questions as to whether the provisions were properly designed to achieve their aims.

- ▶ Did the affordable rental housing provisions actually incentivize investment in affordable rental projects, or would the projects have gone forward anyway? Put another way, are there more affordable rental projects as a result of the settlements?
- ▶ Did the methodology of crediting—based on a prediction of loss, with significant deference being given to the institution—make sense?
- ▶ What was the impact of the emphasis on certain Difficult Development Areas (DDAs)—generally higher income areas where affordable rental housing is difficult to build or rehabilitate—on the construction of affordable rental projects? Would a different emphasis have been preferable?

These issues are addressed next, in [subsections B.1 through B.3](#).

1. Incentivizing Investment in Affordable Rental Housing

a. Soft Debt Lending’s Key Role in LIHTC Developments

Citi received \$871.0 million in settlement credit for its Menu Item 5 lending. Depending on the nature of the development, Citi received either \$3.25 or \$3.75 in credit for every \$1.00 it is projected to lose by providing soft debt lending to a given affordable rental housing development. The Settlement Agreement required Citi to incur at least \$180 million in projected losses for such lending. As discussed elsewhere in this Report regarding the final Menu Item 5 crediting ([§ III.B](#) and [Appendix C](#)), under the agreed method for calculating Citi’s projected losses, Citi stands to lose approximately \$221.1 million overall for its lending to affordable rental housing developments.

All but a very small handful of the Menu Item 5 projects receive tax credits under the LIHTC statute, and all of the projects credited had to be equivalent to projects receiving LIHTC funding. As explained at length in the Monitor’s Sixth Report, the equity that developers raise by selling those tax credits to investors typically does not fully fund a LIHTC development. The remainder of a typical LIHTC project’s funding comes from other sources, including conventional mortgage financing (“hard debt”) and loans from federal, state, or local governments (“soft debt” gap financing). One estimate indicates that for the average LIHTC project, 55% of qualified costs come from tax credit equity, 24% from hard debt, and 21% from gap financing.¹⁷¹ Although large commercial banks such as Citi often serve as investors or hard debt lenders for LIHTC projects,¹⁷² the Settlement Agreement required Citi to serve as a soft debt lender. Soft debt lenders generally subordinate their loans to the other loans financing the project and thus do not necessarily expect to be repaid in full.¹⁷³ This is not the sort of investment that commercial lenders tend to find attractive. Citi, for example, is a market leader in affordable

housing lending, but until the Settlement Agreement, it had not provided the sort of subordinated soft dollar lending required by Menu Item 5. After the projects had been finalized, Citi indicated to the Monitor that it would not have done any of the subordinated lending for those projects unless obliged to do so by the Settlement Agreement.

The Menu Item 5 developments created or rehabilitated 15,455 affordable rental housing units—nearly doubling Citi’s initial projection.¹⁷⁴ Citi attributes this high number of units to its decision to fund a larger number of projects with a smaller amount of money per project than did some of the other banks providing affordable housing relief under similar settlements. That increased some of the administrative burdens on Citi by increasing the number of projects that it had to evaluate and execute but also allowed Citi to involve more of its developer clients who wanted to receive Menu Item 5 funding.

b. Effect of Settlement Relief on Menu Item 5 Developments

It is difficult to estimate how many of the Menu Item 5 affordable rental units would have been created or rehabilitated in the absence of the Settlement Agreement. Answering the question for the Settlement Agreement requires knowing whether the Menu Item 5 projects could have otherwise found the “gap financing” that Citi provided for each. That is a highly speculative question that defies an easy answer, and in some cases, even the Menu Item 5 project developers could not answer it when the Monitor’s team asked them.

However, it is clear that the Menu Item 5 projects generally could not have been financed without gap financing from *somewhere*. The sort of subordinated soft dollar lending that Citi provided under Menu Item 5 is usually done by state or local housing authorities, using a combination of federal, state, and/or local funds. Unlike commercial lenders, those housing authorities are willing to lose money to help create affordable rental housing. But those governmental entities have limited resources, and the need for affordable rental housing far exceeds those resources, which indicates that Citi’s subordinated lending made possible some Menu Item 5 projects that otherwise could not have gone forward.

i. Developer Observations about Effects of Relief

Many of the developers who built projects that received Menu Item 5 funding for affordable rental housing developments indicated in response to surveys from the Monitor or during interviews with the Monitor’s team that their projects likely would not have gone forward without the soft debt financing provided by the settlement. Some of those developers noted that affordable housing projects are difficult to put together because they often require complicated financing packages involving tax credits, multiple loans (including gap financing loans such as those Citi provided under Menu Item 5), and, in many cases, bond financing. This means that a problem with any of those funding sources can imperil the project.

One developer who described Citi's Menu Item 5 funding as necessary called the soft debt financing a "lifeline" and said that, without it, the project might not have gone forward. Another developer said that Menu Item 5 funds filled a significant funding shortfall that could not have been otherwise remedied because the project had already been denied funds and had maxed out all other funding for which it was eligible. Two other developers each said their separate projects would not have gone forward without the Menu Item 5 loans, noting that the funds for affordable housing are critical for projects in the sort of high-cost markets where those particular developments are located. One of those developers noted that the funding was particularly important given that resources for affordable housing are increasingly scarce. Still another developer said that its project "absolutely" could not have gone forward without the Menu Item 5 funding because "there is a significant funding gap which could not be made up by any traditional, federal, state, county, local, or private affordable housing funding sources." Yet another developer stated that the local government "did not have soft funds to support the project" and Menu Item 5 funds therefore were "essential" to lowering the project's long-term debt to "a reasonable amount." One developer said that purchase of the land necessary for the development was made possible by the Menu Item 5 funds; the city agencies providing other funding for the development could not have provided that financing. Another developer said that not only could the project in question not have gone forward without the Menu Item 5 funding, related affordable housing projects at other locations also likely could not have gone forward.

Most of the remaining developers who responded to surveys or spoke with the Monitor's team indicated that even if the projects could have gone forward without Citi's Menu Item 5 funding, those projects would have been less successful in providing adequate affordable rental housing. Many of these developers were rehabilitating existing housing rather than building new housing, and some developers noted that it is particularly difficult to say that a renovation project could not have gone forward at all without the Menu Item 5 funding because *some* level of renovation can often be done. However, some developers also noted that in many cases the Menu Item 5 lending allowed major improvements during renovations that would not have been possible otherwise. For example, one developer said that without Citi's soft debt financing, the developer would have needed to scale back the project, including eliminating crucial improvements to the building's HVAC. A different developer was unsure whether its project could have gone forward without Menu Item 5 funding and said that, if the project had gone forward, it would not have included all the necessary renovations. Other developers indicated that, although they believed their separate developments might have been completed without the Menu Item 5 funding, that funding allowed them to make the projects more affordable to tenants.

ii. Other Considerations about Effects of Relief

The timing of the relief provided under the Settlement Agreement further suggests that the Menu Item 5 relief helped finance affordable rental housing that otherwise would not have been created or would have been meaningfully scaled back. As discussed above, the RMBS settlements, including the Settlement Agreement, are being implemented at a time when the outlook for affordable rental housing is potentially bleak given changes to the tax code and the decreased value to investors of the tax credits that have traditionally driven much of the affordable rental housing market and, perhaps, given the ongoing and future strain placed on government budgets by the COVID-19 pandemic. Thus, the affordable housing relief provided under the settlements may have provided an important shot in the arm to encourage the developments that received that relief.¹⁷⁵

Citi, for its part, believes that at least some of the Menu Item 5 affordable rental housing developments would not have gone forward in any form without Citi's soft debt lending and that 50%, or even more, would not have proceeded as quickly as they did.

Whatever the actual percentage of the Menu Item 5 affordable rental housing developments that the Settlement Agreement either made possible or made better, another way of looking at the Settlement Agreement's impact is in terms of the effect it had on the *total* amount of affordable rental housing created in the United States. From this point of view, because soft debt financing is so scarce relative to the number of otherwise feasible affordable housing developments—and because Citi would not have done *any* soft debt financing if the Settlement Agreement had not required it to do so—every dollar of soft debt lending that Citi provided for these projects turned into a dollar made available for some other affordable housing developments unconnected to the Settlement Agreement. That is, the Settlement Agreement increased the total amount of soft debt financing available by approximately \$227 million, which freed up an equal amount of money for other affordable housing developments, at least in the relevant states or markets. Seen in that light, every dollar freed up by Citi's soft debt financing helped to fund other affordable housing developments (or perhaps other government services) that could not have been undertaken otherwise.

2. Affordable Rental Housing Crediting Methodology

It is not an overstatement to say that we will not be able to evaluate for a decade or more whether the crediting for affordable housing relief under the Settlement Agreement (or the other consumer settlements) corresponds to actual losses incurred by Citi (or the other banks) by providing subordinated debt lending.

Gap funders in affordable rental housing projects generally do not expect to make a substantial return. Moreover, affordable rental housing agreements often, but not always, make it all but impossible for gap funders to earn a return. Citi, however, elected to provide such funds (1) only in projects in which it was the senior funder (i.e., the hard debt lender) and (2) in conjunction with contractual provisions that preserved a chance that it would earn a return. That made valuing Citi's losses exceptionally difficult.¹⁷⁶

In light of those issues, after significant discussion, the Monitor and Citi came to agreement that the losses could be valued through the use of a discounted cash flow analysis with different discount rates to be applied based on the characteristics of the various projects. Specifically, each project was put into one of four categories based on likelihood of repayment for both interest and principal. Each project was ranked on a scale of one to four as to how likely it was to generate cash flows sufficient to make any monthly interest payment as well as the likelihood that it would repay the principal at the end of the subordinated loan's term.

The interest categorization could be done on an objective basis. Specifically, in terms of how much debt to cash flow each project was expected to produce, the most highly leveraged projects were considered least likely to pay the simple interest that Citi's subordinated loans required.

The principal categorization had to be done on a more subjective basis. Citi assessed the likelihood that each project would ultimately pay back the principal of the loan based on factors such as whether the project's developer was a nonprofit entity and the jurisdiction of the project.

None of these approaches is likely to precisely predict the amount of loss Citi will incur from these loans, though they were based on a good-faith effort by Citi and the Monitor to estimate the likelihood of loss. The short duration of the Monitorship relative to the multi-decade lifetime of the loans means that the Monitorship is expiring before the Monitor has hard data to indicate whether the criteria were well-chosen or the losses well-estimated.

3. Emphasizing Selected Difficult Development Areas (DDAs)

The Settlement Agreement grants Citi either \$3.25 or \$3.75 in credit for every \$1.00 Citi loses providing gap financing to Menu Item 5 affordable rental housing developments. The projects receiving the additional \$0.50 in credit are CNFH developments, which must meet certain criteria beyond the standard Menu Item 5 criteria, including how many units have two or more bedrooms and where the units are located. As to location, the Settlement Agreement requires that CNFH developments be either in "Small Area DDAs" (SADDAs) as defined by HUD or in "State-Defined High Opportunity/Low Poverty Areas" as defined by state housing finance authorities. The Settlement Agreement requires that at least half of the affordable rental units created under Menu Item 5 be in CNFH developments.

By requiring that at least half of affordable rental units be in CNFH developments and by providing additional credit for CNFH developments, DOJ and the Settling States put a thumb on the scale in favor of placing affordable rental housing in specific DDAs.¹⁷⁷ In many cases, Citi had more incentives to build or restore an apartment in, for example, the Tribeca neighborhood of New York City than in rural Montana. To begin with, SADDAs are by definition urban DDAs, meaning that the Settlement Agreement's requirement that half the affordable rental units be in CNFH housing encouraged Citi to place developments in urban DDAs.¹⁷⁸

Further, even without that encouragement from the Settlement Agreement, Citi had powerful preexisting incentives to invest in urban areas. First, Citi indicated to the Monitor that from a business perspective, developments in high-income areas (which are often in urban areas and in DDAs) are preferable to developments elsewhere. High-income areas tend to have high rents, making affordable housing in those areas especially sought-after, which in turn makes it highly likely that the developments will attract enough tenants to remain viable. Second, the federal Community Reinvestment Act of 1977 (CRA) strongly encouraged Citi to invest in certain urban areas where it did business.¹⁷⁹ Third, the Settlement Agreement's requirement that Menu Item 5 developments be equivalent to housing provided under the LIHTC statute in crucial ways encouraged actually seeking and receiving tax credits under that statute, which offers its own substantial incentives to place projects in DDAs.¹⁸⁰

The incentives offered by the Settlement Agreement, business imperatives, the CRA, and LIHTC likely contributed to the fact that so many developments receiving Menu Item 5 funding are in large urban areas. Core-Based Statistical Areas (CBSAs) are areas that include both metropolitan statistical areas (population above 50,000) and micropolitan statistical areas (population between 10,000 and 50,000). As of 2019, each of the forty largest CBSAs had estimated populations of at least 1.5 million people. Almost half of the developments (63 of 137) are in the nation's ten largest CBSAs, and over three-quarters (107 of 137) are in the nation's forty largest CBSAs. Of the CNFH developments, over one-third (27 of 74) are in the ten largest CBSAs, and over three-quarters (56 of 74) are in the forty largest CBSAs.

Figure 33 shows the number of Menu Item 5 developments by state, the percentage of Menu Item 5 developments in each state, the amount of credit awarded by state, each state's percentage of the total credit, the total number of affordable rental units in each state, and each state's percentage of the total affordable rental units. Settling States are highlighted.

FIGURE 33: KEY INFORMATION ABOUT MENU ITEM 5 DEVELOPMENTS

State	Devels.	Pct. Tot. Devels.	Credit	Pct. Tot. Credits	Aff. Units	Pct. Tot. Aff. Units
CA	45	32.8%	\$226,497,738	26.0%	4,236	27.4%
NY	26	19.0%	\$175,916,405	20.2%	2,738	17.7%
MA	5	3.6%	\$86,321,700	9.9%	623	4.0%
IL	13	9.5%	\$74,881,245	8.6%	1,369	8.9%
WA	7	5.1%	\$66,954,612	7.7%	1,530	9.9%
NJ	8	5.8%	\$62,197,481	7.1%	899	5.8%
NV	4	2.9%	\$41,471,497	4.8%	618	4.0%
TX	6	4.4%	\$26,769,466	3.1%	785	5.1%
DC	4	2.9%	\$23,900,067	2.7%	494	3.2%
FL	6	4.4%	\$23,608,651	2.7%	833	5.4%
CO	2	1.6%	\$16,130,211	1.9%	504	3.3%
MD	2	1.6%	\$11,433,623	1.3%	280	1.8%
CT	1	0.7%	\$10,560,425	1.2%	73	0.5%
WI	4	2.9%	\$8,454,065	1.0%	142	0.9%
RI	1	0.7%	\$6,366,865	0.7%	100	0.6%
IA	1	0.7%	\$4,173,480	0.5%	34	0.2%
VA	1	0.7%	\$3,375,216	0.4%	124	0.8%
DE	1	0.7%	\$1,946,010	0.2%	63	0.4%
Total	137	100.0%	\$870,958,757	100.0%	15,445	100.0%

Further, given that the Settlement Agreement allowed relief under Menu Item 5 to help Citi meet the State Minimums, it should not be a surprise that Menu Item 5 relief went primarily to the Settling States, whether that relief is measured in the form of credit, the number of developments, or the number of affordable rental units. Nearly two-thirds of credit (\$565.6 million) went to the Settling States, with nearly all of that credit (\$563.6 million) going to California, New York, Massachusetts, and Illinois. Similarly, nearly two-thirds (90 of 137) of the Menu Item 5 developments are located in the Settling States, and the large majority of those (84) are in California, New York, and Illinois. Although affordable rental units are distributed somewhat more evenly, they generally follow the same pattern. Well over half (58.5%) of rental units (9,029) are in Settling States, with the large majority of those (8,343) in California, New York, and Illinois.

The figures below show, respectively, the percentages of credit (Figure 34), percentages of developments (Figure 35), and percentages of affordable rental units (Figure 36) by state. Settling States and other states receiving at least 3.0% of the relevant total are shown individually; other states are aggregated. Settling States are in color, and other states are in shades of gray.

FIGURE 34: PERCENTAGE OF AFFORDABLE RENTAL HOUSING CREDIT BY STATE

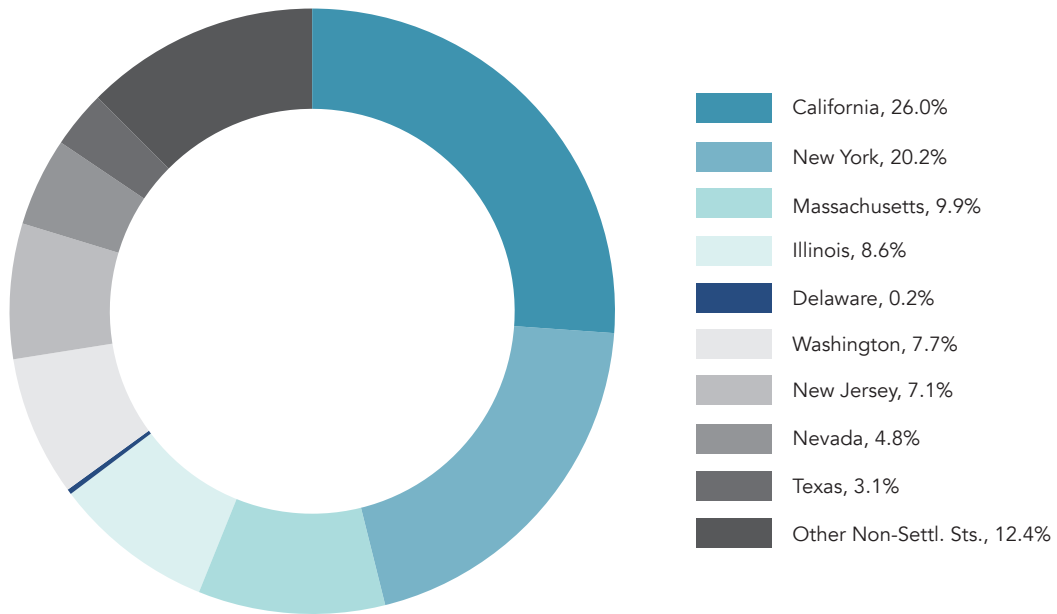


FIGURE 35: PERCENTAGE OF AFFORDABLE RENTAL HOUSING DEVELOPMENTS BY STATE

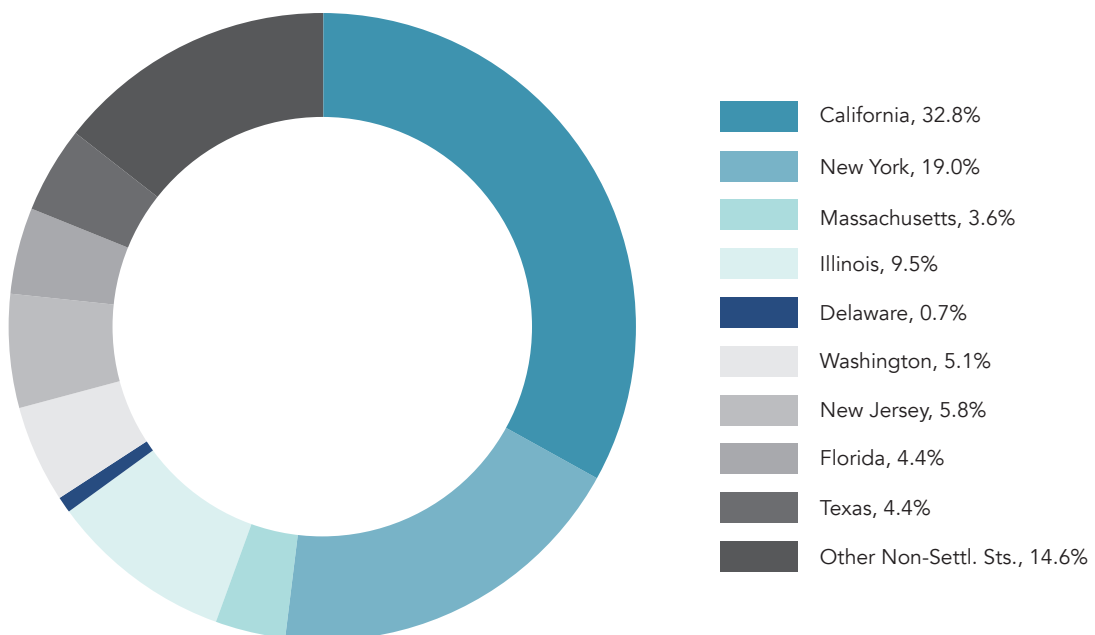
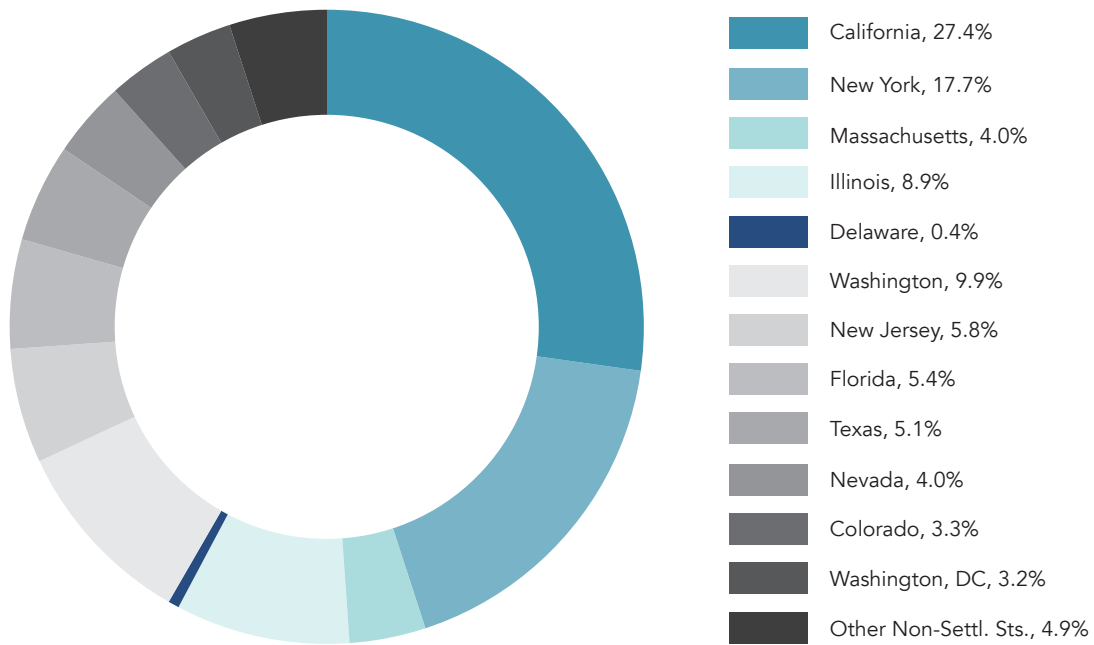


FIGURE 36: PERCENTAGE OF AFFORDABLE RENTAL UNITS BY STATE



C. Impact of Citi Affordable Rental Housing Funds on Menu Item 5 Developments

The gap financing offered for affordable rental housing under Menu Item 5 can be transformative for the tenants and their communities alike. In the Sixth Report, the Monitor described a representative selection of developments that served vital community needs.¹⁸¹ One project in Cudahy, Wisconsin (a Milwaukee suburb) will provide fifty units of affordable rental housing in a development that the town’s mayor described to the Monitor’s team as the culmination of a twenty-year master plan involving more than \$20 million of city spending in the downtown area. Citi provided the project’s developer with \$741,000 in soft debt lending along with a \$7.2 million hard debt construction loan. Citi’s \$3.8 million soft debt loan to another project has allowed a nonprofit developer to rehabilitate 255 affordable rental units across New York City and to stage the rehabilitation in such a way that tenants could remain in their units during the improvements. For another project, in Chicago’s North Lawndale neighborhood, Citi’s \$1.0 million subordinated loan plugged an unexpected gap in the project’s financing, allowing a developer to rehabilitate an abandoned portion of the original Sears, Roebuck and Company complex into 181 units of affordable rental housing.

In addition to those projects described in the Monitor’s Sixth Report, it is worth examining the following sample projects:

The Grove, aka Bell Valley Commons (Rockford, Illinois)

The Grove development was the first phase of a three-phase redevelopment project designed to change the nature and location of affordable rental housing in the area. Its for-profit

developer received a \$1.40 million subordinated loan under the Settlement Agreement to create forty-nine new affordable rental housing units. Forty-three of those units were needed to replace units eliminated during municipal revitalization efforts, and six of those units were additional. The Grove was the first phase of a three-phase redevelopment effort, and the subsequent phases would not have gone forward unless The Grove had been completed.

Members of the Monitor's team discussed the project with the developer, who said that the project could not have gone forward without the soft debt lending that Citi provided under the Settlement Agreement.

August Petrillo Apartments (Mount Vernon, NY)

The August Petrillo Apartments is a development controlled jointly by nonprofit and for-profit entities. The developer received a \$3.95 million subordinated loan under Menu Item 5 that allowed it to rehabilitate all 131 units in the development, 79% of which are affordable.¹⁸²

The developer stated that the tenants were generally "extremely low-income" as defined by HUD and that rents in the building had largely been kept low enough that they did not exceed 30% of the tenants' incomes. This had limited the capital available for repairs and improvements, contributing to a backlog of issues affecting major building systems such as the elevator, the boiler, and the roof, as well as the kitchens and bathrooms in each unit. Asbestos removal consistent with required procedures and testing was also needed. The rehabilitation funded in part by Citi's soft debt lending addressed all of those issues and created a new thirty-year life cycle for the building.

While discussing the development with members of the Monitor's team, the developer said that Citi's Menu Item 5 relief was essential to the success of the project and that without that relief the project could not have undertaken a number of the repairs required to provide safe and decent housing for the residents.

Artisan at Judson (San Antonio, Texas)

Artisan at Judson was new construction built on a vacant lot by a for-profit developer. The project received a \$1.50 million subordinated debt loan from Citi under the Settlement Agreement and created 126 units of affordable "workforce housing," which is housing that is both affordable to workers and near where they work.

The developer told members of the Monitor's team that Artisan at Judson is located in a high-opportunity area on the north side of San Antonio, where there is little affordable housing. The developer also indicated that the need for affordable housing in that area was so substantial that the developer was able to rent out all of the units within a month of initially making them available to lease.

The developer told members of the Monitor's team that the Menu Item 5 relief from Citi was crucial to the project, particularly given that HOME funding and HUD Community Development Block grant funding were not available as potential sources of gap financing.

VIII. Fair Housing

This Section describes how the Monitor tested Citi's compliance with the Settlement Agreement's fair housing requirements for the provision of consumer relief and explains why the Monitor found that Citi satisfied those obligations.

Under the Settlement Agreement, Citi was required to ensure that Consumer Relief "[would] not be implemented through any policy that violates the Fair Housing Act or the Equal Credit Opportunity Act."¹⁸³ As a national bank and federally regulated financial institution, Citi is familiar with those Fair Housing Act (FHA) and Equal Credit Opportunity Act (ECOA) obligations from its ordinary operations. But, as discussed below, the Settlement Agreement provided an unusual context in which to analyze such compliance because the Settlement Agreement required Citi to operate in ways that it ordinarily does not.

Visualization tools relating to the Monitor's fair housing analysis are available on the Monitor's website:

Fair Housing Maps

These tools are scheduled to be available for one year after the publication of this Report.

A. Legal Framework

1. The Fair Housing Act

The FHA, which applies to a wide range of housing-related transactions, including home sales and rentals, makes it "unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin."¹⁸⁴

Intentionally discriminatory policies or practices (“disparate treatment”) necessarily violate the FHA. Further, the federal courts of appeal have long said that, under some circumstances, even policies or practices that are not intended to discriminate but that nonetheless have discriminatory effects (“disparate impact”) can also violate the FHA.

Consistent with the courts’ interpretation, in 2013, HUD issued a regulation affirmatively interpreting the FHA to encompass disparate impact liability.¹⁸⁵ This regulation formalized the long-held recognition of disparate impact liability under the FHA and of the burden-shifting test used to determine whether a given practice has an unjustified discriminatory impact. The regulation provides that “[a] practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin.”¹⁸⁶

In the 2015 *Inclusive Communities* case, the U.S. Supreme Court affirmed that the FHA permits both disparate impact claims and disparate treatment claims.¹⁸⁷ However, in doing so, the Court emphasized some relevant limitations on when one can successfully bring a disparate impact claim.¹⁸⁸ The Court instructed that “disparate-impact liability must be limited so . . . regulated entities are able to make the practical business choices and profit-related decisions that sustain a vibrant and dynamic free-enterprise system.”¹⁸⁹ And, before a court may reject a business justification presented to excuse or explain the disparity, “a court must determine that a plaintiff has shown that there is ‘an available alternative . . . practice that has less disparate impact and serves the [entity’s] legitimate needs.’”¹⁹⁰

The Court also specifically addressed disparate impact claims based on statistical disparities, altering the burden-shifting framework slightly in such cases: “a disparate-impact claim that relies on a statistical disparity must fail if the plaintiff cannot point to a defendant’s policy or policies *causing that disparity*.”¹⁹¹ This “robust causality requirement” is intended to protect defendants from being held liable for racial disparities that they did not themselves create.¹⁹²

In August 2019, HUD published a proposed rule to implement the Court’s holding in *Inclusive Communities*.¹⁹³ The proposed rule suggested several changes to the 2013 rule with respect to the burden of proof and data required for plaintiffs in a disparate impact case. The proposal also explicitly states that defendants would not be subject to an adverse inference if they do not collect data with respect to protected classes. HUD’s “proposed new burden-shifting framework provides . . . that a plaintiff’s allegations that a specific, identifiable, policy or practice has a discriminatory effect must plead facts supporting five elements.”¹⁹⁴ First, the plaintiff would have to plead that the “challenged policy or practice is *arbitrary, artificial, and unnecessary* to achieve a valid interest or legitimate objective” (emphasis in original).¹⁹⁵ The second element would “require a plaintiff to allege a *robust causal link* between the challenged policy or practice and a disparate impact on members of a protected class” (emphasis in original).¹⁹⁶ Third, a plaintiff must “allege that the challenged policy or practice has an adverse effect on *members of a protected class*” (emphasis in original).¹⁹⁷ Fourth, the

rule would require that a plaintiff allege that the disparity caused by the policy or practice is significant. Fifth, a plaintiff must show that the “*alleged injury* is directly caused by the challenge [*sic*] policy or practice” (emphasis in original).¹⁹⁸

To rebut a plaintiff’s *prima facie* case, the proposed rule outlines several defenses. First, defendants can show that their discretion is materially limited by a third party or a court or administrative order.¹⁹⁹ If the plaintiff shows that an algorithm has a discriminatory effect, the defendants can successfully rebut the plaintiff’s claims by “[i]dentifying the inputs used in the model” and showing that these “are not substitutes for a protected characteristic,” showing that a “recognized third party, not the defendant, is responsible for creating or maintaining the model,” or “showing that a neutral third party has analyzed the model in question and determined that it was empirically derived.”²⁰⁰ HUD has not finalized the proposed rule. This proposed rule, even if final and retroactively effective to December 31, 2018, when Citi was required to comply with the Settlement Agreement’s relief provisions, would not affect the Monitor’s conclusions below.

2. The Equal Credit Opportunity Act

The ECOA prohibits mortgage lenders and other creditors from discriminating against credit applicants, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex or marital status, or age, or because any of the applicant’s income derives from any public assistance program.²⁰¹ The ECOA also prohibits retaliating against a person for exercising their ECOA rights.²⁰² A burden-shifting framework specific to disparate impact claims under the ECOA has not been definitively established by the courts in the way that the framework has been established for the FHA under *Inclusive Communities*, but the Monitor approached the ECOA in a similar fashion.

3. Scope of Citi’s Obligations

As a threshold matter, the Settlement Agreement raised a question about the scope of its protections related to fair housing and equal credit opportunity. Under one interpretation, Citi’s obligation was only to have written policies and procedures that did not violate the FHA and the ECOA. Such a limited view of the Settlement Agreement’s terms would require only a limited review by the Monitor. Alternatively, the Settlement Agreement could be read to require Citi, in its implementation and provision of consumer relief, to comply with the FHA and the ECOA. This latter view would require a more thorough review by the Monitor, including examining effects and not simply written policies. As discussed below, the Monitor chose to undertake a more searching review in determining whether Citi implemented the Settlement Agreement consistent with the FHA and the ECOA. That review, however, had to account for the unusual context of the Settlement Agreement, which differs greatly from Citi’s—or any other financial institution’s—ordinary operations.

B. FHA and ECOA Review of Citi's Implementation of the Settlement Agreement

As part of its review of Citi's implementation of the Settlement Agreement, the Monitor's team reviewed Citi's policies, procedures, and training materials, and interviewed Citi personnel on multiple occasions to understand how Citi implemented consumer relief under the Settlement Agreement. That review showed no evidence that Citi had engaged in intentional conduct in violation of the FHA or the ECOA.

1. Background on the Settlement Agreement

As a backdrop for understanding the fair housing and equal credit issues, it is important to understand how the Settlement Agreement operated. As discussed above, the Settlement Agreement did not require Citi to provide specific relief to any individual consumer or to provide the same relief to all consumers of a specified type. Citi had discretion in how it provided consumer relief, so long as it provided enough to meet its obligations. Citi had an incentive to obtain the maximum credit for the minimum cost, making relief such as extinguishment more attractive, for example, than interest rate reductions or principal reductions that did not fully extinguish the debt.

In the same vein, by imposing certain requirements and by giving Citi different amounts of credit for different types of relief, the Settlement Agreement directed—or at least incentivized—Citi's efforts in ways that are often difficult to analyze in terms of their impacts on groups of borrowers, such as minority borrowers. For example, does the Settlement Agreement's preference for certain types of relief over others, e.g., through amounts of credit, bonuses, soft caps, etc., benefit one race, ethnicity, or other group more than another?

The artificial nature of the categories created by the Settlement Agreement and the incentives it created complicates any traditional FHA/ECOA analysis. If Citi chose to provide all of its relief in a category that maximized credit under the Settlement Agreement, while minimizing cost, one could not easily conclude that Citi had engaged in unlawful discrimination, even if there was a disparate impact on some racial or ethnic group. Citi was only following the path the Settlement Agreement laid out. On the other hand, because Citi had discretion to provide relief to some borrowers and not others, it was critical that Citi, through its policies, procedures, training materials, and choices, not make decisions that preferred, for example, one similarly situated set of borrowers over another based on race or ethnicity. The Monitor's team's review and interviews sought to investigate that question.

2. Citi's Implementation

As discussed above (§ II) and in prior reports, Citi had two primary portfolios from which to provide relief to individual borrowers—CMI and CFS. Each is discussed below.

With respect to the CMI portfolio, consumer relief was provided in two ways: (1) extinguishments of loans from the “recovery portfolio” (i.e., its charged-off book) and (2) through modifications. In choosing which loans to extinguish from the recovery portfolio, CMI walked through a series of steps intended to ensure that the loans met the criteria outlined in Annex 2. CMI excluded loans that were deemed uncollectible by CMI business standards, loans where the borrower was in bankruptcy, or loans for which a statute of limitations made the debt unenforceable. CMI has informed the Monitor that CMI employees did not exercise any discretion at any of the steps. Approximately 70% of the loans in CMI’s relief population consisted of extinguishments and 30% were modifications.

With respect to modifications provided, CMI used HAMP and the Citi proprietary programs that mimic HAMP—both of which preceded the Settlement Agreement and were already operating subject to Citi’s policies regarding fair lending. Citi used HAMP because modifications under HAMP were specifically identified in the Settlement Agreement as being eligible for credit.

For first-lien loans, customers self-identified by reaching out to Citi and identifying themselves as needing assistance. Additionally, CMI conducted outreach informing borrowers that they could apply. As has been detailed in prior reports, the Monitor directly oversaw one aspect of these outreach efforts, Citi’s Road to Recovery events. Employees who discussed modifications with customers received mandatory fair lending and compliance training. Employees did not have discretion as to whether customers received relief if they met the criteria. For second-lien modifications, the process was different. If a customer had a second lien with Citi and received a HAMP modification on a senior loan securing the same property, they automatically got the benefit of the 2MP program, which required the modification or extinguishment of a junior lien serviced by a servicer that participated in HAMP, when a first-lien loan secured by the same property received a HAMP modification. (Note that Citi also forgave some charged-off first-lien and second-lien loans without borrowers’ having to contact Citi.)

In deciding to provide relief in this manner, Citi did not consider race- or ethnicity-based differences between the “charged-off book” and performing loans. Nor did Citi consider geography or favor states or regions for relief, other than to obtain the bonus credit that the Settlement Agreement authorized for relief in the Settling States.

With respect to CFS, Citi focused again on its charged-off loans but also provided rate reductions and aid toward refinancing. Following the Settlement Agreement, CFS made two policy changes in order to maximize credit. First, as of 2014, Citi required that every rate reduction be at least 201 basis points so that Citi could be eligible for credit under Menu Item 2. Second, the policy regarding charged-off loans was updated to recognize that CFS would forgive the entire balance of each loan in the charged-off portfolio from February 2015 forward.

In connection with the Settlement Agreement, CFS extinguished all of its charged-off loans and then submitted the subset of those extinguishment transactions that were creditable under the Settlement Agreement. As with CMI, CFS chose to provide relief from the charged-

off book rather than provide more relief to active loans because of the cost of the credit. Extinguishing an active loan, even if delinquent, would require Citi to write down an asset, whereas the charged-off book was already written down. In extinguishing its entire charged-off book, CFS actually extinguished more—and perhaps significantly more—in loans than the amount for which it received credit. That is because many of those loans did not meet the specific criteria of the Settlement Agreement. Thus, the number of borrowers that received relief was much greater than the number of loans submitted for credit.

Geography did not play any role in the CFS loans that CFS selected to extinguish because CFS simply extinguished all of its charged-off loans, and thereby met its state-specific minimums.²⁰³

With respect to rate reductions, customers self-identified for modifications (Menu Item 2A relief). CFS did not create special outreach programs or provide notice to customers to generate loan modifications; rather, Citi used its normal processes for identifying and delivering relief. The availability of loan modifications was presented to consumers in collection letters, on the website, and from customer service agents trained to recognize customers who expressed a hardship restricting their ability to pay. CFS stated that the process was to evaluate any customer who expressed a hardship, inform them of Citi's relief programs, and get them to a single point of contact.

A third source of relief was the Federal Housing Administration Short Refinance Program that led to a partial write-down but not an extinguishment. This was a HUD program created in late 2010 to help underwater borrowers refinance to a Federal Housing Administration-insured product.²⁰⁴ CFS marketed to customers eligible for that program through at least two letters and phone calls. The third-party lender that Citi used for these refinancings, First Alliance, was licensed in forty-five states, so only customers in those states could receive relief under this program. Customers also had to be in an owner-occupied single family home.²⁰⁵ Citi excluded certain customers internally who were already in the loss mitigation process for another type of relief.²⁰⁶

Customers who responded were referred to First Alliance. First Alliance received applications and conducted the verification and underwriting for the FHA refinancing program; Citi was not involved in that process. Once First Alliance moved the customer through its process, First Alliance sought approval from Citi for the write-down needed to enable the loan to qualify for the FHA program. Once Citi provided the approval, First Alliance closed the loan, sent Citi the short payoff amount, paid off the loan, and cleared the remaining balance for the customer. Citi paid the closing costs and, as previously stated, made the write-down necessary to make the closing happen.

CFS did not investigate the racial or ethnic differences between the charged-off and the non-charged-off portfolio or actively serviced loans. Nor did it consider how the racial or ethnic makeup of the charged-off and non-charged-off books related to geography. Other than the Settling States and the states in which First Alliance operated, CFS did not favor any states for relief.

FIGURE 37: SETTLING STATE MINIMUM REQUIREMENTS AND CREDIT BEFORE STATE MINIMUMS BONUSES

Settling State	State Minimum		Credit Before State Minimums Bonus			Originations		
	Amount	Percent of Total	Amount	Percent of Total	Rank	Amount	Percent of Total	Rank
California	\$90M	3.6%	\$327M	13.0%	1	\$161B	30.1%	1
Delaware	\$10M	0.4%	\$14M	0.6%	32	\$2B	0.3%	39
Illinois	\$40M	1.6%	\$189M	7.5%	3	\$29B	5.5%	3
Massachusetts	\$10M	0.4%	\$120M	4.7%	6	\$13B	2.5%	9
New York	\$90M	3.6%	\$287M	11.4%	2	\$52B	9.8%	2

As demonstrated in Figure 37, above, with the exception of Delaware, Citi provided much more than the required relief to the Settling States. For example, Citi was required to earn at least \$90 million of credit in the state of California. Ultimately, Citi earned over three times that amount at approximately \$327 million in credit, before including the State Minimums Bonus. It is not clear that the extra credit Citi received for providing relief in the Settling States provided that incentive or if the relief provided reflected Citi’s portfolio. When Bates White, an economic consulting firm hired by the Monitor, examined the originations for Citi based on data collected at mortgage origination in accordance with the Home Mortgage Disclosure Act (HMDA), Bates White found that many of Citi’s originations were in the Settling States.²⁰⁷

C. Citi’s Fair Lending Training

Citi employees who are involved in any aspect of credit transactions—both customer-facing and those who support them in those efforts—receive fair lending training every year. There is a mortgage compliance fundamentals training that covers regulations and the FHA/ECOA, as well as a standalone training on fair lending.

Although the Monitor found that Citi had policies and procedures to ensure compliance with fair lending laws, Citi did enter into a March 2019 consent order with the Office of the Comptroller of the Currency (OCC) for fair lending law violations during the pendency of the Monitorship. That OCC consent order did not involve the provision of consumer relief, but the Monitor’s team conducted interviews of Citi personnel to further understand the underlying facts, which Citi represented to be the following:

- ▶ In August 2011, Citi piloted a program called Relationship Loan Pricing (RLP) and implemented it widely in February 2012. With RLP, customers who had a qualifying banking relationship with Citi at the time of mortgage loan origination and applied for RLP-eligible mortgages could receive either a credit toward closing costs or an interest rate reduction.

- ▶ In 2014, Citi determined that certain of its customers had not received the correct RLP program benefit, and in 2015 Citi self-reported its findings to the OCC. In 2018, the OCC notified Citi that its conduct constituted violations of the FHA and its implementing regulation.

According to the consent order, Citi failed to “ensure effective risk management and internal controls” over the program in three ways. First, from August 2011 to April 2015, Citi “failed to provide adequate training to loan officers” on how to offer the program to customers.²⁰⁸ Second, from August 2011 to November 2014, Citi’s written guidelines “did not explicitly instruct loan officers to offer RLP to all eligible consumers and the Bank did not require its loan officers to document”²⁰⁹ the reason for rejecting the consumer. Third, from August 2011 to January 2015, Citi “did not require its loan officers to inform customers of all discount programs for which they may have been eligible.”²¹⁰ Because of what the consent order called “ineffective risk management and control weaknesses,” certain Citi borrowers “did not receive the RLP benefit to which they were entitled and were adversely affected on the basis of their race, color, national origin, and/or sex.”²¹¹

Citi recognizes that it may not have marketed to all of its eligible customers but denies any violations of the FHA.

Citi initiated and has largely completed a plan to reimburse the customers who did not receive the appropriate RLP program benefit and is taking steps to address and correct the legal violations in full. In total, Citi will reimburse approximately 24,000 customers a total of \$24 million. Citi will also pay a civil money penalty of \$25 million.

D. The Difficulties with Assessing Citi’s Compliance with Fair Lending Laws

With respect to Citi’s implementation of the Settlement Agreement, the Monitor did not find facts to suggest an intent to discriminate against any particular group of borrowers. The Monitor’s team went beyond that review of policies and interviews, however, to consider the impact of the relief on borrowers. As discussed below, although the relief skewed toward providing greater amounts of relief to Black borrowers²¹² than might otherwise have been anticipated (with, as a result, less relief to other racial or ethnic groups), the Monitor found no basis to conclude that Citi failed to comply with the FHA and the ECOA in its implementation of the Settlement Agreement.

1. Fair Lending Analysis in the Context of the Settlement Agreement

Undertaking a disparate impact analysis with respect to the implementation of the Settlement Agreement presents innumerable difficulties. In assessing a lender’s ordinary operations in originating loans, one can analyze lending practices by comparing those who received loans versus a baseline population of individuals who either applied for loans or were eligible for them. Determining that baseline population is a critical element of the disparate

impact analysis but can prove challenging and become the subject of legal disputes. Performing a disparate impact analysis on the recipients of relief under the Settlement Agreement is extremely complex because of the lack of a clear baseline population, as well as multiple other factors.

First, although mortgage originators regularly collect data on race or ethnicity and on gender as required by the HMDA, servicers—the entities working with the customers on modifications and consumer relief (including refinancing-related relief)—generally do not collect or maintain that data. If the servicer and the originator are the same entity, the servicer may have the information, but it is often kept completely separate from its servicing systems. Separating demographic information from servicing personnel should reduce the chance of discrimination in servicing.

Second, Citi has, for some time, been in the process of reducing its footprint in the consumer mortgage market, which includes selling off portfolios of loans or servicing rights to other lenders/servicers. Thus, although one can find a baseline population of loans that Citi originated over time (with HMDA data), that population may be vastly different from the population of loans from which Citi could provide relief (i.e., the loans it owned, after purchases and sales, during the period it implemented the Settlement Agreement).

Third, the Settlement Agreement set eligibility criteria such that, for any given type of relief, some loans might have been ineligible for crediting. Moreover, the Settlement Agreement incentivized certain types of relief and certain categories of borrowers, confounding further the construction of a baseline population. For example, the Settlement Agreement allowed certain kinds of relief to go only to borrowers in distress, or with a high LTV or high interest rate.²¹³ To the extent that the financial crisis disproportionately harmed one group of borrowers over another, one would expect that Citi provided more relief to that group than to others. But Citi was also incentivized to provide relief to the borrowers for whom it would obtain the most credit for the least cost—for example, extinguishment of a very underwater, charged-off loan in California (a Settling State for which Citi would get extra credit). Citi's attempts to maximize crediting based on the criteria in the Settlement Agreement do not raise fair lending issues.

Fourth, evaluating only principal reduction, rate reduction (and related relief), and extinguishment relief submitted under the Settlement Agreement for credit is not a fair basis on which to evaluate Citi's overall approach to fair lending. As noted above, Citi, over time, provided a wide variety of modifications and relief to borrowers (including refinancing-related relief), much of which was not submitted for credit. Moreover, in a number of circumstances, Citi provided relief to borrowers and submitted loans for credit, but those loans were denied credit by the Monitor due to the strictures of the Settlement Agreement. That a loan was not creditable does not mean that the borrower did not benefit, and Citi did more modifications and borrower relief than is captured by the Settlement Agreement.

Fifth, the affordable rental housing provisions raise distinct, but nonetheless difficult, issues. What is the “baseline” on which to assess the distribution of affordable rental housing construction? Fair lending analysis is traditionally about loans to individuals, but affordable rental housing is placed in communities, generally only in communities that have a need for, and are committed to, providing such housing. Indeed, one would typically applaud construction of affordable rental housing in an affluent community, not claim an FHA violation if that affluent community turned out to be predominantly White. Moreover, the Settlement Agreement heavily favors affordable rental housing projects in specific DDAs—generally higher-income areas. Thus, the incentives given to Citi were to place affordable rental housing in these locales.²¹⁴

Given all the challenges, one could legitimately ask why the Monitor chose to conduct any sort of fair lending analysis if making a finding of disparate impact that could withstand legal scrutiny is highly unlikely. The Monitor concluded, however, that looking at impact was necessary to ensure that there was nothing that demanded further and more in-depth investigation. After significant effort, discussed below, the Monitor concludes that the impact analysis does not suggest that Citi’s implementation of the Settlement Agreement violated the FHA or the ECOA.

E. Quantitative Analysis by Bates White

The Monitor asked Bates White to perform a series of analyses on the consumer relief population, which included, but was not limited to, issues related to fair lending. Those analyses ranged from quantitative analyses of data provided by Citi, imputation of the racial and ethnic composition of the relief population, and efforts to approximate different baselines by which to compare the relief population. The discussion below summarizes relevant analyses that impacted, in one way or another, the relief provided to different groups of borrowers.

1. Impact of the Settlement on Distribution of Relief

As discussed elsewhere in this Report, the Settlement Agreement itself was likely to drive certain aspects of Citi’s choices. Below, the Monitor notes a number of variables, which to some extent are interrelated, that likely affected the relief population.

a. Origination Date

One potentially important variable that appears relevant to the relief population is the date of the origination of the loan for which relief was given. The Settlement Agreement was intended to address impacts from the financial crisis, especially allegedly risky lending practices from 2004 through 2008. That is not to say that homeowners whose loans were originated during that time frame were the only people harmed by the financial crisis. But, to the extent that a critical component of the post-financial crisis settlements was to address or remedy lending practices from the financial crisis, one would expect that a significant percentage of the relief population would relate to borrowers from the 2004–2008 time frame.

While that expectation is reasonable and the likely intention of those who negotiated the Agreement, neither the Settlement Agreement nor other settlements limited relief to borrowers whose loans were originated in the years running up to the financial crisis. The Settlement Agreement made no distinction between an underwater loan originated in 1998 and one originated in 2007; each was equally eligible for relief. Indeed, Citi provided relief to loans originated from as early as 1982 to as late as 2013, with 97% of the relief portfolio coming from the 2000–2013 period.

Citi could have received credit for providing relief on its oldest loans or post-financial crisis loans. However, the Settlement Agreement sought to incentivize settling financial institutions to provide relief to distressed loans, which should have disproportionately involved financial-crisis era loans. One would expect that, even without limiting the eligible population of loans to those originated during the 2004–2008 period, much of the relief would go to such loans.

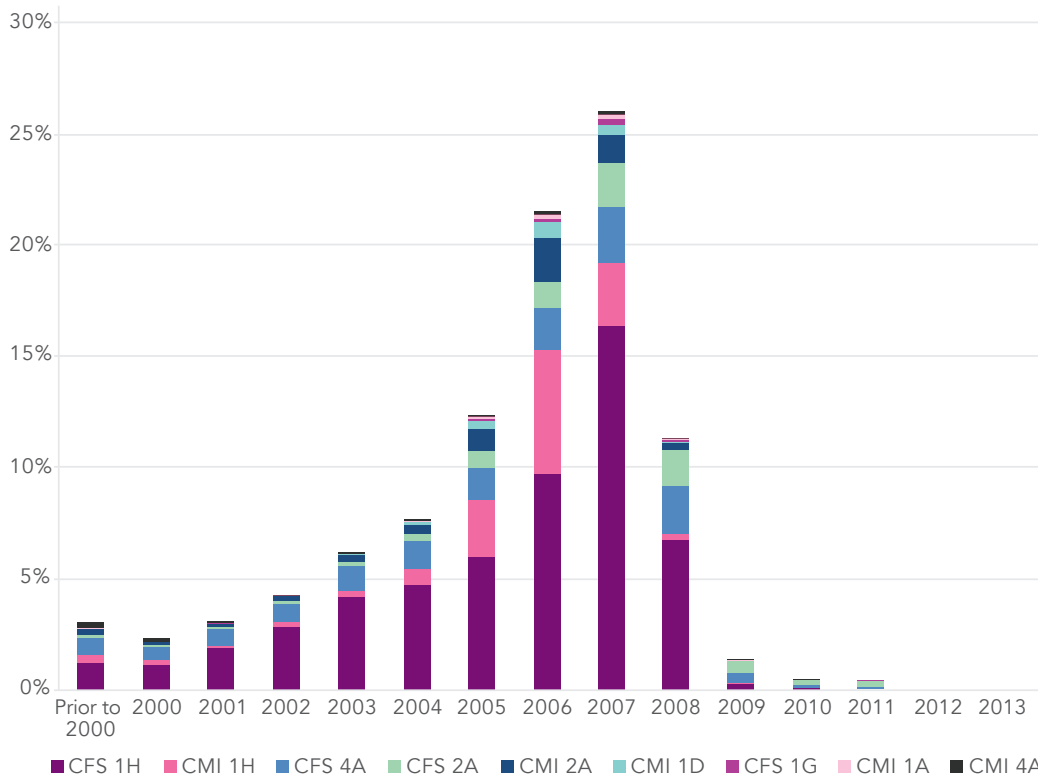
And, it turns out, that is precisely what occurred under the Settlement Agreement. About 75% of the CFS relief population and 85% of the CMI relief population consisted of loans originated from 2004 through 2008. This time period broadly tracks the increase in non-prime (near prime or subprime) lending, which peaked for the mortgage market overall from 2004 through 2006 but continued for Citi through 2008.²¹⁵ As is shown in Figure 38, below, the concentration of relief in mortgages originated from 2004 through 2008 far exceeds the overall numbers related to originations industrywide and at Citi. Using data from 2000 through 2014, just over 35% of nationwide originations, almost 60% of Citi originations, almost 50% of CFS originations, and just over 75% of CMI originations occurred between 2004 and 2008.²¹⁶

FIGURE 38: DISTRIBUTION OF MORTGAGE LENDING OVER TIME, BY LOAN COUNT²¹⁷

	Origination Year		
	2000–2003	2004–2008	2009–2014
Nationwide Originations	34.9%	36.7%	28.4%
Citigroup	31.6%	57.7%	10.7%
CFS	50.2%	48.4%	1.4%
CMI	15.7%	76.2%	8.1%
Relief - CFS	20.6%	76.6%	2.8%
Relief - CMI	13.1%	86.5%	0.5%

Figure 39, below, shows that the share of relief by origination year increases over time until 2007, with that year alone accounting for more than 25% of all relief. The share falls sharply for loans originated in 2008 and later, reflecting the sharp contraction in CFS and CMI lending in that time frame and increased stringency in lending standards. CFS Menu Item 1H relief (junior-lien and unsecured debt extinguishment) constitutes the majority of relief in almost every year, followed by CFS Menu Item 4A (first-lien extinguishment), CMI Menu Item 1H, and CFS Menu Item 2A (rate reduction) as the next most common types of relief.

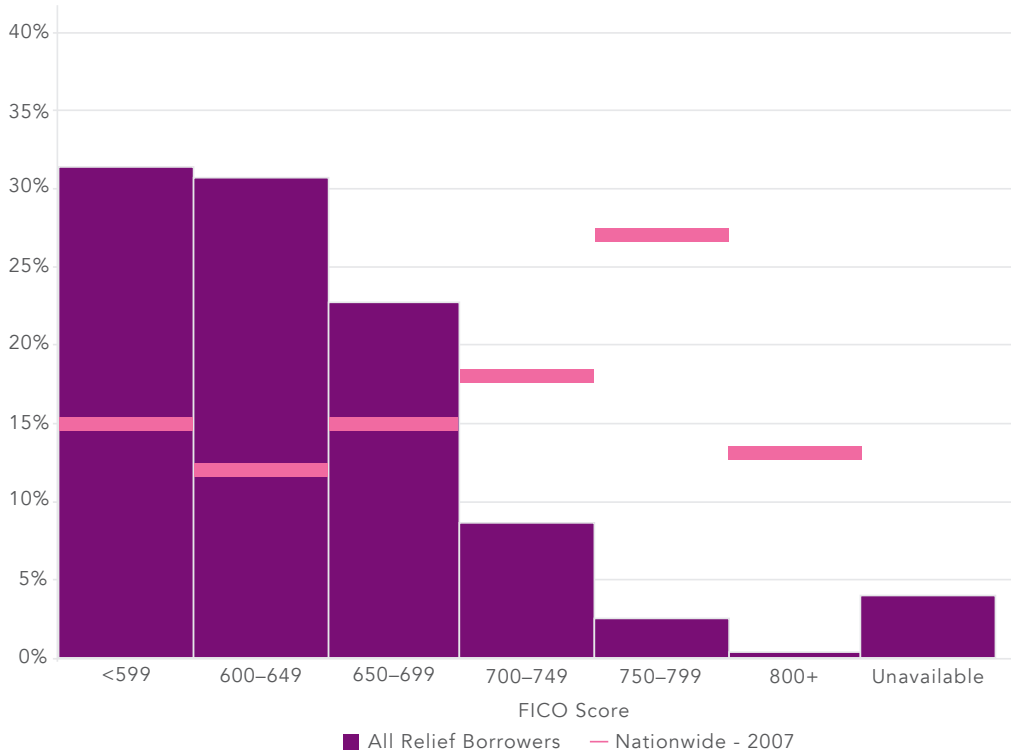
FIGURE 39: RELIEF COUNT BY ORIGINATION YEAR AND MENU ITEM, PERCENT OF TOTAL



b. FICO Scores

Because non-prime lending was at its height in the 2004–2008 time period, it is difficult to disentangle fully measures of the borrower’s financial status from the surrounding economic conditions. Nevertheless, it is useful to look at the FICO scores of the relief population (and borrower income, see [subsection c](#) below) and compare them to nationwide FICO scores from the time period. To the extent that a borrower with a low FICO score was more likely to default or face an income shock as a result of the financial crisis, one would expect that the relief population would disproportionately involve such borrowers. As [Figure 40](#) shows, consumer relief generally was more likely to be given to low-FICO-score borrowers. [Figure 40](#) compares the FICO scores of the relief population to the FICO scores of the population nationwide.²¹⁸ Not surprisingly, relief skewed toward borrowers with lower FICO scores and away from borrowers with higher ones.

FIGURE 40: DISTRIBUTION OF FICO SCORES IN THE RELIEF POPULATION



For the 2004–2008 period, 75% of CFS lending could be considered non-prime while the opposite was true for CMI, for which only about 20% of the lending was non-prime.²¹⁹ The proportion of relief to borrowers with credit scores below 660 at origination, a threshold FICO score often used to designate non-prime lending, is a reflection of the relatively higher concentration of non-prime lending in CFS as compared to CMI: 78% of CFS relief in the 2004–2008 time frame went to borrowers with a FICO score less than 660, whereas only 25% of CMI relief went to borrowers with a FICO score below this threshold.²²⁰

With respect to the post-financial crisis loans—which were only 2% of the relief population, so the data are sparse—the overrepresentation of non-prime loans is stark: whereas only about 17% of CFS’s and CMI’s combined post-2008 lending could be considered non-prime, 69% of the relief population for loans originated from 2009 to 2013 had FICO scores below 660.

c. Borrower Income Level

Bates White also looked at borrower income level, which may be correlated to FICO scores, with a focus on the amount of relief provided to lower-income borrowers. To that end, Bates White used the HMDA data to calculate the 25th percentile of borrower income for mortgage originations in each year group. As shown in [Figure 41](#), the data show that relief went to borrowers in the lowest income quartile in a higher proportion than was their share in Citi’s lending.

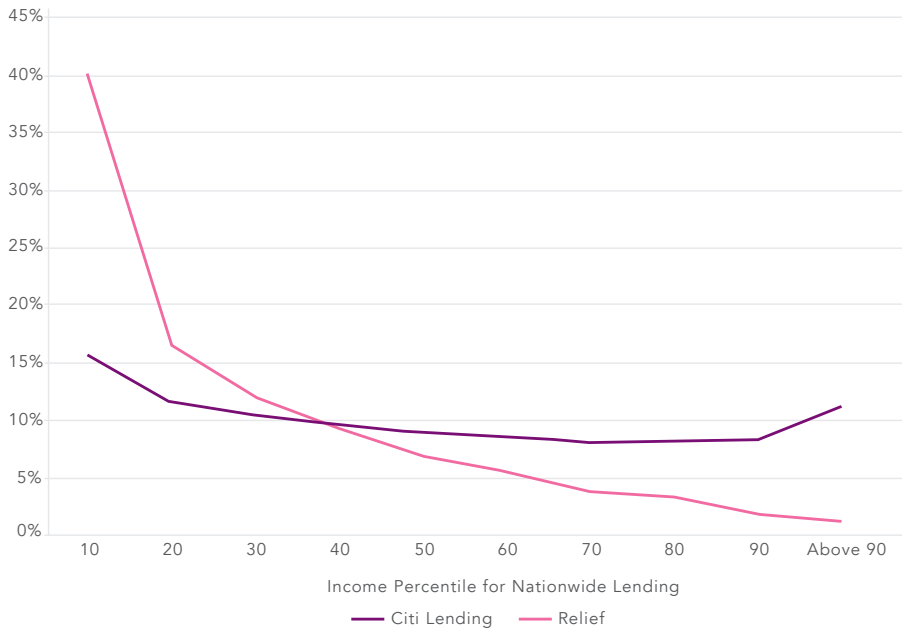
FIGURE 41: PERCENT OF CITI LENDING AND RELIEF AT OR BELOW THE 25TH INCOME PERCENTILE FOR NATIONWIDE MORTGAGE ORIGINATIONS, BY COUNT²²¹

	Origination Year		
	2000–2003	2004–2008	2009–2014
Nationwide Originations	25.0%	25.0%	25.0%
Citigroup	38.5%	29.8%	28.2%
CFS	54.6%	56.0%	69.6%
CMI	20.3%	17.6%	27.8%
Relief - CFS	73.6%	69.5%	78.5%
Relief - CMI	50.5%	24.1%	48.4%

Specifically, about 70–80% of CFS Relief Borrowers in each year group from the 2000–2014 period had income at origination in the lowest quartile, as compared to about 55–70% for CFS lending. The percentages for CMI relief hovered between about 25% and 50%, as compared to between about 18% and 30% for CMI lending over the 2000–2014 time frame.

Because the Settlement Agreement tends to direct relief to distressed borrowers, that relief was most likely to go to lower-income borrowers and those with lower FICO scores. Similar to the previous table, Figure 42, below, shows the distribution of income for borrowers in the consumer relief portfolio and all CFS and CMI borrowers. As shown, the consumer relief portfolio is concentrated in the lowest income brackets. Borrowers in the highest income brackets received less than their “proportionate” share of relief.

FIGURE 42: INCOME DISTRIBUTION FOR CITI LENDING AND RELIEF POPULATION



2. Impact of Citi's Portfolio

a. Geographic Concentrations

During the relevant time period, Citi was a nationwide lender, but, as with any lender, its operations were concentrated in specific locales that may have differed from the total population of mortgages nationwide. Moreover, the inclusion of CFS, which provided a substantial amount of relief under the Settlement Agreement, was likely to affect the nature of the relief population. CFS lending was primarily done out of local centers, which provided smaller loans, often in low- to modest-income neighborhoods. Thus, the relief population was likely to skew where CFS had centers. In addition, the Settlement Agreement itself created incentives for relief in specific geographic locations—including bonus credit for the Settling States (CA, NY, IL, MA, and DE) and a requirement that at least 50% of the CMI Menu Item 1 relief needed to be in Hardest Hit Areas, as defined by HUD.

In addition to the provisions that explicitly favored the Settling States, the Settlement Agreement also implicitly favored some areas over others in its intent to provide relief to borrowers most affected by the housing crisis. The severity of the housing crisis varied widely by location. To the extent that borrower race and ethnicity composition also varies by location, it is reasonable to expect that geography plays a role in determining the race and ethnicity composition of relief. The paragraphs that follow describe the geographic composition of Citi lending and relief, as well as the differences in housing market characteristics by geographic region.

As an initial matter, Citi could be expected to provide more relief to areas in which it had a large mortgage lending presence. For CFS, five states—California, Florida, Ohio, New York, and Texas—accounted for one-third of CFS lending between 2000 and 2014.²²² With the exception of Ohio, these states also ranked in the top five in terms of nationwide origination volume. CFS had a larger presence in the Southeast and the Midwest, notably in North Carolina and Michigan, and was less represented in the Northeast and West, namely in New Jersey, Massachusetts, and Washington. CMI lending, apart from being significantly more concentrated in California, was similarly situated to nationwide lending—CMI and nationwide lending shared the same top eight states in a ranking of origination volume between 2000 and 2014.

The figures on the following page show the top states for both CFS (Figure 43) and CMI (Figure 44) lending and relief, along with each state's share of total lending and relief. The figures show that Citi's mortgage lending presence alone cannot explain the geographic distribution of relief. California and Texas stand out as states that, despite being in the top five for CFS lending, do not feature prominently in CFS relief (at about 4%, California has the largest share of relief of these states). The CMI relief footprint is more similar to the CMI lending footprint and shares four of the top

five states. However, Michigan, the fifth-ranked state in CMI relief, does not enter into the top ten states for CMI lending. Texas and California are notably underrepresented in the relief as compared to their share of CFS and CMI lending.

FIGURE 43: TOP CFS STATES, LENDING AND RELIEF

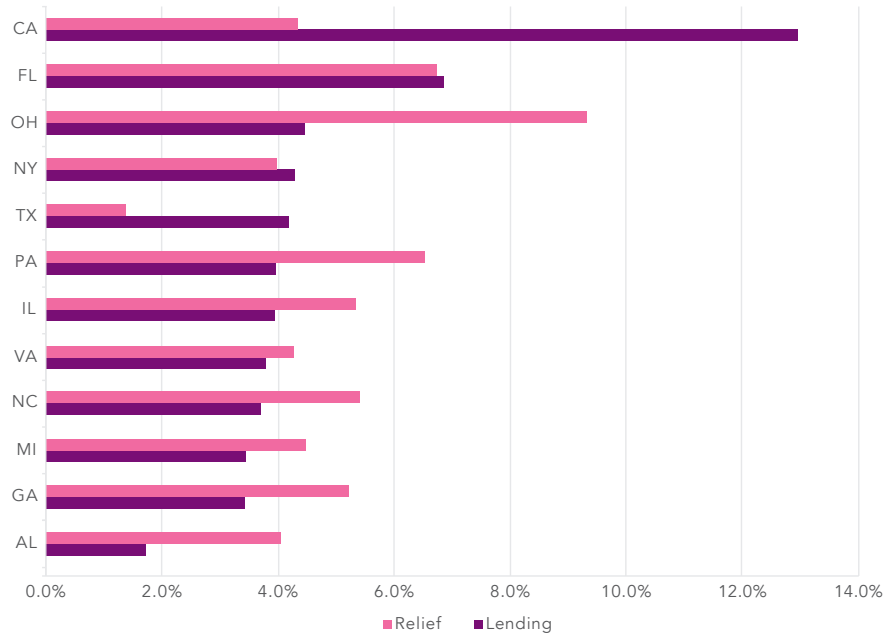
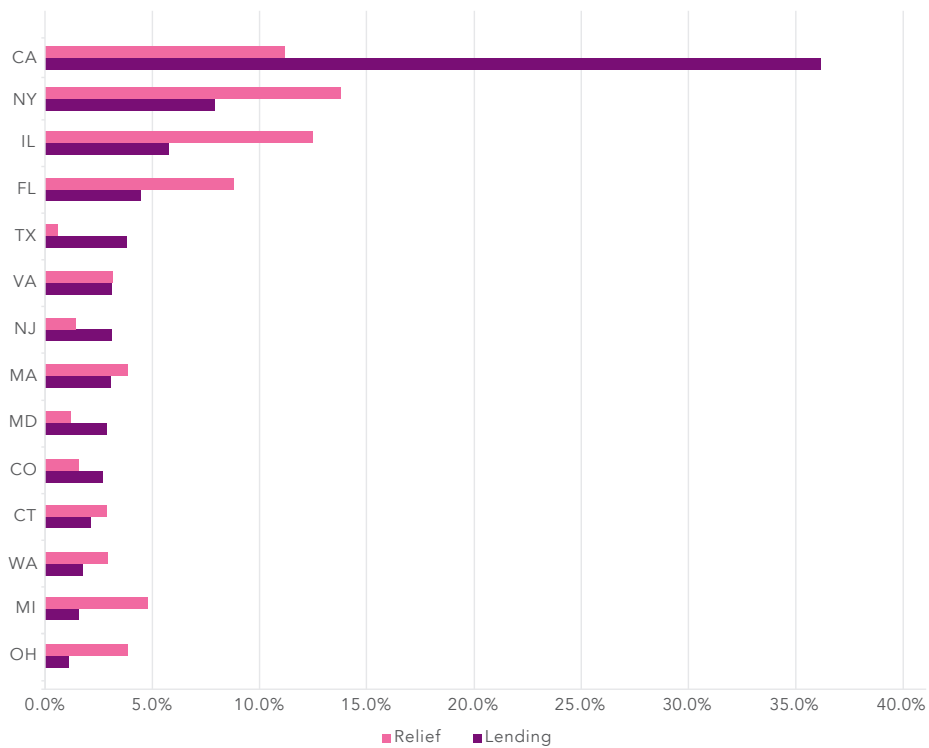


FIGURE 44: TOP CMI STATES, LENDING AND RELIEF



The maps below and on the following page (Figure 45 through Figure 48) show CFS and CMI lending by volume (dollar amount) and count (number of loans) at the county level for 2000–2014. The darker the shading, the higher percentage of the lending the county represents.²²³ As the maps show, California had the highest proportion of originations of both the CMI and CFS portfolios whether calculated by count or by the dollar amount of the originations. The CFS and CMI presence in the eastern United States is also apparent, although (as indicated in Figure 44) the overwhelming CMI presence in California somewhat obscures lending activity in other states.

FIGURE 45: CFS LENDING VOLUME BY COUNTY

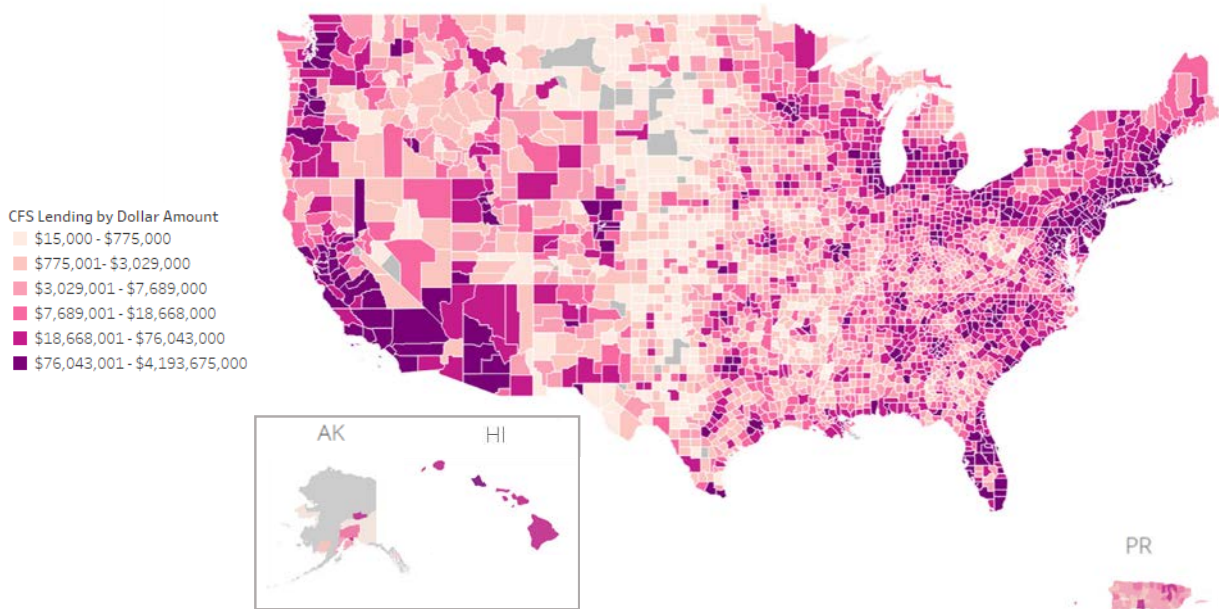


FIGURE 46: CFS LENDING COUNT BY COUNTY

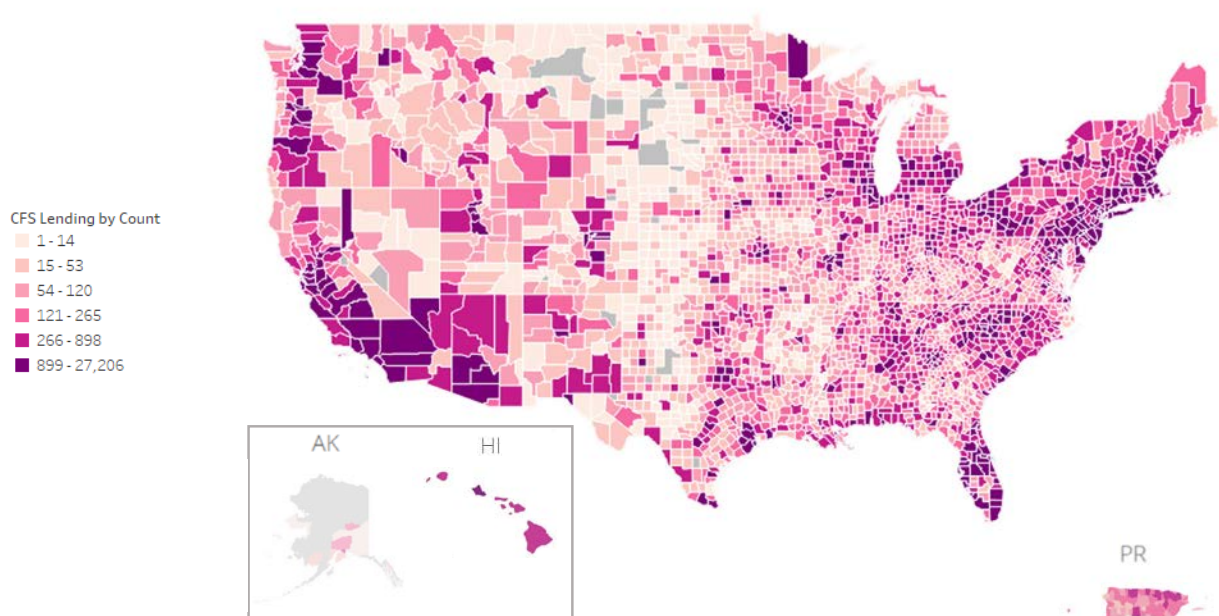


FIGURE 47: CMI LENDING VOLUME BY COUNTY

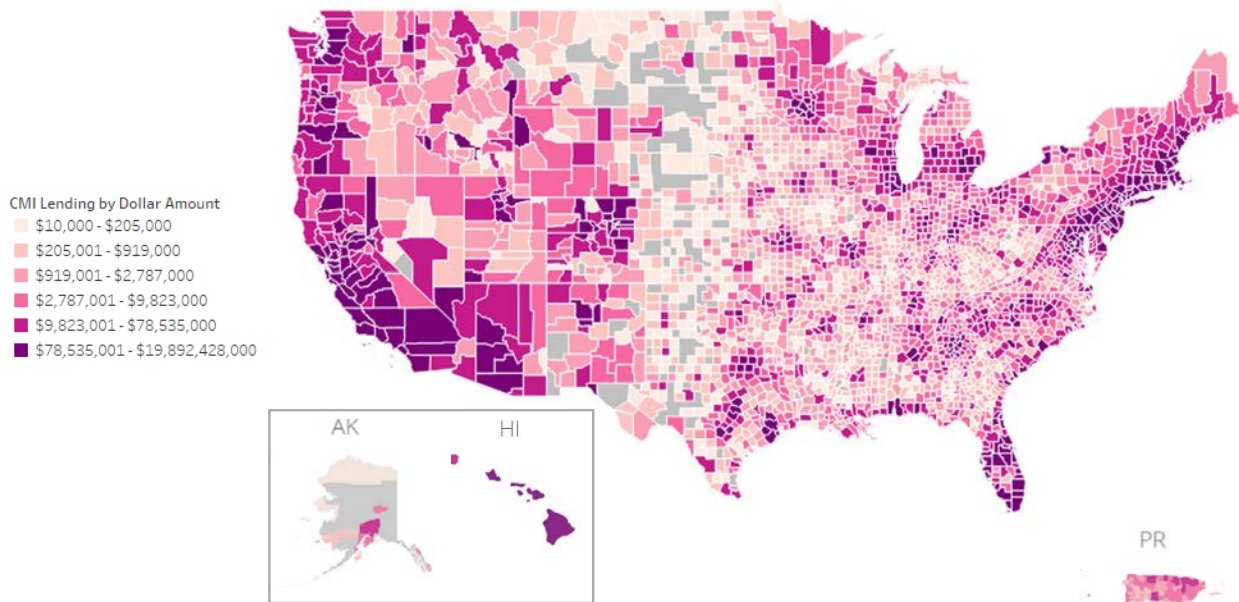
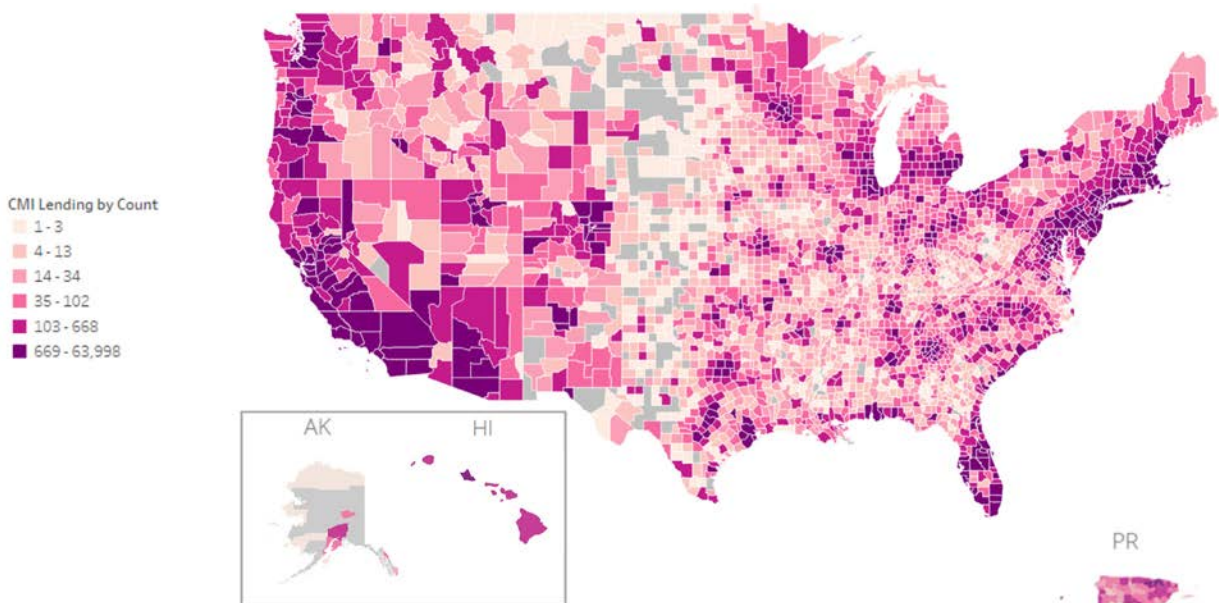


FIGURE 48: CMI LENDING COUNT BY COUNTY



Before exploring factors that may have contributed to differences in geographic representation in the relief portfolio, it is important to consider the types of relief offered under the Settlement Agreement. Citi provided relief to individual borrowers under six sub-menu items, but, for the purposes of fair lending analysis, the relief can be classified more generally into two types: (1) modifications/refinancings (Menu Items 1A, 1G, and

2A) and (2) extinguishments (Menu Items 1D, 1H, and 4A). The two types of relief, while both designed to help struggling homeowners, were provided to loans that were in very different situations at the time relief was offered. Modifications or refinancings necessarily require that the loan be active at the time that relief is offered, and it was typically the case that the affected loan was also distressed. Extinguishments, in contrast, were almost exclusively provided to loans that were deemed uncollectible at some point before the relief was offered and that were subsequently charged off. While individual borrower circumstances differ considerably, certain housing market characteristics likely contributed to the circumstances that caused a loan to be either (i) active and eligible for modification/refinancing relief or (ii) charged-off and suited for extinguishment relief.

Figure 49, below, and [Figure 50](#) show the ten states that received the most relief for menu items that pertain either to modification/refinancing relief or to extinguishment relief, by Citi business unit.

FIGURE 49: TOP STATES FOR CFS EXTINGUISHMENT OR MODIFICATION/REFINANCING RELIEF

Rank	Extinguishment	Modification/ Refinancing
1	OH	NC
2	PA	VA
3	FL	OH
4	IL	FL
5	GA	GA
6	CA	PA
7	MI	TX
8	NC	NY
9	AL	SC
10	NY	AL

FIGURE 50: TOP STATES FOR CMI EXTINGUISHMENT
OR MODIFICATION/REFINANCING RELIEF

Rank	Extinguishment	Modification/ Refinancing
1	NY	CA
2	IL	NY
3	CA	FL
4	FL	IL
5	MI	NJ
6	MA	MD
7	OH	PA
8	WA	VA
9	VA	TX
10	CT	OH

Loan modifications (and refinancing-related relief) were designed to provide payment relief to borrowers, either by lowering the principal balance or by reducing the interest rate on the loan. The Settlement Agreement emphasized resolving a negative equity position for underwater borrowers. Borrowers with an initially high loan-to-value ratio (LTV) in markets that saw a sharp decline in house prices were more susceptible to finding themselves underwater. As a result, areas of the country that saw a sharp increase in house prices—which would tend to reduce affordability and raise LTV at origination—followed by a sharp decline would be more likely to produce borrowers eligible for modification/refinancing relief. Observing the change in house prices would then shed light on which areas may have had a higher proportion of underwater borrowers when relief was offered. [Figure 51](#) shows the House Price Index (HPI) for the United States and for states ranked in the top five in nationwide lending, CFS and CMI lending, or CFS and CMI relief. The HPI indices measure price movement by following mortgage transactions and appraisals on the same property over time.²²⁴ California and Florida stand out as the states with the largest rise and subsequent fall, and New York and Pennsylvania both saw prices rise faster than the United States as a whole.²²⁵

House prices in all states shown here except Texas were still lower in 2014 than they were at their height in 2006. The relatively low share of modification/refinancing relief provided to Texas may be attributable to the lower likelihood that borrowers in that state were underwater at the time relief was offered.

FIGURE 51: HOUSE PRICE INDEX FOR TOP STATES AND THE U.S.

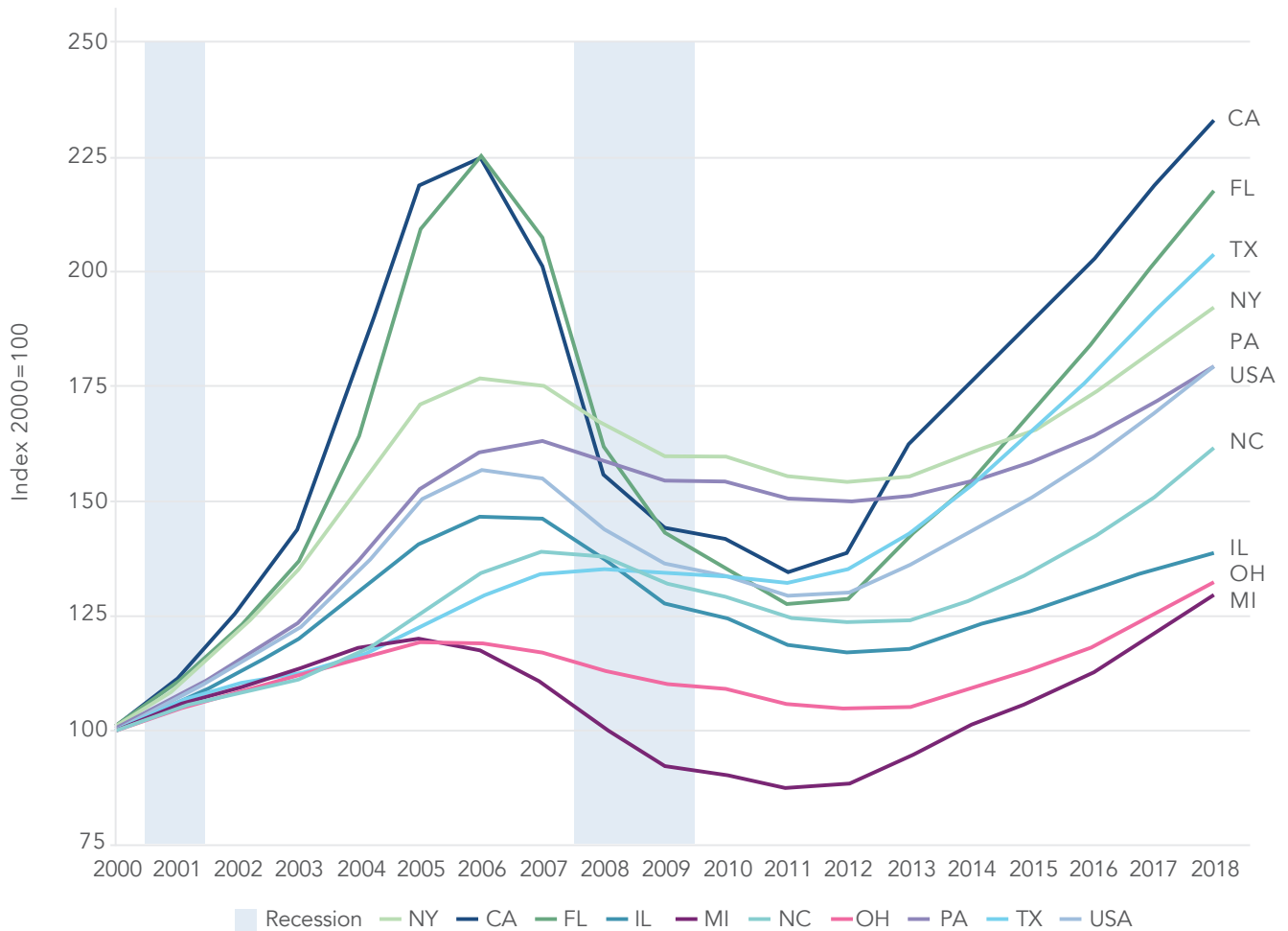


Figure 52 shows that, overall, housing prices rose to higher levels and fell further in areas that received relief than in areas that did not receive relief. The chart shows the weighted average HPI in areas that received relief (pink) compared to areas that did not receive relief (purple), as well as in all areas where Citi originated mortgages (teal). The pink line shows that, for those areas that received relief, HPI peaked higher and fell further than areas that did not receive relief.²²⁶ This makes sense given that the areas that were most impacted by the housing crisis often suffered from a higher-than-average increase in housing prices followed by a more precipitous fall.

FIGURE 52: HOUSE PRICE INDEX,
LOCATIONS THAT RECEIVED RELIEF VS. LOCATIONS THAT DID NOT



Extinguishment relief differs from modification/refinancing relief in that circumstances of the past (rather than those present at the time of the relief) contributed to the loan being charged off, and thus in a position to be offered relief. Further, charged-off loans would have been significantly more distressed than active loans available for modification/refinancing relief. In charging off a loan, Citi would have deemed the loan uncollectible but either could not pursue foreclosure or decided not to do so, depending on the nature of the debt. For first-lien loans, the value of the house may have been sufficiently low that it was not worth incurring the fixed costs associated with a foreclosure sale. For second-lien and junior-lien secured loans, Citi would not have been in a position to pursue foreclosure as the subordinate lien holder. Last, unsecured debt may have reflected deficiency balances remaining after a foreclosure.

Citi provided extinguishment relief to each of the four types of debt: first-lien, second-lien, junior-lien, and unsecured. While a necessary condition for receiving this type of relief was significant distress, there were certain other housing market characteristics that may have created an environment conducive to a charge-off situation. The states most represented in the extinguishment relief differed by whether the relief

was offered to first-lien, second-lien, junior-lien, or unsecured debt as compared to the lending portfolio. CFS first-lien extinguishment relief was most prevalent in Ohio, Illinois, and Alabama, and CMI first-lien extinguishment relief was most prevalent in Michigan, Illinois, and Florida. Figure 53, below, shows the average first-lien loan amount by state in 2004, 2007, and 2012 for those states in the top five of either CFS or CMI lending and CFS or CMI first-lien extinguishment relief (Menu Item 4A). States that received the most Menu Item 4A relief tended to be non-coastal states with low average loan amounts. Two states with high average loan amounts that are prominent in Citi lending, California and New York, have very little representation in Menu Item 4A relief. Lower average loan amounts in the states receiving Menu Item 4A relief likely made it less attractive for Citi to foreclose on properties in those states, meaning that loans in default were more likely to be relegated to the charged-off book and available for extinguishment relief.

FIGURE 53: NATIONWIDE AVERAGE FIRST-LIEN LOAN AMOUNT

Average First-Lien Amount			
State	2004	2007	2012
CA	\$310,000	\$420,000	\$341,000
NY	\$238,000	\$310,000	\$306,000
FL	\$171,000	\$235,000	\$198,000
USA	\$189,000	\$230,000	\$224,000
IL	\$184,000	\$221,000	\$208,000
GA	\$155,000	\$185,000	\$183,000
TX	\$128,000	\$163,000	\$192,000
MI	\$144,000	\$152,000	\$152,000
AL	\$119,000	\$146,000	\$164,000
OH	\$127,000	\$141,000	\$152,000

Extinguishment relief offered to second-lien and junior-lien loans could be expected to be provided in areas in which such loans were more prevalent. Second-lien and junior-lien originations as a share of total originations accounted for between 13% and 26% of originations in 2007, depending on the state. Figure 54 shows the second-lien/junior-lien share of originations in 2004, 2007, and 2012 in states in the top five in CFS or CMI lending and in CFS or CMI Menu Item 1H (junior-lien or unsecured debt extinguishment)

or 1D relief (second-lien principal reduction). New Jersey and Pennsylvania, the top two states for CFS Menu Item 1H secured and unsecured relief, respectively, each have a relatively high share of second-lien/junior-lien originations.

FIGURE 54: SECOND-LIEN/JUNIOR-LIEN SHARE

State	Second-Lien/Junior-Lien Share		
	2004	2007	2012
PA	18%	26%	7%
MA	11%	22%	3%
NJ	13%	22%	3%
NY	12%	20%	6%
MI	11%	20%	3%
MD	13%	19%	3%
TX	15%	18%	4%
USA	12%	18%	3%
CA	13%	18%	1%
OH	10%	18%	3%
IL	10%	17%	2%
GA	12%	16%	3%
FL	9%	13%	2%

b. MSA-Level Geography

Figure 55 is more granular than the state level and shows the top five Metropolitan Statistical Areas (MSAs) for Citi lending and the top five MSAs for the relief populations. The Chicago MSA is on every list because that city is represented in both the CFS and CMI portfolios and the CFS and CMI relief populations. The Atlanta MSA appears on every list except for CMI lending. The Detroit MSA only appears on the top-five list for all relief. That is not surprising given that the Detroit area was hit hard during the housing crash. In contrast, the Los Angeles MSA is on all three top-five lists for lending but not for relief. Relief was also prevalent in non-metropolitan areas, and if these areas are considered, non-metropolitan North Carolina, Pennsylvania, and Ohio would also rank in the top five for CFS relief and overall relief.

FIGURE 55: TOP FIVE METROPOLITAN STATISTICAL AREAS BY PORTFOLIO FOR CFS AND CMI LENDING AND RELIEF

Citigroup

Rank	MSA Name	Percent of Total
1	Chicago-Joliet-Naperville, IL	3.9%
2	Los Angeles-Long Beach-Santa Ana, CA	3.8%
3	New York-White Plains-Wayne, NY-NJ	3.8%
4	Washington-Arlington-Alexandria, DC-VA	2.3%
5	Atlanta-Sandy Springs-Marietta, GA	2.1%

All Relief

Rank	MSA Name	Percent of Total
1	Chicago-Joliet-Naperville, IL	3.6%
2	Atlanta-Sandy Springs-Marietta, GA	2.5%
3	Pittsburgh, PA	1.5%
4	St. Louis, MO-IL	1.5%
5	Detroit-Livonia-Dearborn, MI	1.4%

CMI Lending

Rank	MSA Name	Percent of Total
1	Chicago-Joliet-Naperville, IL	4.9%
2	Los Angeles-Long Beach-Santa Ana, CA	4.8%
3	New York-White Plains-Wayne, NY-NJ	3.7%
4	Washington-Arlington-Alexandria, DC-VA	3.1%
5	Oakland-Fremont-Hayward, CA	2.5%

CMI Relief

Rank	MSA Name	Percent of Total
1	Chicago-Joliet-Naperville, IL	9.3%
2	New York-White Plains-Wayne, NY-NJ	4.3%
3	Nassau-Suffolk, NY	3.4%
4	Atlanta-Sandy Springs-Marietta, GA	2.2%
5	St. Louis, MO-IL	2.2%

CFS Lending

Rank	MSA Name	Percent of Total
1	Los Angeles-Long Beach-Santa Ana, CA	2.1%
2	Chicago-Joliet-Naperville, IL	2.1%
3	Atlanta-Sandy Springs-Marietta, GA	1.8%
4	Riverside-San Bernardino-Ontario, CA	1.6%
5	St. Louis, MO-IL	1.4%

CFS Relief

Rank	MSA Name	Percent of Total
1	Atlanta-Sandy Springs-Marietta, GA	2.6%
2	Chicago-Joliet-Naperville, IL	2.0%
3	Pittsburgh, PA	1.8%
4	Charlotte-Gastonia-Rock Hill-Concord, NC-SC	1.6%
5	Cleveland-Elyria-Mentor, OH	1.4%

c. Citi's Lending from 2004 through 2008

As discussed above, the borrowers receiving relief under the Settlement Agreement—based in great part on how the Settlement Agreement itself was designed—were likely to be distressed borrowers. In the immediate aftermath of the financial crisis, such borrowers were low-income borrowers who received non-prime loans from 2004 through 2008. That borrower profile would suggest that minority populations might be likely to receive a higher share of relief than their percentage of the population. Moreover, given the pattern of Citi's lending, differences in how housing markets rebounded (including in Texas), and the higher values of distressed homes in some states (making foreclosure a more economically viable proposition in, for example, California), one would expect that minority populations in the Rust Belt and center of the country would receive a higher share of relief compared to their population.

There are a number of additional factors that likely drove the high proportion of relief that went to minority populations, especially Black borrowers. First, according to a Brookings Institution report, “families of color hav[e] far less wealth for down payments and financial cushions.”²²⁷ Not surprisingly, when the downturn came, people of color had access to less wealth and savings and therefore had less ability to weather economic troubles such as job loss and foreclosure.²²⁸

Second, it makes sense that Black borrowers, in particular, would receive disproportionate relief because of Citi’s own lending patterns. Indeed, the relief provided under the Settlement Agreement mirrors Citi’s own lending from 2004 through 2008. As seen in Figure 56, below, which compares Citi origination and purchase data to the HMDA data, the market’s originations peaked in 2003 while Citi continued to originate and purchase mortgages to its peak year in 2007.²²⁹

FIGURE 56: CITI ORIGINATIONS AND PURCHASES AND NATIONWIDE ORIGINATIONS BY YEAR



Moreover, Citi's originations and purchases of loans to Black borrowers increased as the housing market bubble inflated and the crisis approached.²³⁰ Figure 57, below, demonstrates that Citi's originations and purchases of loans to Black borrowers peaked in 2007.²³¹

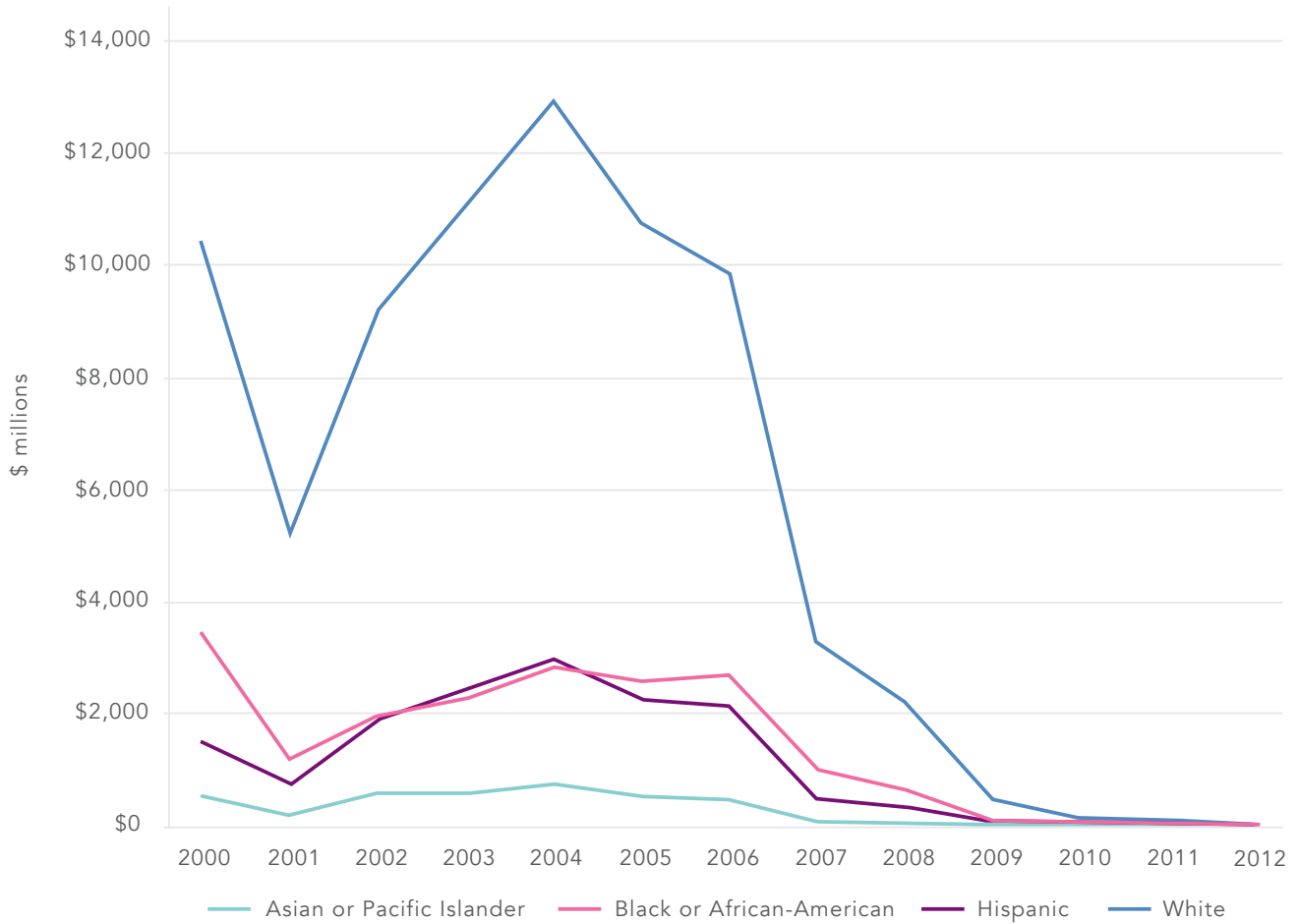
FIGURE 57: CITI ORIGINATIONS AND PURCHASES AND NATIONWIDE ORIGINATIONS BY YEAR FOR BLACK/AFRICAN-AMERICAN AND HISPANIC BORROWERS



Given the above, one would expect that Black borrowers would receive disproportionate amounts of relief. In addition, one would expect Hispanic borrowers to receive significant relief.²³² Similar to the pattern for Black borrowers, Citi's originations and purchase of loans to Hispanic borrowers also peaked in 2007, a year later than in the broader market.

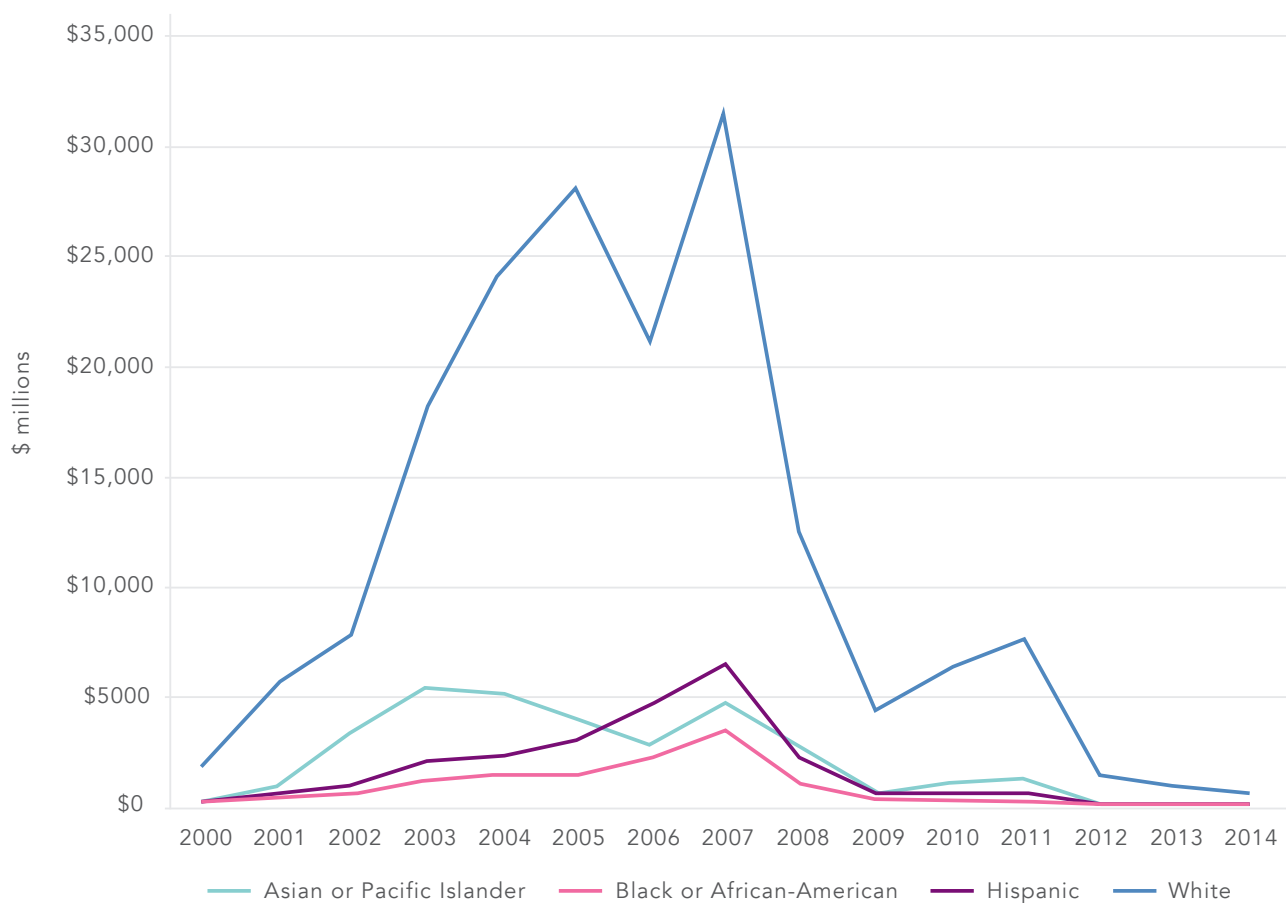
In contrast, Citi’s CMI lending to Asian borrowers followed a different pattern, peaking in 2003, declining until 2006, and then increasing slightly in 2007 (see [Figure 59](#)). Moreover, as indicated by Figure 58, below, with respect to CFS lending, the pattern is sharply different, with lending to Asian borrowers being both more steady and at a much lower level than CFS lending to Black and Hispanic borrowers.

FIGURE 58: CFS LENDING BY YEAR AND RACE OR ETHNICITY



Given all of these factors, one would have expected to see disproportionately less relief to higher-income, higher-FICO-score borrowers—who tend to be disproportionately Asian and White.²³³ Had the Monitor not seen those outcomes, that might have raised further questions.

FIGURE 59: CMI LENDING BY YEAR AND RACE OR ETHNICITY



3. Race and Ethnicity Distribution of Relief

To evaluate the composition of the relief population, the Monitor worked with Bates White to analyze data provided by Citi. Among the many challenges Bates White faced was the fact that Citi could provide the borrower's race or ethnicity in only 63% of cases; for the remaining 37%, Bates White had to impute race or ethnicity, using the Bayesian Improved Surname Geocoding (BISG) method used by the Consumer Financial Protection Bureau (CFPB). (Appendix G describes the BISG method.)

Figure 60 shows the race and ethnicity composition of the relief portfolio, using reported race and ethnicity when available and the BISG proxy when race and ethnicity are unavailable. Based on the methodology described in more detail in Appendix G, Bates White estimated that the relief population, across all forms of consumer relief, was approximately 63% White, 25% Black, 9% Hispanic, 3% Asian or Pacific Islander, and less than 1% American Indian or Alaska Native or Multiracial. Differences across the CFS and CMI portfolios arise primarily for Black, Hispanic, and Asian borrowers, with the CMI portfolio having relatively fewer Black borrowers and relatively more Asian and Hispanic borrowers.

FIGURE 60: RACE AND ETHNICITY COMPOSITION OF CONSUMER RELIEF²³⁴

Portfolio	American Indian/ Alaska Native	Asian/ Pacific Islander	Black/ African-American	Hispanic	Multiple	White
All relief	0.6%	2.6%	24.5%	9.0%	0.7%	62.6%
CFS relief	0.5%	1.5%	26.6%	7.8%	0.5%	63.0%
CMI relief	0.8%	5.3%	19.1%	12.1%	1.1%	61.5%

Figure 61, below, summarizes the relief portfolio by menu item and race or ethnicity using the data provided by Citi and by Bates White's use of the BISG method.

FIGURE 61: RELIEF PORTFOLIO BY MENU ITEM AND RACE OR ETHNICITY

Portfolio and Menu Item	American Indian/ Alaska Native	Asian/ Pacific Islander	Black/ African-American	Hispanic	Multiple	White
CMI Overall	0.8%	5.3%	19.1%	12.1%	1.1%	61.5%
CMI 1A (first- lien principal reduction)	0.1%	1.8%	33.1%	17.9%	1.1%	46.0%
CMI 1D (second-lien extinguishment)	1.0%	8.0%	13.3%	21.5%	0.9%	55.3%
CMI 1H Unsecured (extinguishment)	1.0%	5.7%	15.0%	10.6%	1.1%	66.6%
CMI 2A (rate reduction)	0.4%	5.3%	20.6%	12.5%	1.1%	60.1%
CMI 4A (first-lien extinguishment)	0.5%	0.7%	54.7%	8.6%	1.4%	34.2%
CFS Overall	0.5%	1.5%	26.6%	7.8%	0.5%	63.0%
CFS 1G (borrower assistance)	0.0%	0.8%	23.7%	5.6%	0.2%	69.7%
CFS 1H Secured (junior-lien extinguishment)	0.3%	2.4%	24.7%	12.4%	0.6%	59.6%
CFS 1H Unsecured (extinguishment)	0.5%	2.2%	21.9%	8.7%	0.6%	66.2%
CFS 2A (rate reduction)	0.5%	1.2%	26.9%	6.7%	0.3%	64.4%
CFS 4A (first-lien extinguishment)	0.6%	0.3%	35.3%	4.6%	0.5%	58.6%

In [Figure 61](#), relief is broken out by race or ethnicity and by type of relief. For instance, with CMI Menu Item 4A relief (first-lien extinguishment), Black borrowers received nearly 55% of the relief, and for CFS Menu Item 1G relief (refinancing assistance), White borrowers received nearly 70% of the relief.

4. Comparison of Relief Population to Reference Populations

As the final step in the analysis, the Monitor asked Bates White to attempt to construct reference populations that—subject to many caveats—might provide a basis for comparing the relief population to the reference population or the population that is eligible for relief.

As noted above, constructing such baseline populations is an inherently uncertain exercise, given the structure of the Settlement Agreement and the incentives it creates. Bates White estimated reference populations for CFS and CMI for each menu item by using available data about Citi's originations, its purchase and sale of mortgages over time, and estimates of performance of those loans. In using the analysis developed by Bates White, the Monitor treated the baselines as a data point, not as definitive evidence about the relevant population for comparison.

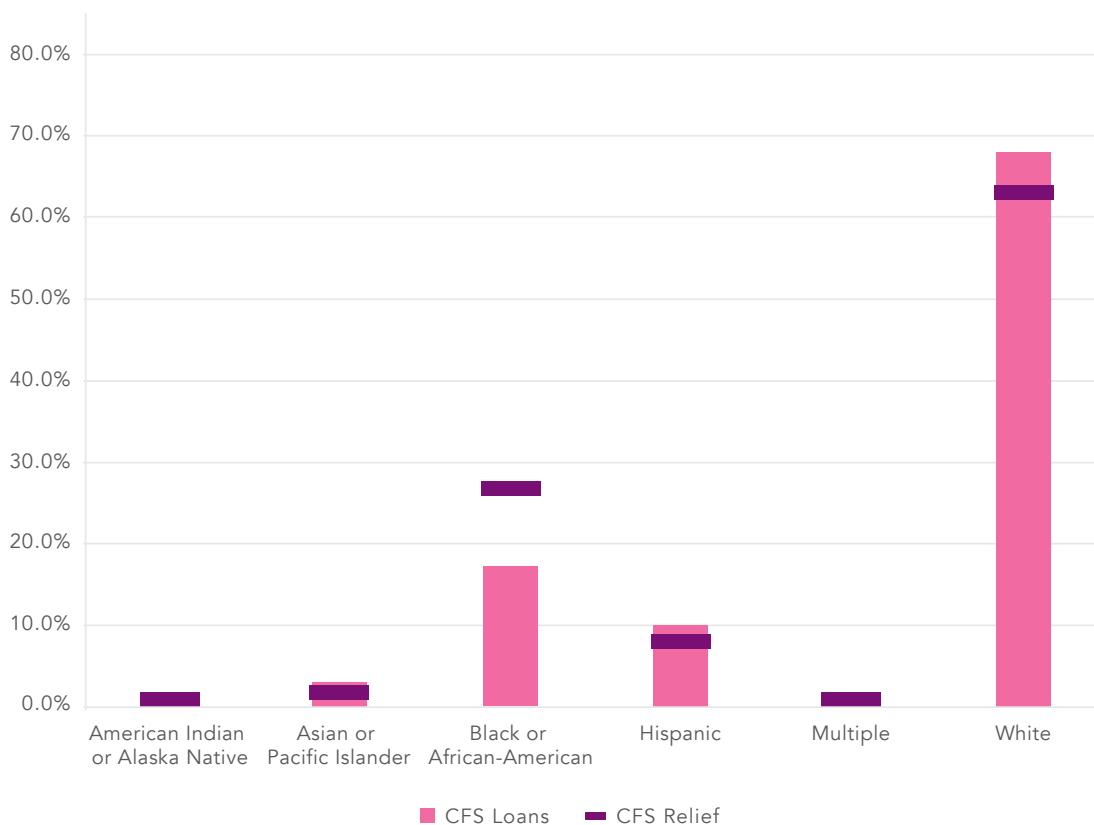
Comparisons with the Bates White reference populations showed exactly what the Monitor expected to find: Black borrowers were overrepresented in all categories of relief provided by CFS and CMI. This overrepresentation is most pronounced in Menu Item 4A CMI (first-lien extinguishment and lien release) and Menu Item 1A CMI relief (first-lien principal reduction). In most cases, the overrepresentation of Black borrowers is at the expense of all other groups.

Those outcomes do not reflect discrimination against other racial or ethnic groups but rather are consistent with the structure of the Settlement Agreement, the nature of Citi's book of mortgages (especially at CFS), and the pattern of Citi's lending in the pre-crisis years. Indeed, the pattern of relief is reflective of geography and long-term economic trends more than anything else. Citi had significant lending operations, particularly through CFS, in the Rust Belt, and Rust Belt cities had lower average home values, were hit hard by the crisis, and did not rebound as quickly. It is thus no surprise that much of the relief came in that part of the country—notwithstanding the incentives Citi had to provide relief in other settling states, like New York and California—and that the racial and ethnic composition of relief was driven by the racial and ethnic composition of non-prime loans in those geographic areas.

In the bar graphs below, the horizontal purple lines represent the relief population and the vertical pink bars represent the reference population. If the purple line is above the top of the pink bar, that means the racial or ethnic group is overrepresented when comparing the relief with the reference population, while the opposite is true if the purple line is below the top of the pink bar.

As indicated by Figure 62, below, for CFS loans, across all menu items, Black borrowers are overrepresented in the relief while Hispanic, White, and Asian borrowers are underrepresented.

FIGURE 62: CFS REFERENCE POPULATION VS. CFS RELIEF

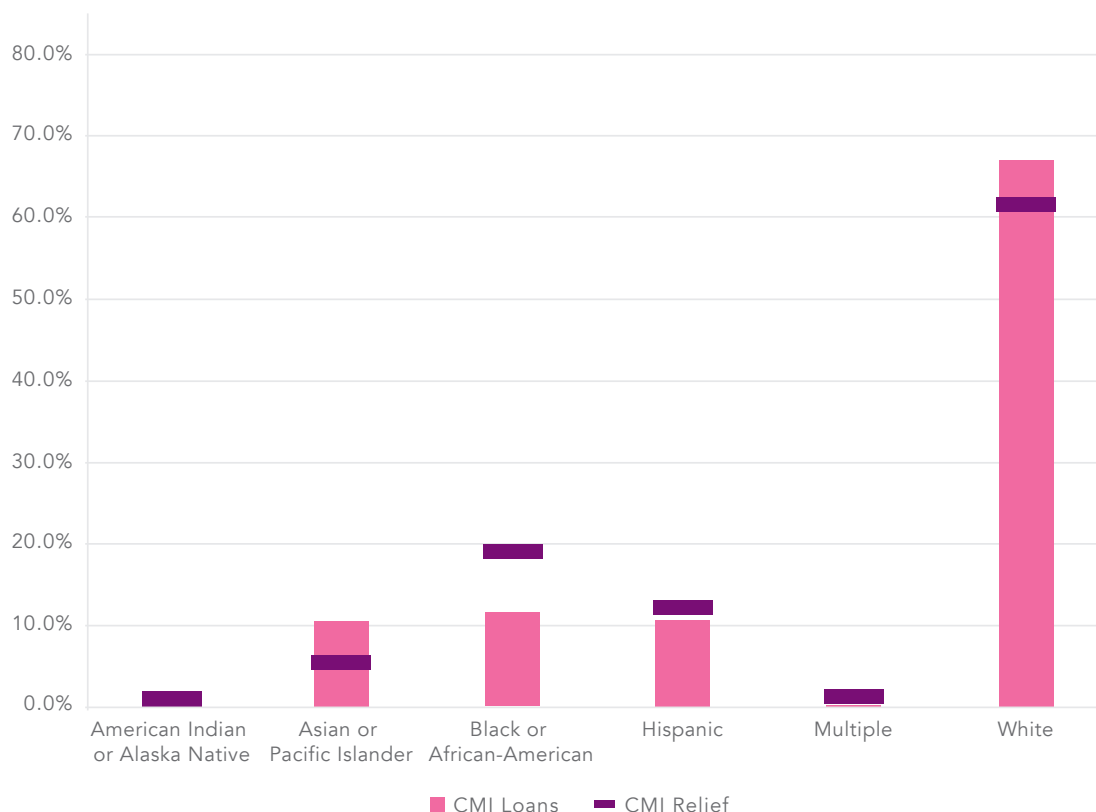


As indicated by [Figure 63](#), for CMI, Black and Hispanic borrowers are overrepresented while White and Asian borrowers are underrepresented in the relief. As noted above, the overrepresentation of Black borrowers is not a surprise, nor is the underrepresentation of Asian borrowers. CMI had a higher percentage of lending to Asian borrowers than CFS, which is why more Asian borrowers appear in the reference population. But CMI lending to Asian borrowers from 2000 through 2014 was highly geographically concentrated. Four MSAs account for almost 60% of CMI lending to Asian borrowers. All are in California: Los Angeles, San Jose, Oakland, and San Francisco. Within these areas, the proportion of CMI lending to Asian borrowers is close to twice as high as it is for the mortgage market overall.

Although the four MSAs account for almost one-fourth of CMI originations and the majority of lending to Asian borrowers, less than 5% of all CMI relief (to borrowers of any race or ethnicity) went to these MSAs. This was a reflection not of a skew against Asian borrowers, but the predictable outcome that less relief would go to these MSAs, regardless of the race or ethnicity of the borrower. As noted previously, the higher real estate prices in California made

it less likely that Citi would charge off properties there. Given the concentration of Citi's lending, the relatively high prices in California MSAs (which make it less likely that a loan will be charged off), and the relatively higher FICO and income levels of Asian borrowers, one would expect relatively fewer Asian borrowers in the lower-cost extinguishment population that was the focus of Citi's relief.

FIGURE 63: CMI REFERENCE POPULATION VS. CMI RELIEF

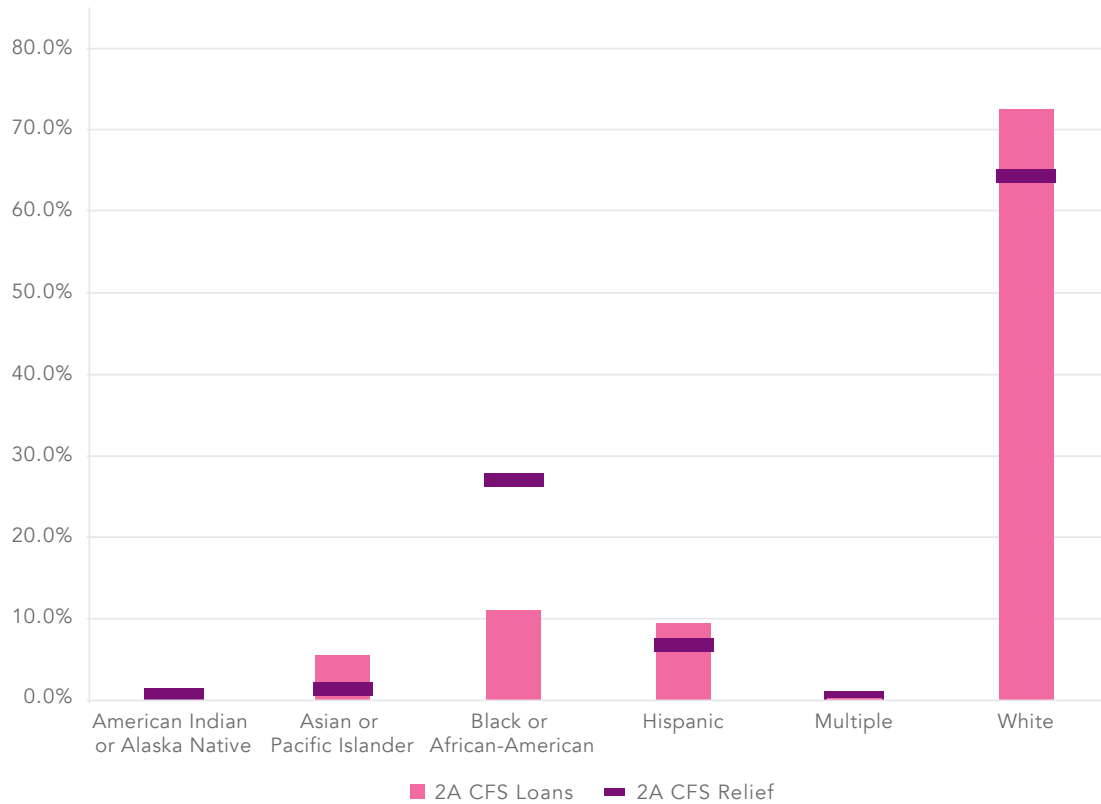


On the following pages, the Report compares the race and ethnicity distribution of relief to the reference populations for individual menu items.

i. CFS Menu Items 2A (Rate Reduction), 4A (First-Lien Extinguishment), and 1H (Junior-Lien and Unsecured Debt Extinguishment)

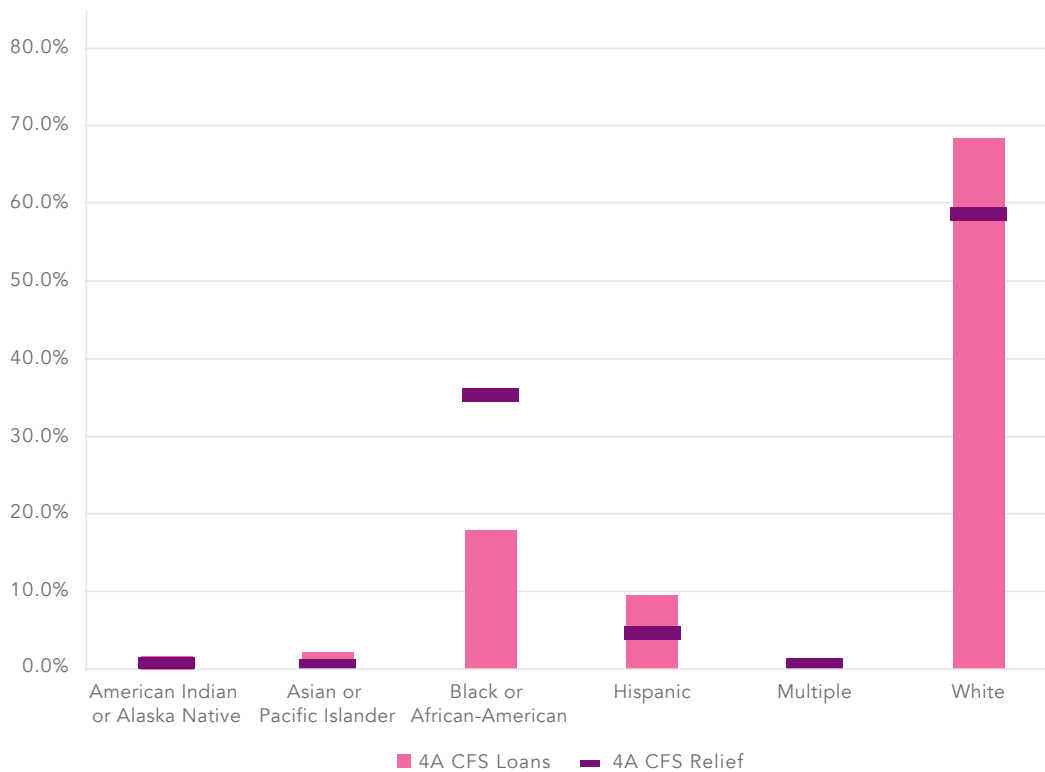
As indicated in [Figure 64](#), Black borrowers are overrepresented in the CFS Menu Item 2A relief (rate reduction). Unlike the CMI population, the CFS portfolio is more likely to contain non-prime loans, which have a higher proportion of Black and Hispanic borrowers. Consistent with the geography of CFS locations, relief was more concentrated in Rust Belt states such as Ohio and Pennsylvania or Southeastern states such as North Carolina and Florida, which tended to have a higher concentration of Black borrowers in the CFS portfolio than in other regions.

FIGURE 64: CFS MENU ITEM 2A REFERENCE POPULATION VS. CFS MENU ITEM 2A RELIEF (RATE REDUCTION)



As shown in [Figure 65](#), Black borrowers are dramatically overrepresented in Menu Item 4A relief (first-lien extinguishment) at the expense of almost every other group. Given the nature of Menu Item 4A relief, one would expect to find borrowers with lower credit scores, less wealth on average, and charged-off loans. Similar to CFS Menu Item 2A relief (rate reduction), Rust Belt and Southeastern states received most of the relief. Illinois, and more specifically the Chicago metropolitan area, received a higher proportion of CFS Menu Item 4A relief than CFS Menu Item 2A relief. Relief that went to the major Rust Belt cities of Chicago, Detroit, Cleveland, and Memphis accounted for almost 20% of relief to Black borrowers, while constituting only 10% of CFS Menu Item 4A relief to all borrowers. The concentration of relief in these areas contributes to the underrepresentation of Asian and Hispanic borrowers: in the CFS first-lien portfolio, only 1% of borrowers are Asian and 5% are Hispanic in these four cities.

FIGURE 65: CFS MENU ITEM 4A REFERENCE POPULATION VS. CFS MENU ITEM 4A RELIEF (FIRST-LIEN EXTINGUISHMENT)



CFS Menu Item 1H relief (extinguishment) is divided into two subcategories: relief to secured loans and relief to unsecured loans. Eligibility for Menu Item 1H relief was limited to junior liens and unsecured debt, which includes deficiency balances that may remain after a foreclosure. Eligible loans were also required to have an unpaid balance less than the conforming loan limit.²³⁵

When comparing the race and ethnicity distribution of the relief to the eligible reference populations, Black borrowers are overrepresented, in both the secured and unsecured relief. In the unsecured relief population, the overrepresentation of Black borrowers is most clearly seen by examining relief provided to borrowers in the Chicago, Atlanta, and Detroit MSAs. These three regions received almost 14% of the unsecured 1H relief to Black borrowers, yet accounted for less than 8% of unsecured 1H relief to all borrowers.

As one can see by comparing [Figure 66](#) (1H Unsecured) with [Figure 67](#) (1H Secured), Black borrowers are more overrepresented in the 1H secured relief population, with a presence about 7% greater than the Black percentage of the corresponding reference population. As is the case with the relief to unsecured loans, relief to Black borrowers was heavily concentrated in three MSAs: almost 20% of relief to Black borrowers came from the greater metropolitan areas of Washington, DC, Atlanta, and Detroit.

FIGURE 66: CFS MENU ITEM 1H REFERENCE POPULATION VS. CFS MENU ITEM 1H UNSECURED RELIEF (EXTINGUISHMENT)

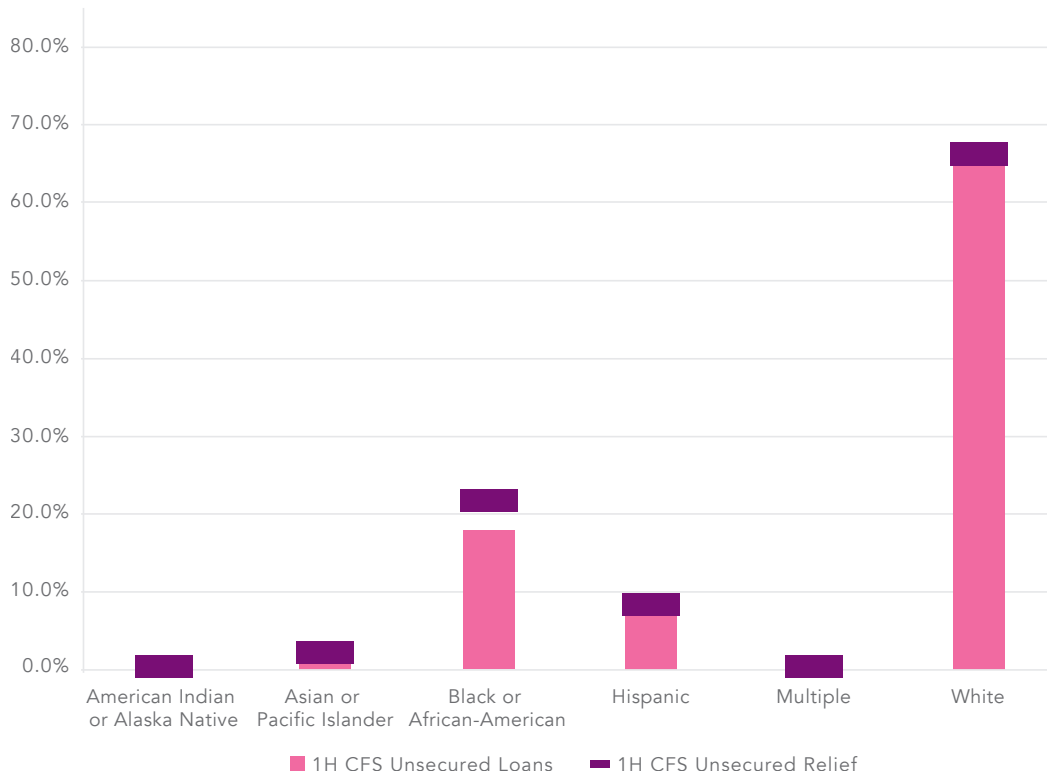
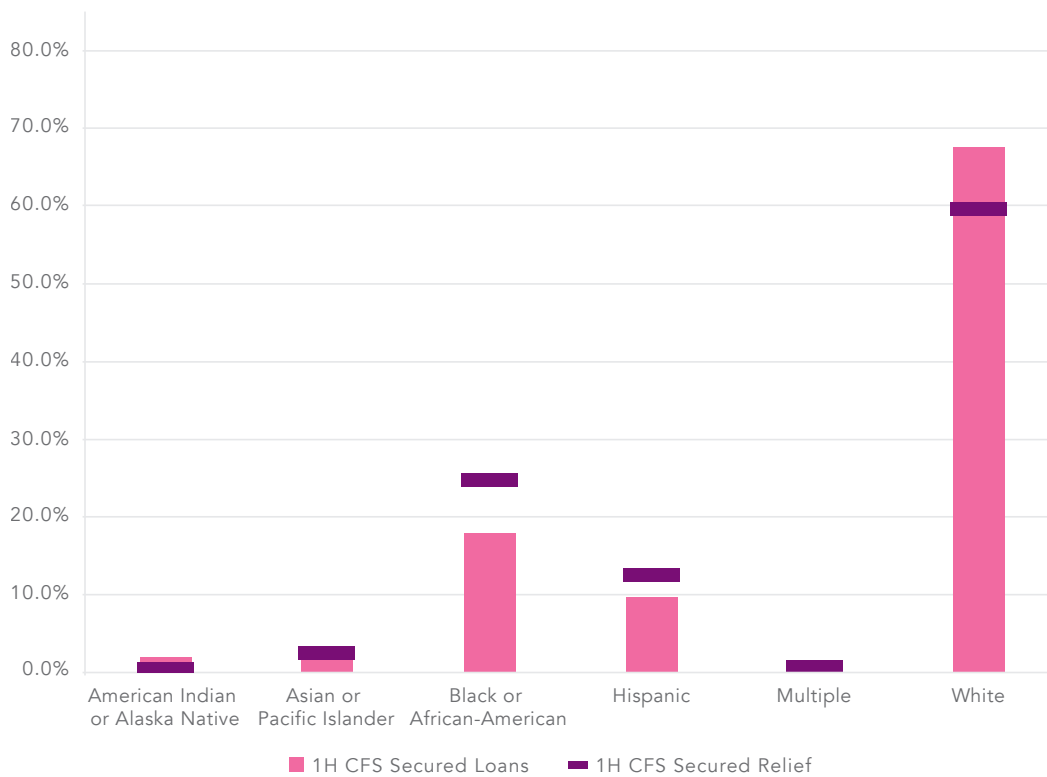


FIGURE 67: CFS MENU ITEM 1H REFERENCE POPULATION VS. CFS MENU ITEM 1H SECURED RELIEF (EXTINGUISHMENT)

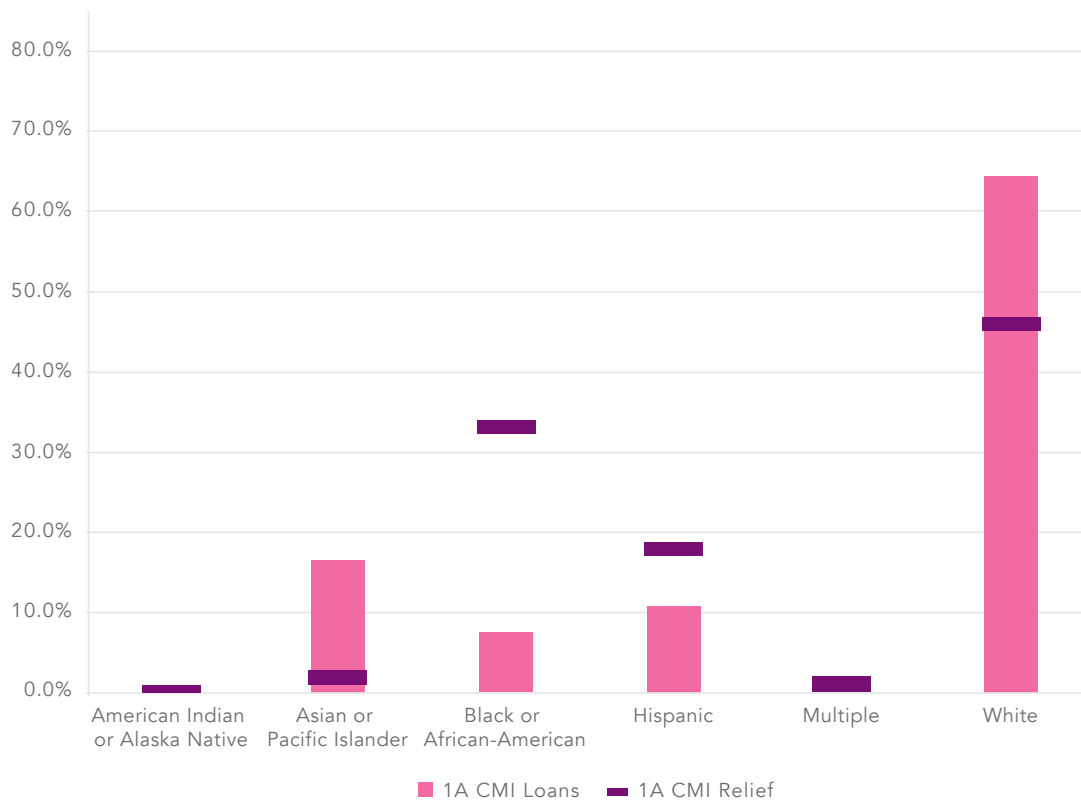


As noted above, the reference populations for CMI loans differ from those of the CFS population, including higher-income borrowers, fewer non-prime borrowers, relatively fewer Black borrowers, and relatively more Asian borrowers, although the latter are concentrated in a few MSAs. Among the Menu Item 1A relief (first-lien principal reduction) for CMI borrowers, Black and Hispanic borrowers are overrepresented in Menu Item 1A relief in the CMI portfolio, while Asian and White borrowers are underrepresented.

ii. CMI Menu Items 1A (First-Lien Principal Reduction), 4A (First-Lien Extinguishment), and 1H Unsecured (Extinguishment)

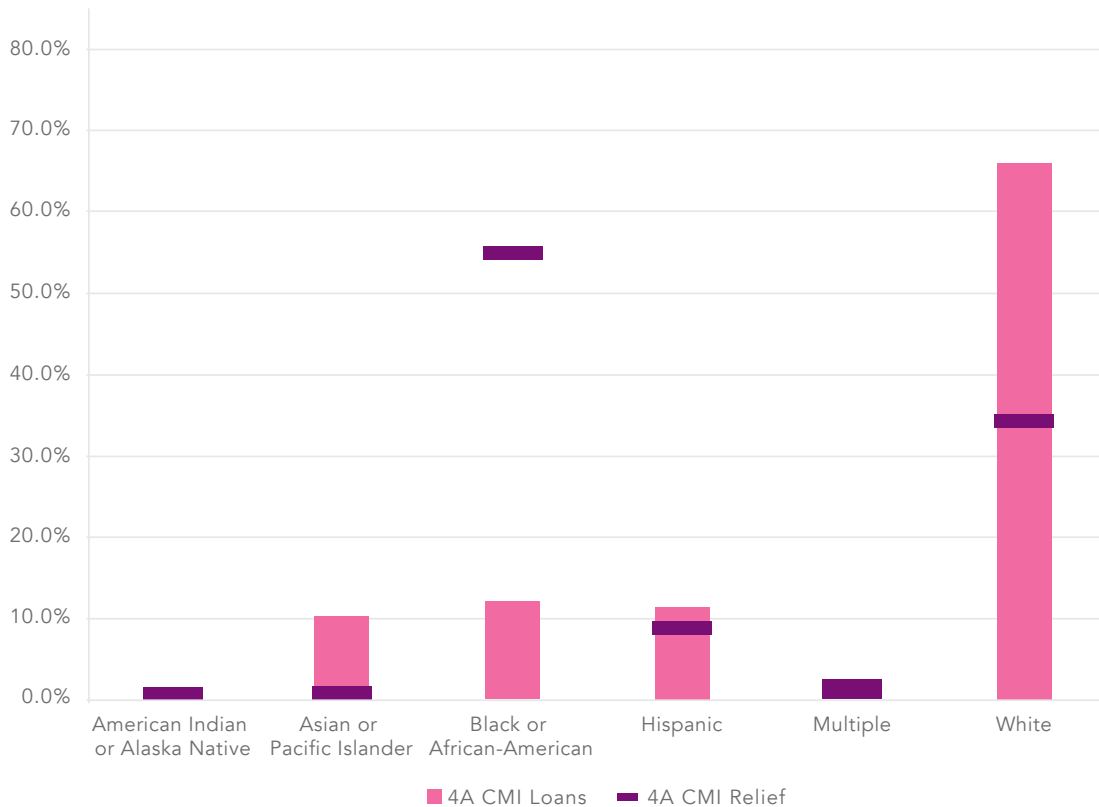
CMI Menu Item 1A relief (first-lien principal reduction) tended to be provided to MSAs with a higher concentration of Black borrowers than the U.S. average. The top five MSAs in terms of dollars of relief provided, which accounted for over one-third of the CMI Menu Item 1A relief, were Atlanta, Baltimore, Chicago, New York, and Washington, DC. In these MSAs, Black borrowers received 36% of the relief. As a result, as shown by Figure 68, below, a third of the relief was provided to Black borrowers, even though they constitute only 8% of CMI’s first-lien loan population. MSAs with generally higher concentrations of Asian borrowers were provided less relief, likely owing to higher average income for CMI borrowers in these areas (e.g., San Francisco, Los Angeles, and San Jose).

FIGURE 68: CFS MENU ITEM 1A REFERENCE POPULATION VS. CMI MENU ITEM 1A RELIEF (FIRST-LIEN PRINCIPAL REDUCTION)



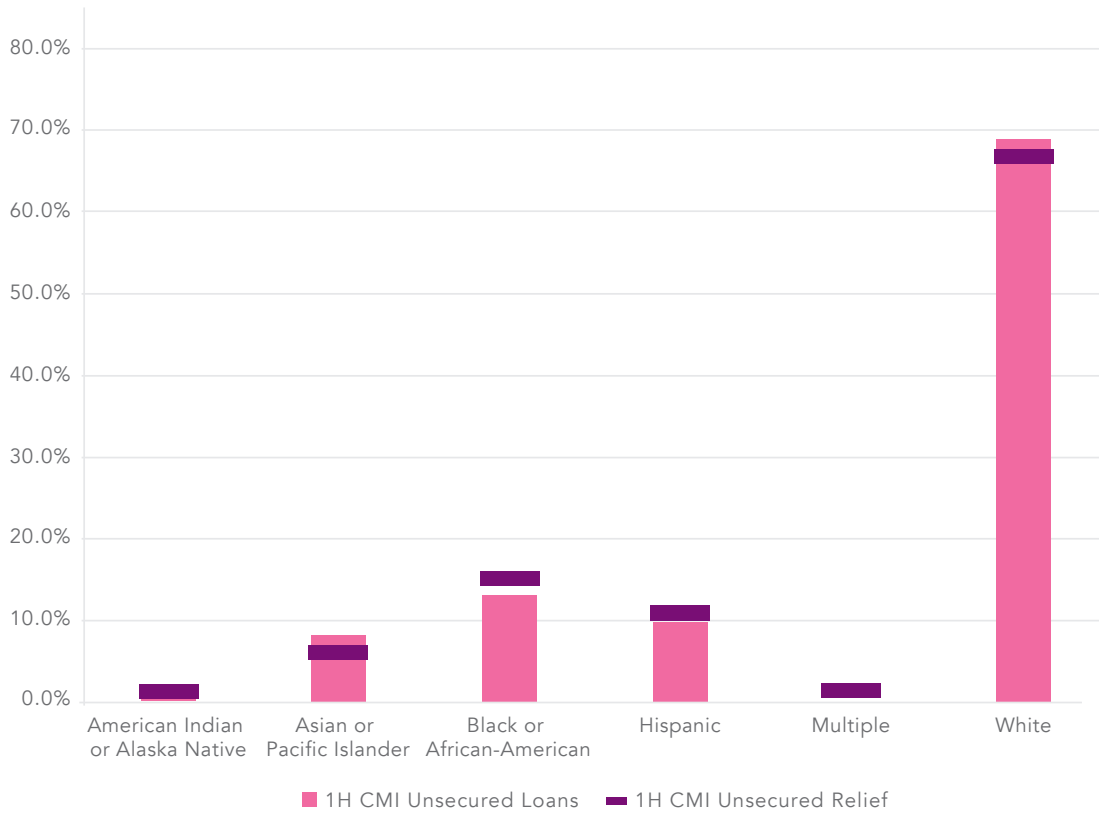
Menu Item 4A relief (first-lien extinguishment) is a similar story, as indicated by Figure 69, below. Despite being slightly more than 10% of the reference population, Black borrowers are more than 50% of the relief population. Black borrowers' overrepresentation in the relief population results in less relief to White, Hispanic, and Asian borrowers. Six MSAs account for 37% of the CMI Menu Item 4A relief portfolio: Atlanta, Chicago, Detroit, Memphis, Milwaukee, and Orlando.

FIGURE 69: CMI MENU ITEM 4A REFERENCE POPULATION VS. CMI MENU ITEM 4A RELIEF (FIRST-LIEN EXTINGUISHMENT)



As shown by Figure 70, Black borrowers are also overrepresented in the CMI Menu Item 1H relief (extinguishment) at the expense of White and Asian borrowers, but to a much lesser extent than for CMI 1A and 4A relief. The provision of CMI 1H relief was heavily concentrated in a few MSAs, potentially contributing to the overrepresentation of Black borrowers. Over 20% of relief to Black borrowers was provided to Chicago borrowers, and more than 10% of relief, irrespective of race or ethnicity, was to Chicago borrowers. Additionally, the top three MSAs—Atlanta, Chicago, and New York—account for almost 40% of relief to Black borrowers and 26% of relief to all borrowers.

FIGURE 70: CMI MENU ITEM 1H UNSECURED REFERENCE POPULATION VS. CMI MENU ITEM 1H UNSECURED RELIEF (EXTINGUISHMENT)



F. Conclusion Regarding Fair Housing

As noted, the Monitor did not identify any lack of compliance by Citi with its fair housing obligations. Although challenging to analyze, the disproportionate amount of relief given to Black borrowers across all categories, with corresponding impacts on other borrowers, makes sense given the nature and incentives of the Settlement Agreement, patterns of lending by Citi in the years preceding the financial crisis, and longstanding economic disparities.

As likely was intended by the drafters of the Settlement Agreement, much of the relief went to those who borrowed during the housing bubble preceding the financial crisis and to lower-income/low-FICO borrowers. Citi’s decision to provide much of its relief to its charged-off book likely amplified this dynamic and, when combined with patterns of lending and the geography of Citi’s CFS subsidiary’s lending, the result is what the Monitor would have expected.

Final Thoughts

Citi has fulfilled its consumer relief obligations under the Settlement Agreement, including earning more than \$2.5 billion in credit for providing consumer relief.

As discussed in this Report, the consumer relief provided by this settlement and those like it had many flaws and limitations. Much of the consumer relief likely came too late to address the harms directly caused by the financial crisis. Some of those who received relief likely needed the help less than those who did not receive relief. It is difficult to measure, subjectively or objectively, how much actual help the relief provided to those who received it, and it is possible that in some instances—particularly extinguishment of mortgage debt tied to unoccupied homes—the relief failed to achieve its objectives. And, of course, the total relief provided under all the consumer relief settlements was orders of magnitude smaller than the losses and hardships caused by the 2007–2009 financial crisis.

But those flaws and limitations generally came not from mistakes in the Settlement Agreement but rather from the constraints inherent in trying to address a systemic crisis with discrete settlements. Even the most efficient settlements take effect well after the harms they are meant to address. It takes a long time to investigate or litigate factually and legally complex cases, and then it takes additional time to negotiate settlements to resolve the investigations and lawsuits. Such delays compound the difficulties associated with trying to provide narrowly targeted relief in the midst of uncertain and dynamic circumstances. Trying to help only those who most urgently need help requires assessing how much the potential recipients need it, how urgent their need is, and how likely the relief is to provide the help needed. Even when one can make those assessments, doing so takes time and thus can be self-defeating. Releasing water from firefighting airplanes is less precise than spraying it from firehoses, but when half the houses in a neighborhood are on fire, it may well be better to get the planes in the air and aim the best one can.

And the Settlement Agreement did some real good. Tens of thousands of consumers and many communities across the nation got meaningful help. The consumer relief lowered mortgage debts and monthly payments. It provided much-needed cash to address serious community housing issues. It helped provide rental housing to thousands of people struggling to pay rent from month to month. For many recipients, those are tangible and meaningful benefits that might well not have occurred if not for the Settlement Agreement.

This Report is far from the final word on the 2007–2009 financial crisis, but it is the final report of this Monitorship. And as we have learned, crises such as the current one caused by the COVID-19 pandemic can appear suddenly even when there does not appear to be any trouble on the horizon. Any lessons we can learn from previous and current crises will be critically

important going forward. The Monitor hopes that the Report has provided useful information, answered a few important questions, and identified some of the kinds of questions that will be critical to ask and answer when addressing new crises.

Appendix A: Citi Monitor's Reports

Report No.	Date	Menu Items Credited
First Report	January 2015	4A
Second Report	May 2015	N/A
Third Report	September 2015	1A; 2A; 4A
Fourth Report	January 2016	1A; 2A; 4A
Fifth Report	June 2016	2A; 4D; 4E; 4F
Sixth Report	February 2017	5
Seventh Report	June 2017	2A; 5
Eighth Report	April 2018	1A; 1G
Ninth Report	November 2018	1H; 4A
Tenth Report	May 2019	1A
Eleventh Report	October 2019	2A
Twelfth Report	March 2020	1H; 4A
Final Report	November 2020	1D; 5

- Menu Item 1A** — Principal Reduction (First Liens)
- Menu Item 1D** — Principal Reduction/Extinguishment (Second Liens)
- Menu Item 1G** — Principal Reduction/Extinguishment to Assist Refinancing Outside Citi; Costs Paid to Assist Refinancing Outside Citi
- Menu Item 1H** — Principal Reduction/Extinguishment (Junior Liens & Unsecured Debts)
- Menu Item 2A** — Interest Rate Reduction & Related Relief (Principal Reduction & Costs Paid)
- Menu Item 4A** — Extinguishment with Lien Release (First Liens)
- Menu Item 4D** — Donations to Community Development Organizations
- Menu Item 4E** — Donations to Legal Services Organizations
- Menu Item 4F** — Donations to Housing Counseling Organizations
- Menu Item 5** — Affordable Rental Housing

Appendix B: Menu Item 1D Crediting

A. Introduction

The Monitor issues credit under Menu Item 1D (second-lien principal forgiveness) in this Appendix pursuant to the Settlement Agreement. This is the first Report to credit relief that Citi submitted under Menu Item 1D.²³⁶

In addition to issuing credit under Menu Item 1D, this Appendix offers analysis regarding Citi's efforts to fulfill its obligations under Menu Item 1 generally. To that end, this Appendix includes:

- ▶ An assessment of all creditable relief provided by Citi under Menu Item 1D, a menu item under which relief has not previously been credited; and
- ▶ A discussion of certain creditable relief provided by Citi under Menu Item 1 generally.

B. Overview of Menu Item 1D

Relief offered under Menu Item 1D consisted of principal forgiveness of mortgage debt secured by second liens, including extinguishment of that debt. Under the Settlement Agreement, second liens are liens in the second position of the foreclosure hierarchy. That is, if there is a foreclosure sale on a property securing multiple loans, the party holding the first lien on that property (the "senior" lienholder) has first claim on the proceeds of the sale, followed by the party holding the second lien, and then by any lienholders below the second position ("junior" lienholders).²³⁷ To be eligible for credit under Menu Item 1D, the property could not actually have been foreclosed upon. To be creditable under Menu Item 1D, a loan had to be secured by a lien on the borrower's property, but foreclosure generally eliminates such liens.

Under Menu Item 1D, Citi could receive varying amounts of credit for each dollar of principal forgiveness offered to a borrower who owed less than a certain amount (generally \$208,500) on the loan secured by a second lien.²³⁸ For crediting purposes, Menu Item 1D distinguishes between "performing" loans on one hand and "seriously delinquent" and "non-performing" loans on the other. Seriously delinquent or non-performing loans were more than ninety days past due at the time Citi offered relief; performing loans were not.

For **performing** loans, Annex 2 allowed Citi to receive credit for qualifying relief under Menu Item 1D as follows:

- ▶ \$1.00 in credit for every \$1.00 of principal forgiveness if Citi owned the loan;
- ▶ \$0.50 in credit for every \$1.00 of principal forgiveness if Citi serviced but did not own the loan;
- ▶ \$1.00 in credit for every \$1.00 of investor incentive payments consistent with the Home Affordable Modification Program (HAMP), a federal program designed to give eligible homeowners at risk of foreclosure an opportunity to reduce their monthly mortgage payments to more affordable amounts.

For **seriously delinquent or non-performing loans**, Annex 2 allowed Citi to receive credit for qualifying relief under Menu Item 1D as follows:

- ▶ \$0.40 in credit for every qualifying \$1.00 of principal forgiveness; *except*
- ▶ \$1.00 in credit for every \$1.00 of investor incentive payments consistent with HAMP.

For all Menu Item 1D loans, Annex 2 gave Citi a bonus for creditable principal forgiveness for a given loan if Citi offered that relief by October 1, 2015.

The Settlement Agreement required that at least \$820 million of consumer relief credit be awarded under Menu Item 1 (forgiveness/forbearance) and Menu Item 4A (first-lien extinguishment) combined.²³⁹ Credit awarded under Menu Item 1D counted toward that minimum only if it extinguished the relevant loan.²⁴⁰ All of the credit Citi received under Menu Item 1D was in fact for such extinguishment relief and thus did count toward the \$820 million minimum.

Figure 71, below, shows the business unit providing the Menu Item 1D relief, the number of loans, the total amount of relief provided, and the total credit awarded.

FIGURE 71: ALL MENU ITEM 1D RELIEF (SECOND-LIEN PRINCIPAL FORGIVENESS)

Menu Item	Portfolio	Loans	Relief	Credit
Menu Item 1D	CMI	983	\$59,922,436.89	\$23,234,978.58 ²⁴¹

All of Citi’s submissions under Menu Item 1D were for non-performing or seriously delinquent loans.

C. Menu Item 1 and Hardest Hit Areas

Under Menu Item 1 (forgiveness/forbearance), at least half of the credit earned for granting relief to customers who borrowed from Citi business unit CitiMortgage, Inc. (CMI)²⁴² had to be in relation to borrowers who lived in Hardest Hit Areas (HHAs) as defined by HUD.²⁴³ Annex 2 states that the list of HHAs “is available on the HUD website” at a specific URL.²⁴⁴

In reporting on credit awarded under Menu Item 1A (first-lien principal forgiveness), the Monitor previously provided updates on Citi’s efforts to satisfy this obligation.²⁴⁵ However, while assessing relief already credited or awaiting credit under Menu Item 1, the Monitor and Control Risks analyzed the areas identified by the spreadsheet then available at the URL specified in Annex 2 and determined that they included a substantial number of areas that did not appear to be actual HHAs.²⁴⁶ The Monitor and Citi then worked together to ensure that assessment of the obligation to provide relief in HHAs was evaluated based on an accurate list of HHAs.

To assess the scope of any potential problem, the Monitor and Control Risks identified a list of HHAs used during other settlements with DOJ involving residential mortgage-backed securities. Using the Annex 2 list, approximately 74.0% of the CMI Menu Item 1 relief submitted or credited at that point was in an area identified as an HHA. Using the more accurate, but narrower, list of HHAs identified in the other settlements, approximately 48.4% of the CMI Menu Item 1 relief was in an HHA.²⁴⁷

At the time the Monitor notified Citi of the issue, Citi’s independent Internal Review Group (IRG) had completed the testing of a group of Menu Item 1D loans (second-lien principal forgiveness) but not yet submitted those loans to the Monitor for crediting. Although Citi could reasonably have argued that it had fulfilled its obligations by providing over 50% of CMI Menu Item 1 relief in the areas specified by the Annex 2 list, Citi instead chose to adjust its credit submission to ensure that it had provided relief in accordance with the accurate HHA list.

To adjust its credit submission, Citi voluntarily withdrew from its Menu Item 1D submission approximately \$12.0 million of credit sought for relief that had not been provided in HHAs. By withdrawing the \$12.0 million, Citi raised the percentage of CMI Menu Item 1 credit awarded for relief in actual HHAs to approximately 50.74%, thereby meeting the 50% minimum set forth in Annex 2. The withdrawal had no effect on the borrowers of the withdrawn loans because those borrowers had already received their relief. Instead, the withdrawal simply means that Citi will receive \$12.0 million less in total credit under the Settlement Agreement as a result of its effort to eliminate uncertainty as to whether it satisfied the CMI HHA requirement. Because Citi exceeded its total required credit by more than \$12.0 million, the withdrawal did not affect Citi’s fulfillment of the overall required amount of consumer relief.

Figure 72, below, shows the total number of loans credited under Menu Item 1, the corrected HHA credit earned, the total credit earned, and the percentage of credit earned, broken down by portfolio (Citi business unit) and by sub-menu item.

FIGURE 72: ALL MENU ITEM 1 RELIEF (FORGIVENESS/FORBEARANCE)

Menu Item	Portfolio	Loans	HHA Credit Earned	Total Credit Earned	HHA Credit Percentage
All 1A		463	n/a	\$27,531,178.81	n/a
1A	CFS	0	n/a	\$0.00	n/a
1A	CMI	463	\$16,141,498.14	\$27,531,178.81	58.63%
All 1D		983	n/a	\$23,234,978.58	n/a
1D	CFS	0	n/a	\$0.00	n/a
1D	CMI	983	\$16,054,169.71	\$23,234,978.58	69.09%
All 1G		852	n/a	\$31,169,535.61	n/a
1G	CFS	852	n/a	\$31,169,535.61	n/a
1G	CMI	0	\$0.00	\$0.00	0.00%
All 1H		42,326	n/a	\$515,655,821.64	n/a
All 1H Secured		9,616	n/a	\$101,122,626.53	n/a
1H Secured	CFS	9,616	n/a	\$101,122,626.53	n/a
1H Secured	CMI	0	\$0.00	\$0.00	0.00%
All 1H Unsecured		32,710	n/a	\$414,533,195.11	n/a
1H Unsecured	CFS	24,541	n/a	\$263,346,398.08	n/a
1H Unsecured	CMI	8,169	\$70,280,805.77	\$151,186,796.03	46.49%
All CFS Menu Item 1	CFS	35,009	n/a	\$395,638,560.22	n/a
All CMI Menu Item 1	CMI	9,615	\$102,476,473.62	\$201,952,954.42	50.74%
All Menu Item 1		44,624	n/a	\$597,591,514.64	n/a

Figure 73 shows the locations of all CMI Menu Item 1 loans (forgiveness/forbearance) and the locations of the corrected HHAs. The teal dots show loans secured by properties in an HHA; the gray dots show loans secured by properties outside an HHA.

FIGURE 73: LOCATION OF ALL CMI MENU ITEM 1 LOANS (FORGIVENESS/FORBEARANCE)

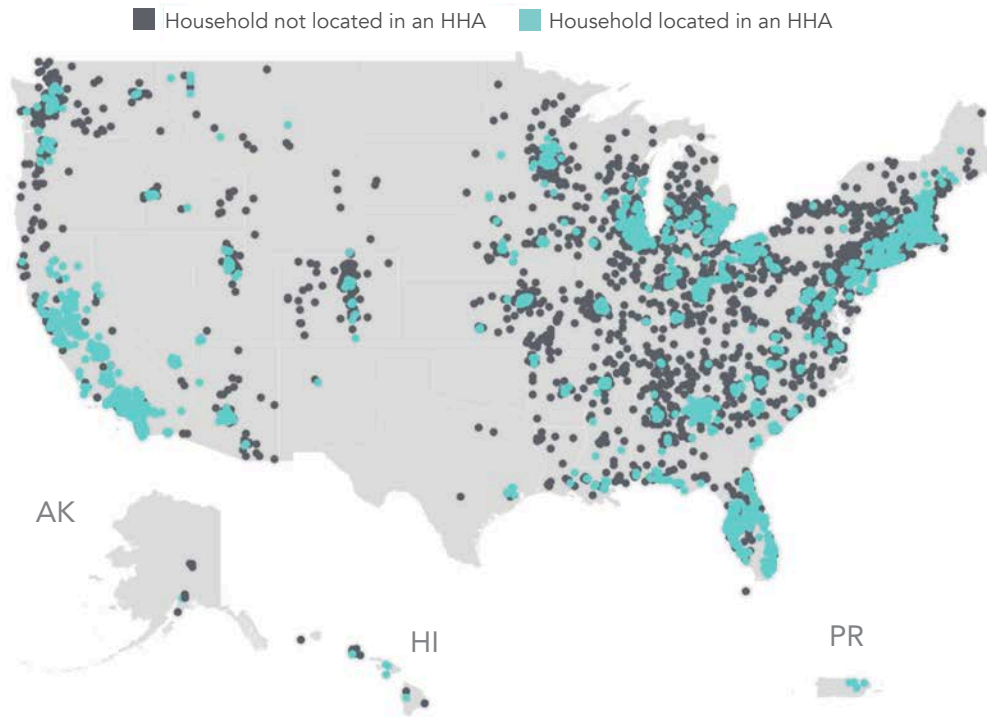


Figure 74, below, shows a heat map of all Menu Item 1 CMI households located in a corrected HHA.

FIGURE 74: HEAT MAP OF CMI MENU ITEM 1 LOANS (FORGIVENESS/FORBEARANCE) LOCATED IN AN HHA

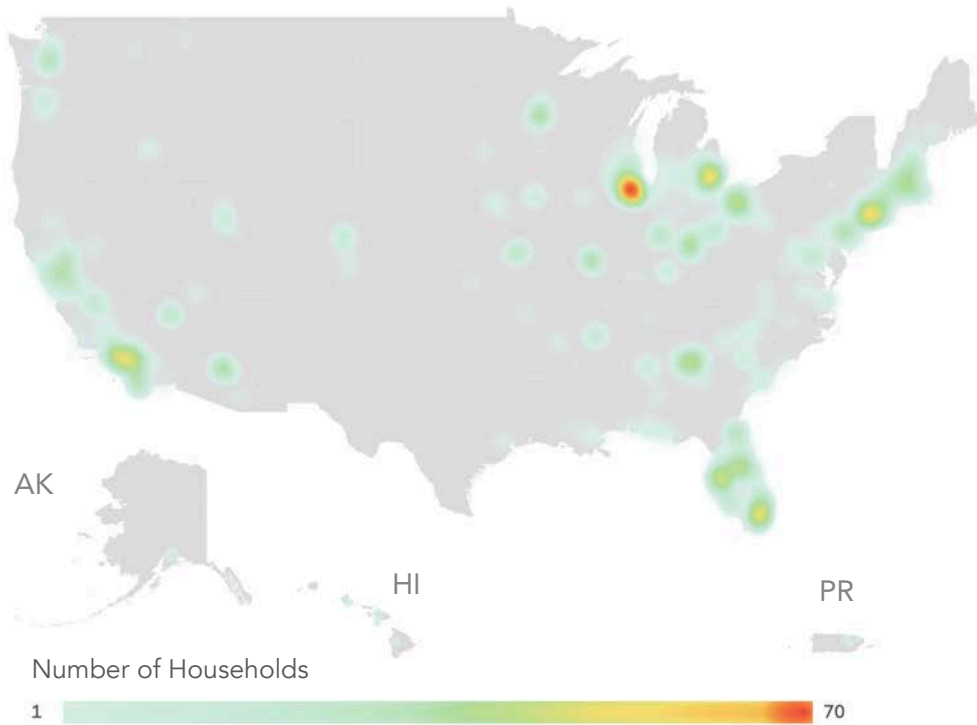
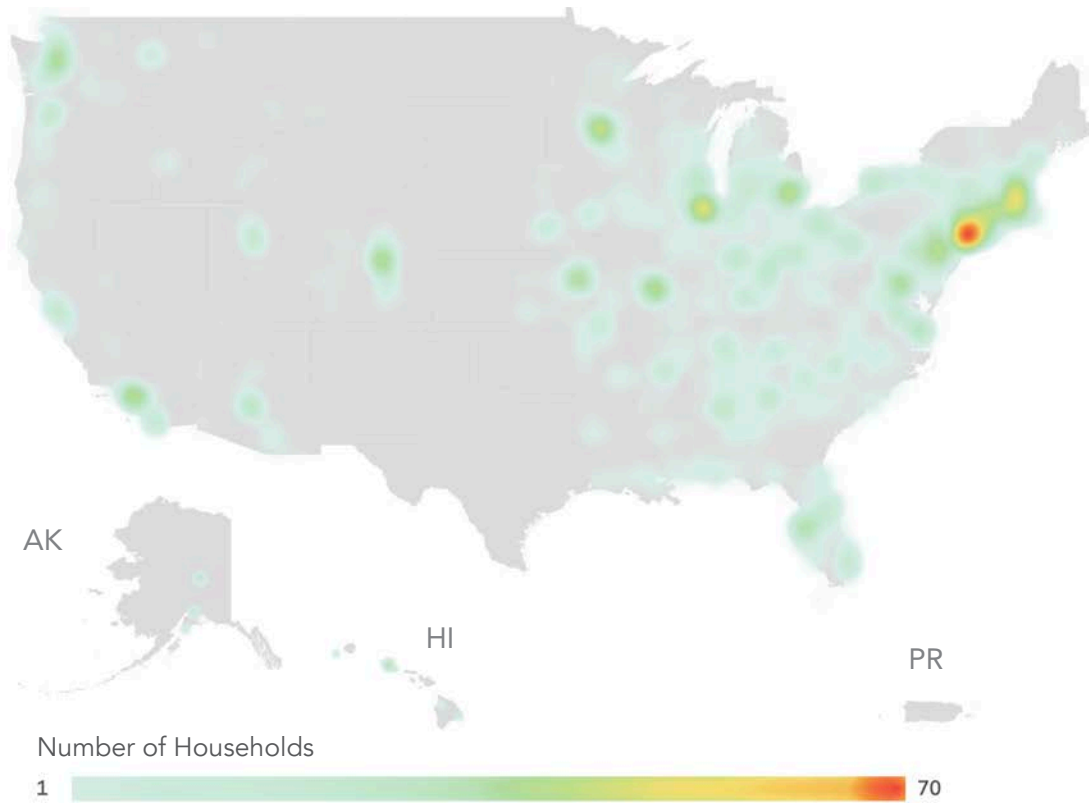


Figure 75, below, shows a heat map of all Menu Item 1 CMI households not located in a corrected HHA.

**FIGURE 75: HEAT MAP OF CMI MENU ITEM 1 LOANS
(FORGIVENESS/FORBEARANCE) NOT LOCATED IN AN HHA**



Appendix C: Menu Item 5 Crediting

A. Introduction

The Monitor reports that Citi has satisfied its obligation under Menu Item 5 to book at least \$180 million in anticipated losses by providing affordable rental housing relief that met requirements regarding (1) the housing's equivalence to housing funded through the federal Low-Income Housing Tax Credit (LIHTC) program; (2) the number of affordable rental units placed in Critical Needs Family Housing (CNFH) developments; (3) the number of units in CNFH developments with two or more bedrooms and three or more bedrooms; and (4) affirmative marketing standards. Including the newly credited relief, Citi's anticipated losses are \$221.1 million.

In previous reports, the Monitor credited Citi with \$759,704,639 under Menu Item 5. This Appendix awards the final \$111,254,118 in Menu Item 5 credit for relief that Citi offered during 2018 and analyzes all the credit awarded under Menu Item 5.

B. Overview of Menu Item 5 (Affordable Rental Housing)

The Monitor provided a detailed explanation of the requirements and policy rationales for credit under Menu Item 5 in the Monitor's Sixth Report. As explained in that Report and as analyzed further in the main body of this Report (§ VII), Menu Item 5 allowed Citi to earn credit under the Settlement Agreement by providing financing for affordable rental housing—a novel component of the Settlement Agreement when it was signed.

Citi earned credit under Menu Item 5 by providing “soft debt gap financing” for building or rehabilitating affordable rental housing developments. As discussed in the Sixth Report, affordable rental housing developments typically get their funding from conventional private mortgage loans, equity from investors who purchase LIHTCs, and deferred developers' fees.²⁴⁸ However, those sources of funding often fall short of the amount needed, creating a financing gap. Soft debt lending, typically provided by a state or local government, can fill that gap by providing additional loans, which are subordinated to the conventional mortgage loans. This means that the soft debt lenders have a lower priority for repayment than the conventional mortgage lenders and, indeed, may never be repaid in full.

Given that soft debt lenders for affordable housing developments are likely to lose money, the amount of credit that Citi earned under Menu Item 5 depended on the losses that Citi is projected to incur for its soft debt lending. Citi was required to sustain at least \$180 million in projected losses.

Relief was creditable under Menu Item 5 if it supported developments that (1) are equivalent to affordable housing developed under the federal LIHTC program;²⁴⁹ (2) meet affirmative fair housing marketing standards as are required for all Fair Housing Act programs and set forth in 24 C.F.R. § 200.620; and (3) accept Housing Choice Vouchers.²⁵⁰

At least 50% of the affordable rental units generating credit under Menu Item 5 had to be in CNFH developments. CNFH developments are housing developments that (1) are located within either Small Area Difficult Development Areas (“Small Area DDAs” or “SADDAs”) as defined by HUD or State-Defined High Opportunity/Low Poverty Areas and (2) do not impose age restrictions for any of the occupants. At least 40% of all affordable rental units generating credit in CNFH developments each year must have two or more bedrooms. And at least 10% of all affordable rental units generating credit in CNFH developments each year must have three or more bedrooms. Under Annex 2, Citi received more Menu Item 5 credit for each dollar lost for CNFH lending (\$3.75 in credit per \$1.00 lost) than for each dollar lost for non-CNFH lending (\$3.25 per \$1.00 lost).

C. Summary of Affordable Rental Housing Relief Credited

In the Sixth Report, the Monitor credited 118 total projects submitted under Menu Item 5.²⁵¹ In the Seventh Report, the Monitor credited four additional projects.²⁵² Through the Seventh Report, the Monitor credited Citi with \$759,704,639 in connection with those 122 projects.

In this Appendix, the Monitor credits Citi with \$111,254,118 for the final fifteen Menu Item 5 projects submitted by Citi in connection with relief offered during 2018.

In total, Citi received \$870,958,757 in credit for 137 Menu Item 5 projects, eighty-one of which were new construction and fifty-six of which rehabilitated existing developments. Under the agreed method for calculating Citi’s projected losses, Citi stands to lose \$221,145,246 in total, satisfying the Annex 2 requirement that it lose at least \$180 million for its Menu Item 5 lending.²⁵³

At the beginning of the Monitorship, Citi reported to the Monitor that Citi’s goal was to create or preserve 8,000 affordable rental housing units. By this metric, Citi far exceeded its goal. In total, Citi helped finance the construction or rehabilitation of 15,445 affordable rental units.

7,782 of the affordable rental units are in CNFH developments, satisfying Citi’s obligation to place at least 50% of the affordable rental units in CNFH developments.²⁵⁴ All but one of the seventy-four CNFH developments are in SADDAs. Except for that project, Citi did not track whether Menu Item 5 units are in State-Defined High Opportunity/Low Poverty Areas. For the seventy-four CNFH developments, Citi committed to lend \$124,687,961 in subordinated loans and received \$507,470,414 in credit based on projected losses of \$121,177,224.

D. Detailed Information Regarding Affordable Rental Housing Relief and Crediting

The tables, charts, and maps below provide information regarding the Menu Item 5 relief credited in this Appendix and throughout the Monitorship.

Figure 76, below, provides a breakdown of Menu Item 5 projects credited in this Appendix, showing the value of the subordinate financing and the credit earned, by kind of construction (new or rehabilitated).

FIGURE 76: NEW AND REHABILITATED MENU ITEM 5 PROJECTS CREDITED IN THIS APPENDIX

Kind of Construction	Projects Funded	Loss	Subordinated Loan Commitment	Settlement Credit Earned
New	7	\$15,574,131	\$16,070,000	\$57,709,974
Rehabilitated	8	\$16,205,918	\$16,722,500	\$53,544,144
Total	15	\$31,780,049	\$32,792,500	\$111,254,118

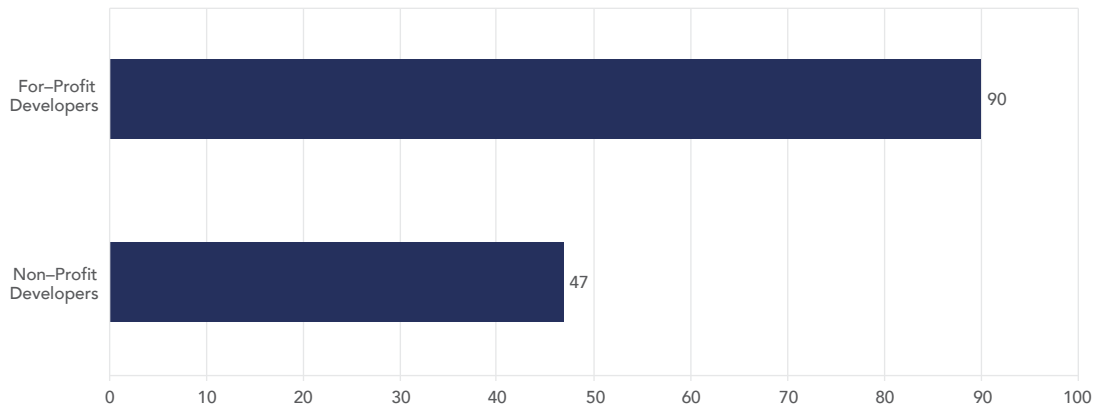
Figure 77, below, provides a breakdown of all credited Menu Item 5 projects, showing the value of the subordinate financing and the credit earned, by kind of construction (new or rehabilitated).

FIGURE 77: ALL NEW AND REHABILITATED MENU ITEM 5 PROJECTS CREDITED

Kind of Construction	Projects Funded	Loss	Subordinated Loan Commitment	Settlement Credit Earned
New	81	\$123,829,682	\$127,264,960	\$490,460,576
Rehabilitated	56	\$97,315,564	\$99,735,060	\$380,498,181
Total	137	\$221,145,246	\$227,000,020	\$870,958,757

Citi lent to both for-profit and non-profit developers to satisfy its Menu Item 5 obligations. [Figure 78](#) breaks down the number of for-profit and non-profit developers receiving loans for all Menu Item 5 projects.

FIGURE 78: TYPES OF DEVELOPERS FOR ALL MENU ITEM 5 PROJECTS



Citi funded affordable rental housing projects across the United States. The Settlement Agreement required Citi to meet certain credit minimums in the five Settling States, and Citi received bonus credit for credit earned above those minimums.²⁵⁵ Although Citi could not receive bonus credit for Menu Item 5 credit in excess of the minimums, credit under Menu Item 5 could help Citi reach those minimums in the first place. These Settlement Agreement conditions, along with the great need for affordable rental housing in many of the Settling States, explains why 66% percent of the projects are in the five Settling States. Indeed, over half—71 of 137—of the projects are located in just two states, California and New York.

Figure 79, below, shows the geographic distribution of all 137 Menu Item 5 developments by state.

FIGURE 79: DISTRIBUTION OF ALL MENU ITEM 5 PROJECTS BY STATE

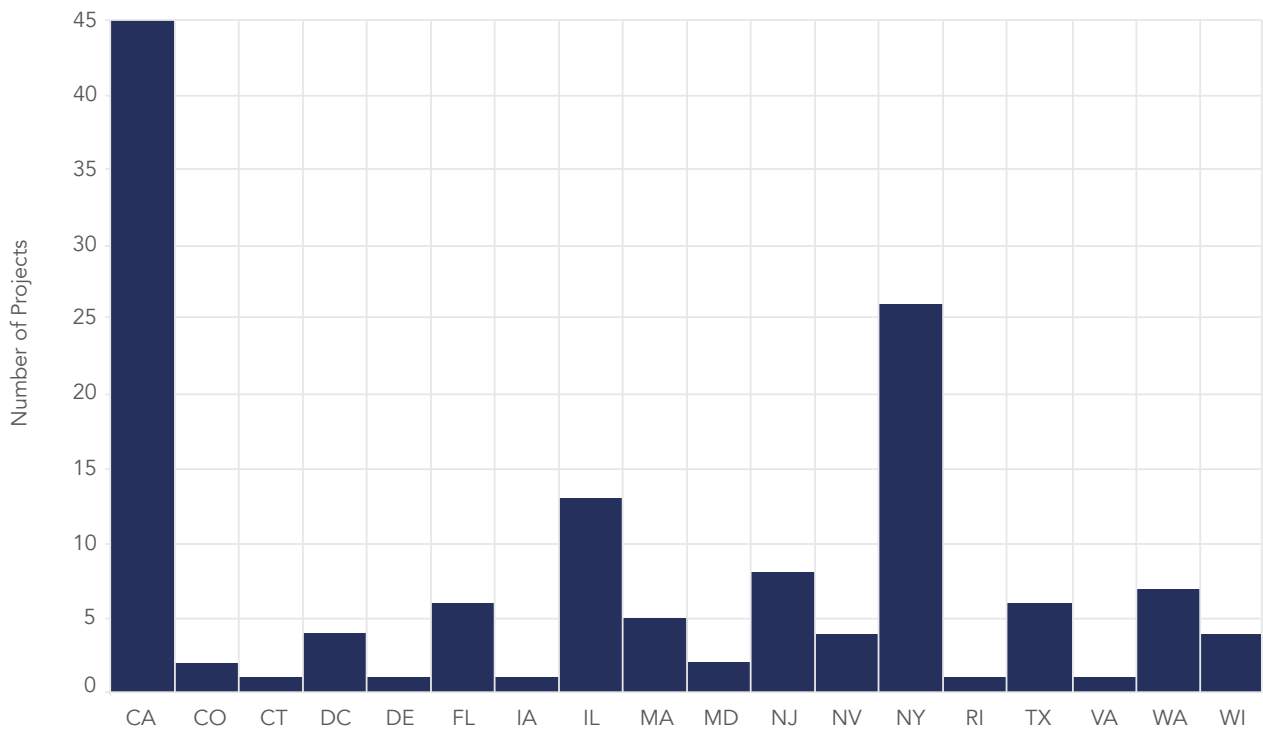
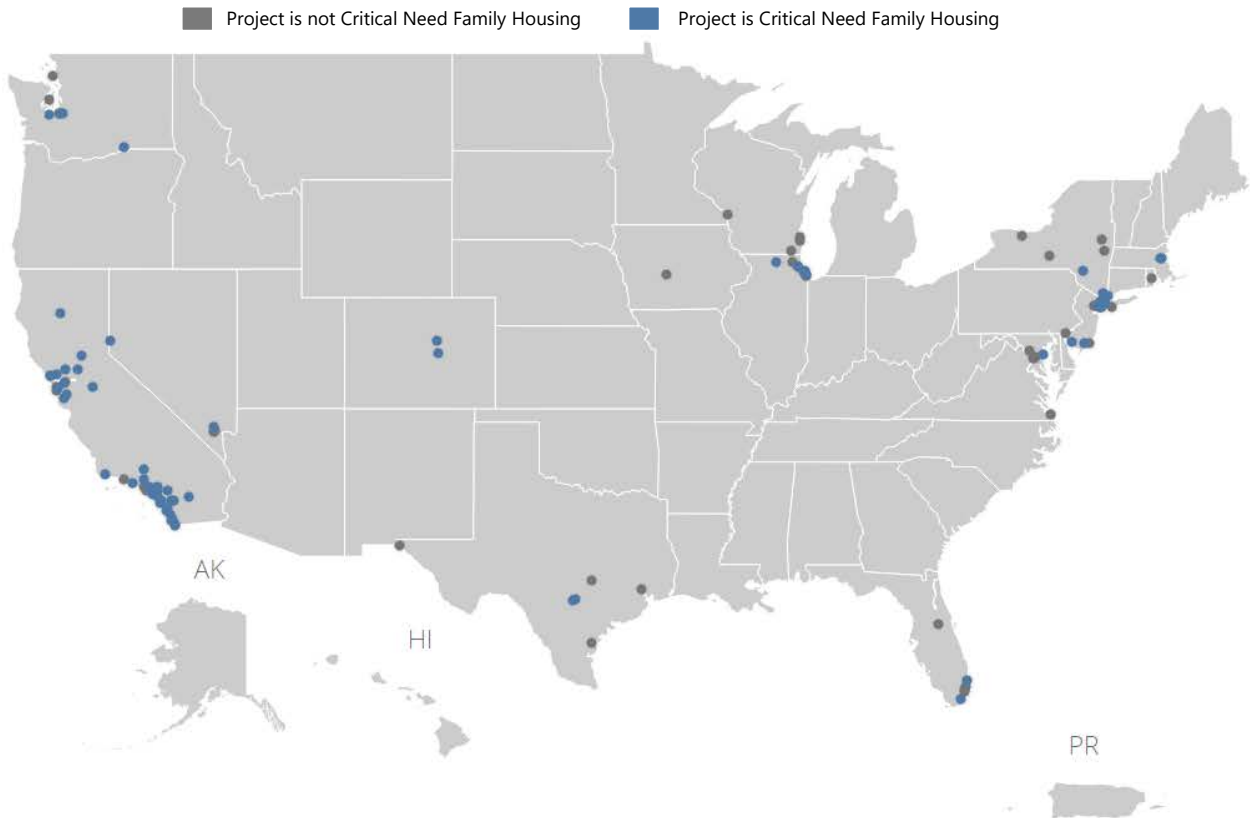


Figure 80, below, shows where all 137 Menu Item 5 developments were located. The blue dots show CNFH developments; the gray dots show non-CNFH developments.

FIGURE 80: LOCATIONS OF MENU ITEM 5 PROJECTS BY CNFH DESIGNATION



E. Menu Item 5 Developments Credited in this Report

In the Monitor’s Sixth and Seventh Reports, the Monitor provided certain information about each development that Citi financed for creditable Menu Item 5 relief. [Figure 81](#) provides similar information for the fifteen projects credited in this Appendix, indicating the name of the development receiving relief, the development’s state, whether the developer is for-profit or non-profit, whether the project was new construction or rehabilitation, the number of units (including units with two or more bedrooms and three or more bedrooms), the development’s percentage of affordable rental units (out of total units), whether the development is in an SADDA, the commitment date of the project, and the amount of subordinated lending that Citi provided the development.

FIGURE 81: MENU ITEM 5 DEVELOPMENTS CREDITED IN THIS REPORT

Name	State	Non-Profit or For-Profit Developer	New Construction or Rehab	Number of Units (Total, 2+ bedrooms, & 3+ bedrooms)	Pct. Affordable Rental Units	SADDA	Commit. Date	Subordinated Loan Amount
Centennial South	IL	For-Profit	Rehab	97 2-bdr.+ : 0.0% 3-bdr.+ : 0.0%	100%	N	07/12/18	\$2,000,000
Copper at Richland	WA	Non-Profit	New	276 2-bdr.+ : 80.4% 3-bdr.+ : 30.4%	100%	Y	06/29/18	\$3,000,000
Echo Valley Apartments	RI	For-Profit	Rehab	100 2-bdr.+ : 40.0% 3-bdr.+ : 20.0%	100%	N	07/05/18	\$2,000,000
Greenwood Park Apartments	IL	Non-Profit	Rehab	122 2-bdr.+ : 80.3% 3-bdr.+ : 23.0%	74%	N ²⁵⁶	07/10/18	\$1,830,000
Lake Weston Point	FL	For-Profit	Rehab	240 2-bdr.+ : 100.0% 3-bdr.+ : 76.7%	100%	N	09/21/18	\$2,000,000
Manor Senior Apartments	TX	For-Profit	New	172 2-bdr.+ : 66.3% 3-bdr.+ : 0.0%	100%	Y	11/07/18	\$750,000
North 5th Street	NV	For-Profit	New	176 2-bdr.+ : 86.4% 3-bdr.+ : 29.5%	86%	Y	06/27/18	\$3,520,000
Pinnacle at Peacefield	FL	For-Profit	New	120 2-bdr.+ : 40.0% 3-bdr.+ : 0.0%	100%	N	09/11/18	\$700,000
Regency Centre Apartments	CA	Non-Profit	Rehab	100 2-bdr.+ : 31.0% 3-bdr.+ : 0.0%	99%	N	07/03/18	\$1,000,000
Riverwalk 8	NY	For-Profit	New	341 2-bdr.+ : 29.6% 3-bdr.+ : 14.7%	20%	Y	11/26/18	\$3,000,000
Sencit Liberty	NJ	For-Profit	Rehab	153 2-bdr.+ : 43.8% 3-bdr.+ : 7.2%	100%	N	07/05/18	\$1,912,500
St. Edmunds Village	IL	Non-Profit	Rehab	230 2-bdr.+ : 80.0% 3-bdr.+ : 20.0%	100%	N	07/03/18	\$2,500,000
The View by Vintage	WA	Non-Profit	New	408 2-bdr.+ : 79.9% 3-bdr.+ : 20.1%	100%	Y	06/29/18	\$5,000,000
Verbena	FL	For-Profit	New	110 2-bdr.+ : 64.6% 3-bdr.+ : 10.0%	100%	Y	09/07/18	\$100,000
Zion Towers	NJ	For-Profit	Rehab	268 2-bdr.+ : 36.6% 3-bdr.+ : 17.9%	99%	N	11/16/18	\$3,480,000

Appendix D: Final Credit by State

Figure 82, below, shows the amount of final credit Citi received under the Settlement Agreement for relief provided in each state. The table on the left is organized by the amount of credit (descending); the table on the right is organized alphabetically by state. The numbers below *include* State Minimums Bonus credit awarded for relief provided in the Settling States. The Settling States are highlighted.

FIGURE 82: CREDIT AMOUNTS BY STATE

By Credit Amount		Alphabetical by State	
State	Credit	State	Credit
California	\$336,018,719	Alabama	\$58,225,542
New York	\$296,873,893	Alaska	\$111,794
Illinois	\$202,155,056	Arizona	\$15,843,672
Ohio	\$141,976,921	Arkansas	\$1,256,912
Florida	\$134,430,734	California	\$336,018,719
Massachusetts	\$122,053,487	Colorado	\$33,028,547
New Jersey	\$99,644,601	Connecticut	\$32,669,282
Washington	\$93,168,064	Delaware	\$14,666,528
Pennsylvania	\$78,540,737	District of Columbia	\$34,640,463
North Carolina	\$76,142,226	Florida	\$134,430,734
Georgia	\$73,920,218	Georgia	\$73,920,218
Michigan	\$71,214,827	Hawaii	\$5,155,552
Virginia	\$66,090,986	Idaho	\$7,141,775
Alabama	\$58,225,542	Illinois	\$202,155,056
Texas	\$55,417,877	Indiana	\$37,791,382
Tennessee	\$46,180,266	Iowa	\$18,932,816
Nevada	\$45,407,172	Kansas	\$10,675,144
Maryland	\$42,447,263	Kentucky	\$30,575,446
South Carolina	\$39,367,279	Louisiana	\$14,777,402
Indiana	\$37,791,382	Maine	\$9,142,843
Wisconsin	\$36,154,690	Maryland	\$42,447,263
District of Columbia	\$34,640,463	Massachusetts	\$122,053,487
Colorado	\$33,028,547	Michigan	\$71,214,827
Connecticut	\$32,669,282	Minnesota	\$24,837,928

FIGURE 82 (CONT'D)

By Credit Amount		Alphabetical by State	
State	Credit	State	Credit
Kentucky	\$30,575,446	Mississippi	\$15,425,314
Missouri	\$29,926,591	Missouri	\$29,926,591
Minnesota	\$24,837,928	Montana	\$3,363,830
Iowa	\$18,932,816	Nebraska	\$6,973,557
Arizona	\$15,843,672	Nevada	\$45,407,172
Mississippi	\$15,425,314	New Hampshire	\$13,033,052
Louisiana	\$14,777,402	New Jersey	\$99,644,601
Delaware	\$14,666,528	New Mexico	\$7,871,351
New Hampshire	\$13,033,052	New York	\$296,873,893
Rhode Island	\$10,950,165	North Carolina	\$76,142,226
Kansas	\$10,675,144	North Dakota	\$2,728,704
West Virginia	\$9,999,189	Ohio	\$141,976,921
Oklahoma	\$9,913,154	Oklahoma	\$9,913,154
Maine	\$9,142,843	Oregon	\$7,989,068
Puerto Rico	\$8,443,184	Pennsylvania	\$78,540,736
Utah	\$8,395,482	Puerto Rico	\$8,443,184
Vermont	\$8,310,179	Rhode Island	\$10,950,165
Oregon	\$7,989,068	South Carolina	\$39,367,279
New Mexico	\$7,871,351	South Dakota	\$1,753,363
Idaho	\$7,141,775	Tennessee	\$46,180,266
Nebraska	\$6,973,557	Texas	\$55,417,877
Hawaii	\$5,155,552	Utah	\$8,395,482
Montana	\$3,363,830	Vermont	\$8,310,179
North Dakota	\$2,728,704	Virginia	\$66,090,986
South Dakota	\$1,753,363	Washington	\$93,168,064
Wyoming	\$1,470,033	West Virginia	\$9,999,189
Arkansas	\$1,256,912	Wisconsin	\$36,154,690
Alaska	\$111,794	Wyoming	\$1,470,033
Total	\$2,553,224,264	Total	\$2,553,224,264

Appendix E: Sources Regarding Other Consumer Relief Settlements

Unless otherwise indicated in the Final Report itself, the information regarding relief and crediting in other settlements came from materials made publicly available by relevant government entities and the monitors of the settlements in question, including the documents listed below.

A. NMS

1. NMS Generally

The NMS settlement monitor's office, known as the Office of Mortgage Settlement Oversight (OMSO), made the reports indicated below available via the monitor's website. Although that website is no longer live, it is archived at <https://scholarship.law.unc.edu/mortgage-settlements>.

- ▶ OMSO First Take: Progress Report (Aug. 29, 2012)
- ▶ OMSO Continued Progress (Nov. 19, 2012)
- ▶ OMSO Ongoing Implementation (Feb. 21, 2013)
- ▶ OMSO Interim Crediting Report (Oct. 16, 2013)
- ▶ OMSO Final Crediting Report (Mar. 18, 2014)

The NMS consent judgments and monitor's reports indicated below were filed on the indicated dates with the U.S. District Court for the District of Columbia in Case No. 1:12-cv-00361.

2. Bank of America NMS

- ▶ Bank of America Consent Judgment, Dkt. No. 11 (Apr. 4, 2012)
Key portions regarding consumer relief include Exhibits D and I.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant Bank of America, N.A., Dkt. No. 107 (Oct. 16, 2013)
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant Bank of America, N.A., Dkt. No. 144 (Mar. 18, 2014)

- ▶ Monitor's Final Consumer Relief Report Regarding Defendant Bank of America, N.A., Dkt. No. 166 (June 17, 2014)

3. Citi NMS

- ▶ Citi Consent Judgment, Dkt. No. 12 (Apr. 4, 2012)
Key portions regarding consumer relief include Exhibit D.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant CitiMortgage, Inc., Dkt. No. 108 (Oct. 16, 2013)
- ▶ Monitor's Final Consumer Relief Report Regarding Defendant CitiMortgage, Inc., Dkt. No. 145 (Mar. 18, 2014)

4. JPMorgan Chase NMS

- ▶ JPMorgan Chase Consent Judgment, Dkt. No. 10 (Apr. 4, 2012)
Key portions regarding consumer relief include Exhibit D.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant J.P. Morgan Chase Bank, N.A., Dkt. No. 106 (Oct. 16, 2013)
- ▶ Monitor's Final Consumer Relief Report Regarding Defendant J.P. Morgan Chase Bank, N.A., Dkt. No. 143 (Mar. 18, 2014)

5. Rescap NMS

- ▶ Rescap Consent Judgment, Dkt. No. 13 (Apr. 4, 2012)
Key portions regarding consumer relief include Exhibits D and I.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendants Residential Capital, Ally Financial, Inc., and GMAC Mortgage, LLC, Dkt. No. 58 (Feb. 14, 2013)
- ▶ Monitor's Final Consumer Relief Report Regarding Defendants Residential Capital, Ally Financial, Inc., and GMAC Mortgage, LLC, Dkt. No. 136 (Jan. 23, 2014)

6. Wells Fargo NMS

- ▶ Wells Fargo Consent Judgment, Dkt. No. 14 (Apr. 4, 2012)
Key portions regarding consumer relief include Exhibit D.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendants Wells Fargo & Company and Wells Fargo Bank, N.A., Dkt. No. 109 (Oct. 16, 2013)

- ▶ Monitor’s Interim Consumer Relief Report Regarding Defendants Wells Fargo & Company and Wells Fargo Bank, N.A., Dkt. No. 137 (Jan. 23, 2014)
- ▶ Monitor’s Final Consumer Relief Report Regarding Defendants Wells Fargo & Company and Wells Fargo Bank, N.A., Dkt. No. 146 (Mar. 3, 2014)

B. NMS-Related

The NMS-related consent judgments and formal monitor’s reports indicated below were filed on the indicated dates with the U.S. District Court for the District of Columbia in the case numbers indicated below. The OMSO reports were made available via the monitor’s website (archived at <https://scholarship.law.unc.edu/mortgage-settlements>).

1. HSBC NMS-Related

- ▶ HSBC Consent Judgment, Case No. 1:16-cv-00199, Dkt. No. 8 (Mar. 14, 2016)
Key portions regarding consumer relief include Exhibits D and I.
- ▶ Monitor’s Interim Consumer Relief Report Regarding Defendants HSBC North America Holdings Inc., et al., Dkt. No. 25 (Dec. 15, 2016)
- ▶ OMSO HSBC Consumer Relief Report (Dec. 15, 2016)
- ▶ Monitor’s Final Consumer Relief Report Regarding Defendants HSBC North America Holdings Inc., et al., Dkt. No. 26 (Mar. 14, 2017)

2. Ocwen NMS-Related

- ▶ Ocwen Consent Judgment, Case No. 1:13-cv-02025, Dkt. No. 12 (Feb. 26, 2014)
Key portions regarding consumer relief include Exhibit C.
- ▶ Monitor’s Interim Consumer Relief Report Regarding Defendants Ocwen Financial Corporation and Ocwen Loan Servicing, Dkt. No. 35 (Aug. 11, 2015)
- ▶ OMSO Ocwen Consumer Relief Report (Aug. 11, 2015)
- ▶ Monitor’s Final Consumer Relief Report Regarding Defendants Ocwen Financial Corporation and Ocwen Loan Servicing, Dkt. No. 38 (Apr. 28, 2016)
- ▶ OMSO Update on Ocwen’s Consumer Relief and Compliance (Apr. 28, 2016)

3. SunTrust NMS-Related

- ▶ SunTrust Consent Judgment, Case No. 1:14-cv-01028, Dkt. No. 65 (Sept. 30, 2014)
Key portions regarding consumer relief include Exhibits D and I.
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant SunTrust Mortgage, Inc., Dkt. No. 67 (Aug. 11, 2015)
- ▶ OMSO SunTrust Consumer Relief Report (Aug. 11, 2015)
- ▶ Monitor's Interim Consumer Relief Report Regarding Defendant SunTrust Mortgage, Inc., Dkt. No. 69 (Aug. 19, 2016)
- ▶ OMSO SunTrust Consumer Relief Report (May 19, 2016)
- ▶ Monitor's Final Consumer Relief Report Regarding Defendant SunTrust Mortgage, Inc., Dkt. No. 74 (Aug. 10, 2017)
- ▶ OMSO SunTrust Consumer Relief Report (Aug. 10, 2017)

C. RMBS (Non-Citi)

1. Bank of America (Monitorship Concluded)

The website for the Bank of America monitorship is no longer available.

- ▶ Bank of America Settlement Agreement (Aug. 20, 2014)
Key portions regarding consumer relief include Annex 2.
- ▶ Bank of America Monitor Reports 1–8 (Feb. 17, 2015 – Mar. 3, 2017)

2. Credit Suisse (Monitorship Ongoing)

<http://creditsuisse.rmbsmonitor.com/>

- ▶ Credit Suisse Settlement Agreement (Jan. 18, 2017)
Key portions regarding consumer relief include Annex 2.
- ▶ Credit Suisse Monitor Reports 1–7 (Oct. 27, 2017 – Oct. 1, 2020)

3. Deutsche Bank (Monitorship Concluded)

<https://deutschebankmortgagemonitor.com/>

- ▶ Deutsche Bank Settlement Agreement (Jan. 17, 2017)
Key portions regarding consumer relief include Annex 2.

- ▶ Deutsche Bank Monitor Reports 1–9 (July 2017 – July 2020)

4. Goldman Sachs (Monitorship **Ongoing**)

<https://goldmansachs.mortgagesettlementmonitor.com/>

- ▶ Goldman Sachs Settlement Agreement (Apr. 11, 2016)
Key portions regarding consumer relief include Annex 2.
- ▶ Goldman Sachs Monitor Reports 1–15 (Sept. 16, 2016 – Oct. 9, 2020)

5. JPMorgan Chase (Monitorship **Concluded**)

<https://scholarship.law.unc.edu/mortgage-settlements/servicing/> [archived]

- ▶ JPMorgan Chase Settlement Agreement (c. Nov. 19, 2013)
Key portions regarding consumer relief include Annex 2.
- ▶ JPMorgan Chase Monitor Reports 1–9 (July 22, 2014 – Sept. 22, 2016)

Appendix F: Affordable Rental Housing Developments and Census Tract Data for Black or Hispanic Populations in Selected Cities

The following figures show the locations of Menu Item 5 affordable rental housing developments in selected cities and counties, with the population of the census tracts as of the 2010 census in those areas that is Black or Hispanic indicated by shading.

FIGURE 83: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN COOK COUNTY, IL

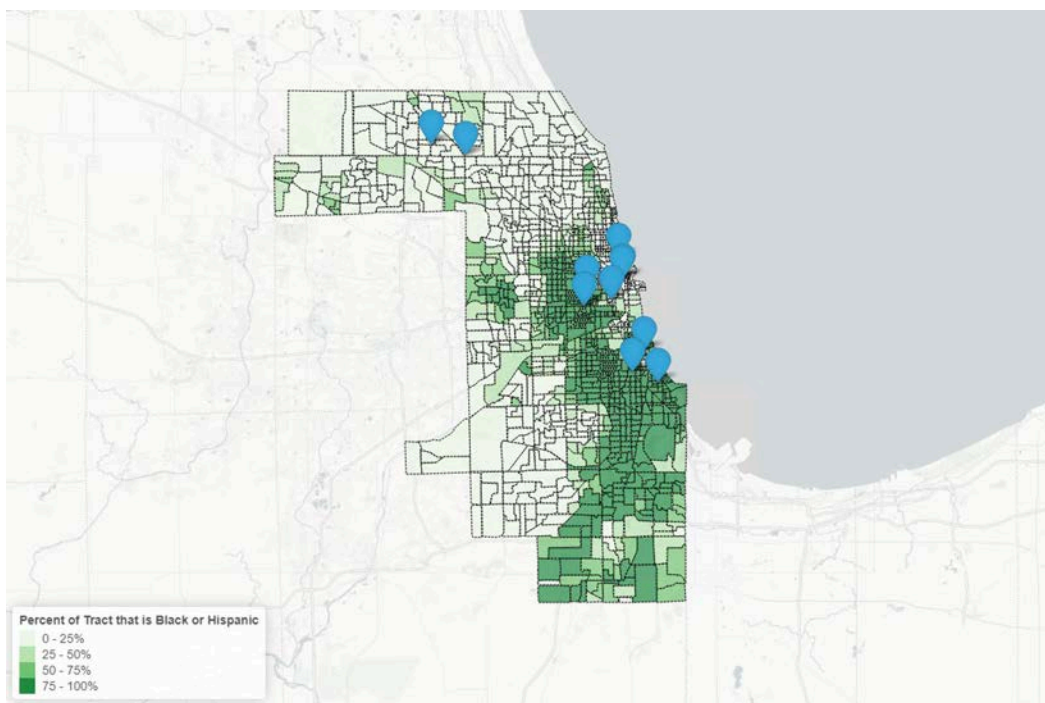


FIGURE 84: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN BRONX, NY

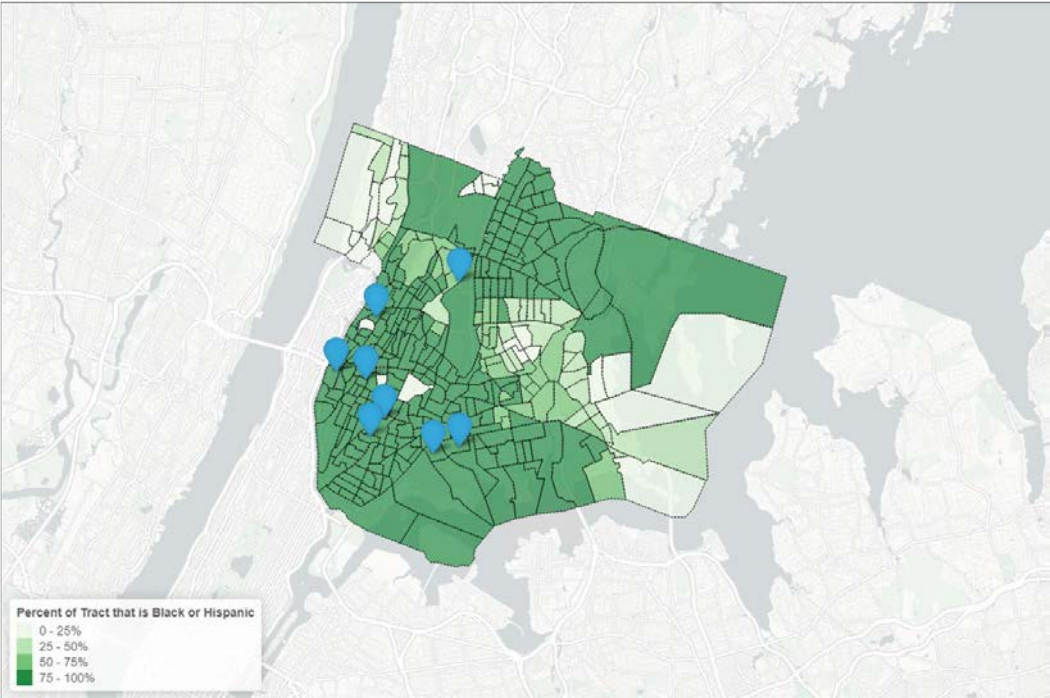


FIGURE 85: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN LOS ANGELES, CA

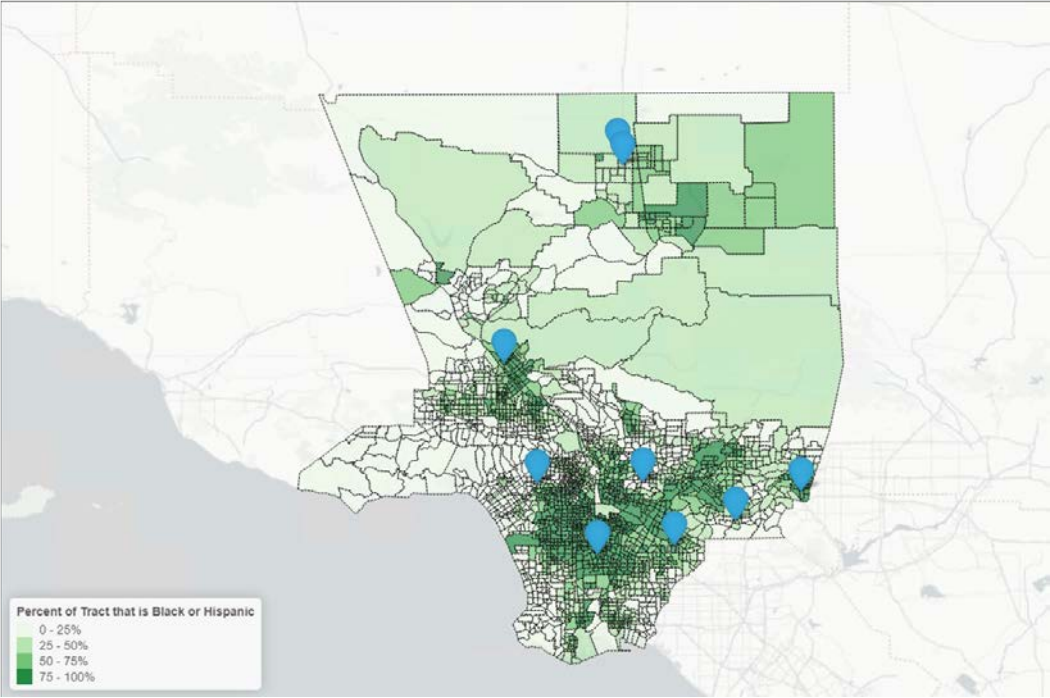


FIGURE 86: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN SAN DIEGO, CA

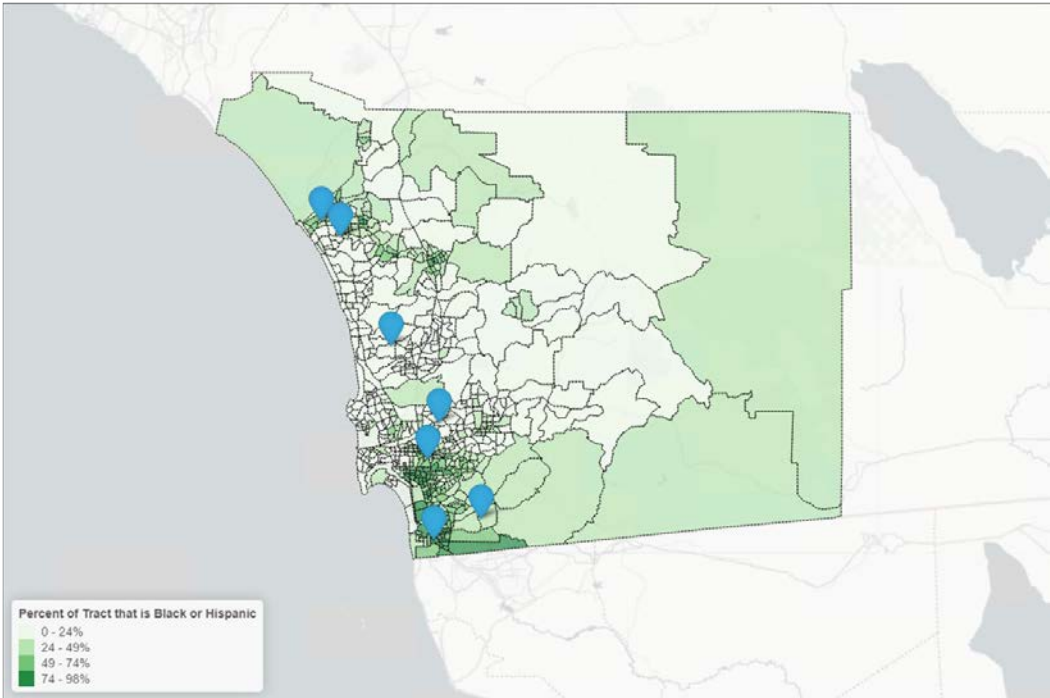


FIGURE 87: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN WASHINGTON, DC

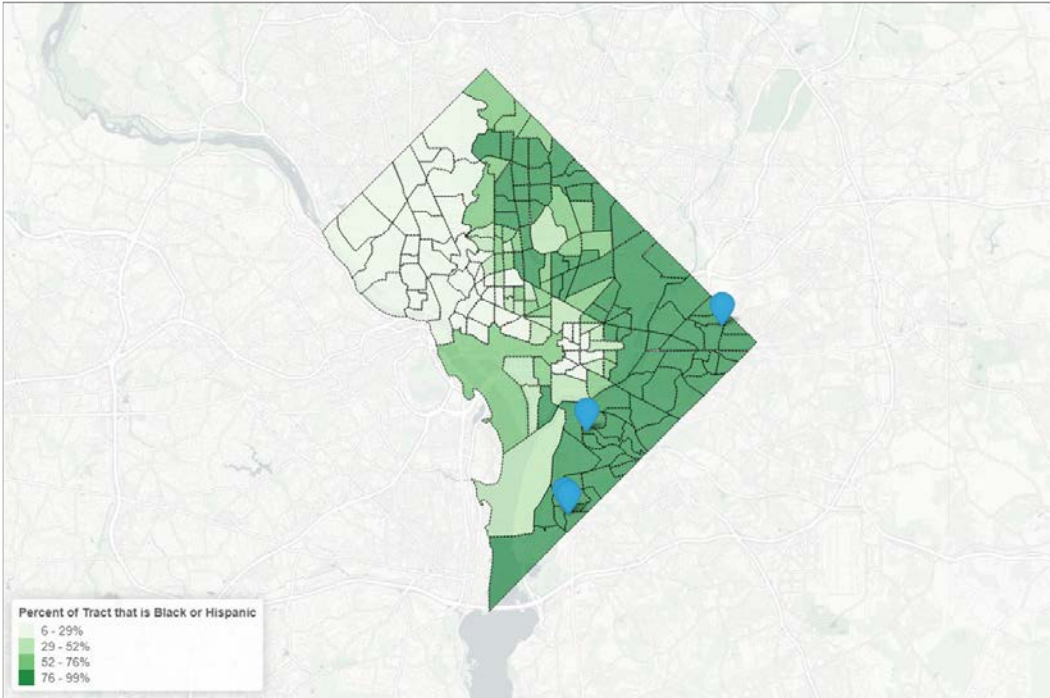


FIGURE 88: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN RIVERSIDE, CA

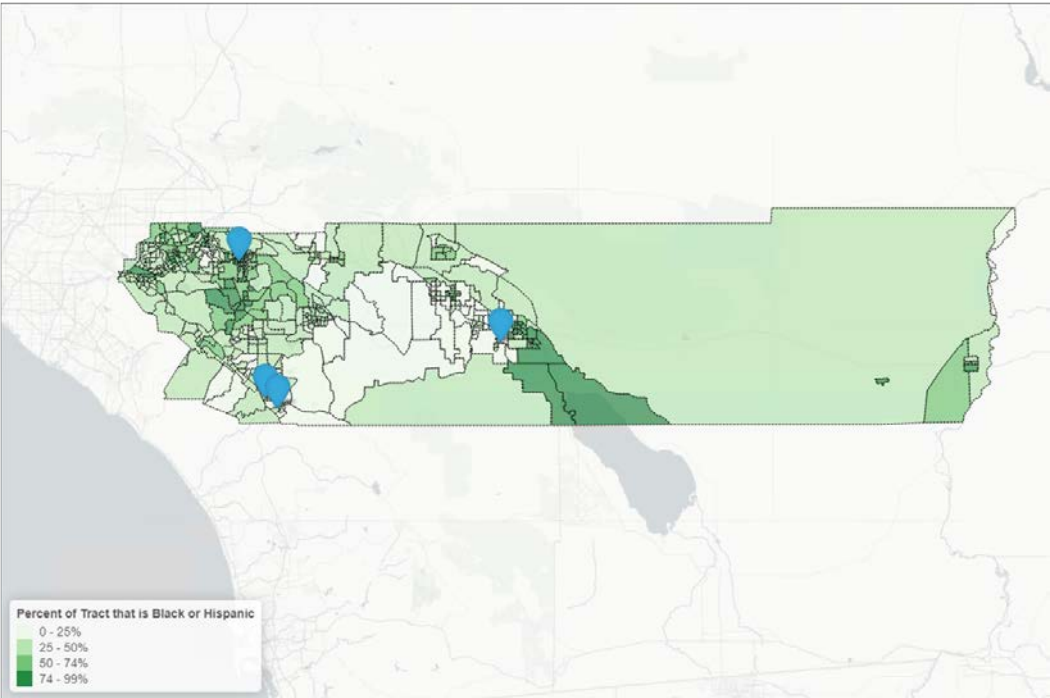


FIGURE 89: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN ORANGE COUNTY, CA

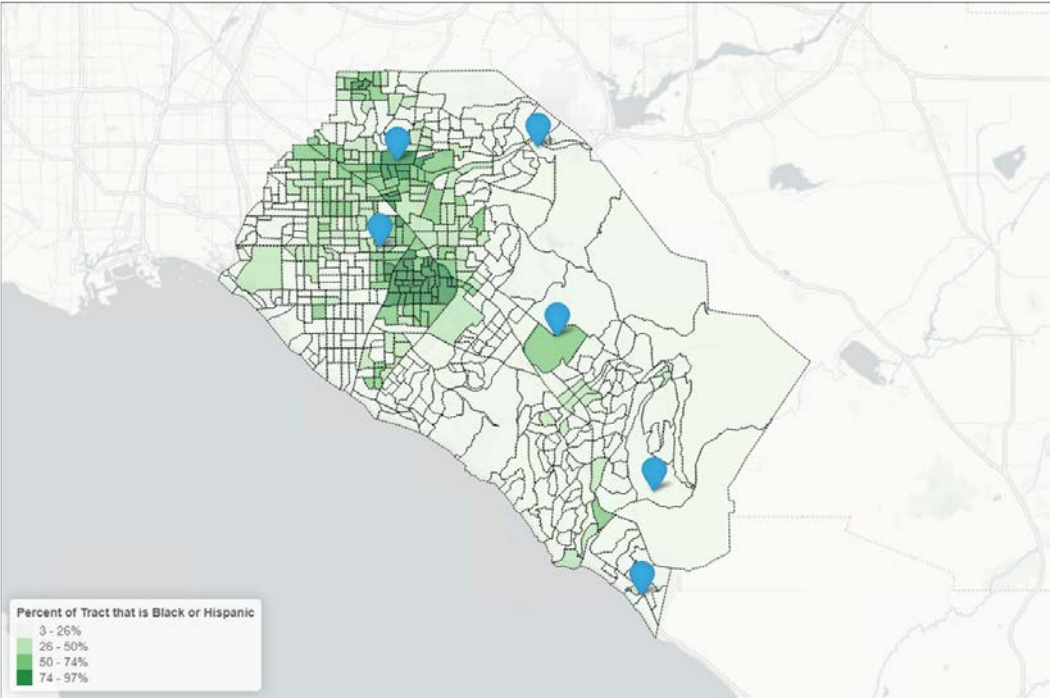


FIGURE 90: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN MIDDLESEX, MA

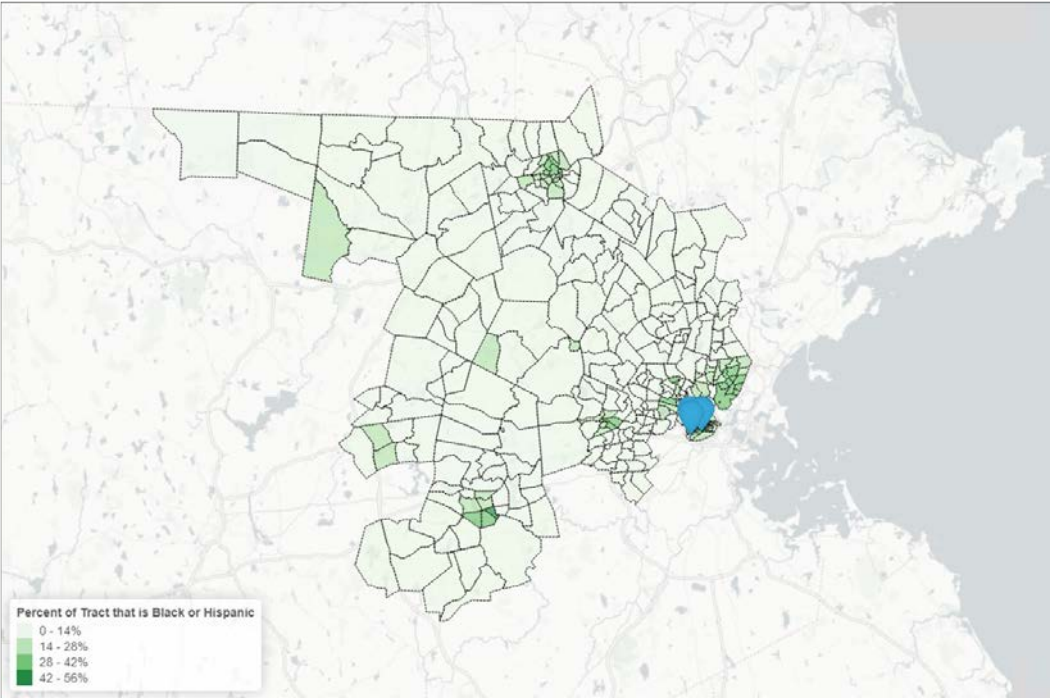
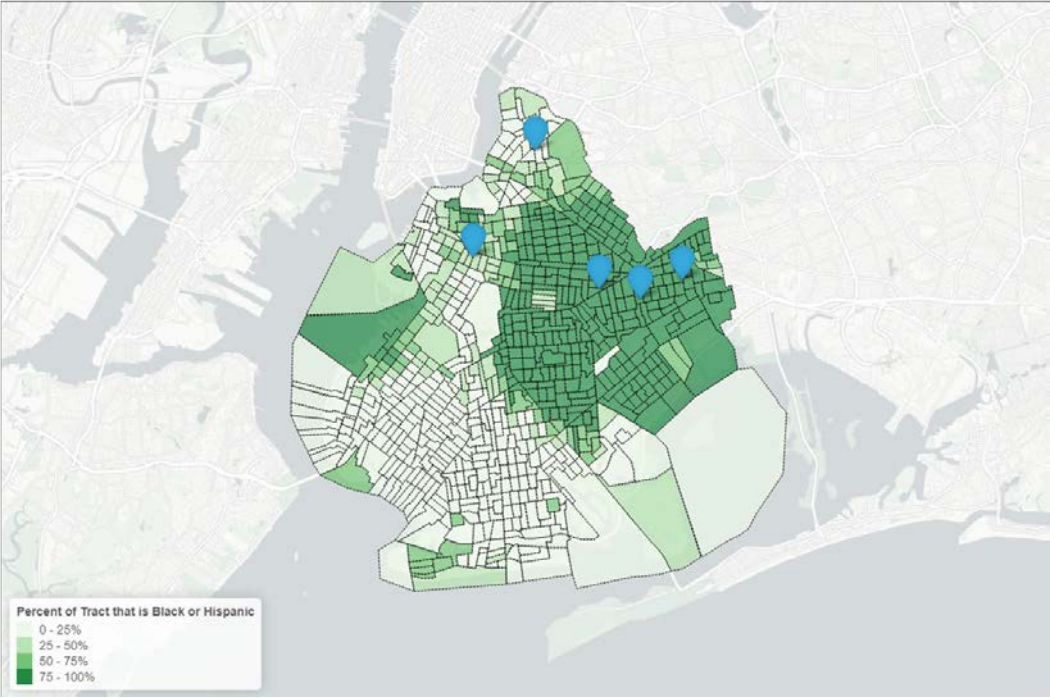


FIGURE 91: AFFORDABLE RENTAL HOUSING DEVELOPMENTS AND PERCENT BLACK OR HISPANIC POPULATION BY CENSUS TRACT IN KINGS COUNTY, NY



Appendix G: Fair Housing Methodology

Below is the methodology Bates White used to construct the reference portfolio.

A. Methodology and Evaluation of Race and Ethnicity Composition

1. Construction of a Baseline

As discussed above, constructing a baseline for comparison is central to fair lending analysis and is exceptionally challenging in the context of the provision of relief under the Settlement Agreement. Notwithstanding those challenges, the Monitor asked Bates White to develop baselines that would permit analysis of, though not definitive conclusions related to, the provision of relief. That effort is described below.

A threshold question is which borrowers should be in a baseline: all borrowers nationwide, all Citi borrowers, all Citi borrowers whose loans were originated in particular years (and, if so, which years), all Citi borrowers whose loans Citi still owned (and, if so, as of what date), all Citi borrowers the status of whose loans was similar, e.g., delinquent, charged-off, underwater by a specified level, etc. The potential variables are numerous, and there is no clear correct answer. But, in constructing baselines, the Monitor's team focused on borrowers likely to be in Citi's portfolio at the time of relief. Citi chose to use the charged-off book for most of its relief portfolio, which was an economic choice that is non-discriminatory.

Bates White employed its methodology to address the two major challenges: the fact that the race or ethnicity of the Relief Borrower was not always available and that Citi's portfolio was a dynamic target that was not readily observable.

2. Developing a Proxy for Unavailable Race and Ethnicity Using the Bayesian Improved Surname Geocoding (BISG) Method

To determine the race or ethnicity for the 37% of loans in Citi's portfolio for which Citi was unable to provide the race or ethnicity of the borrower, Bates White used the Bayesian Improved Surname Geocoding (BISG) method. The BISG method originated in academic literature and has been employed by the federal government's Consumer Financial Protection Bureau (CFPB).²⁵⁷ The purpose of the method is to create a proxy for race and ethnicity when last name and address are available but race and ethnicity are not. The CFPB has used this methodology to assess whether non-mortgage lending practices violated fair lending laws when no race or ethnicity information was available. For instance, auto lenders are not permitted by law to collect race or ethnicity data, but the CFPB uses the BISG method to determine if there is discrimination by race or ethnicity in the interest rates that auto lenders charge car buyers.

The BISG method “combines geography- and surname-based information into a single proxy probability for race and ethnicity.”²⁵⁸ Prior to BISG, researchers used geocoding or surname information separately, or a hybrid approach designed to combine the two methods. Geocoding relies on the “race and ethnicity information for the adult (age 18 and over) population at the census block group, census tract, and 5-digit zip code levels.”²⁵⁹

Statistician Marc N. Elliott and his colleagues proposed the BISG method in a 2009 research paper entitled *Using the Census Bureau’s Surname List to Improve Estimates of Race/Ethnicity and Associated Disparities*.²⁶⁰ Elliott described “geocoding [as] link[ing] an individual’s address to a census measure of their neighborhood’s ethnic racial/ethnic population makeup and us[ing] that measure as a basis for inferring the individual’s race/ethnicity.”²⁶¹ Because of the residential segregation of Black and White people in this country, “geocoding alone can be fairly effective in distinguishing Blacks from Whites.”²⁶² But geocoding may not work as well for other racial or ethnic groups “because Hispanics, Asians, and many Native Americans tend to live in far less segregated neighborhoods than Blacks.”²⁶³

Prior to BISG, surname analysis was used and required an inference of race or ethnicity from last names that are prevalent to certain racial or ethnic groups. But then in 2007, the U.S. Census Bureau released an improved surname list. The data released in 2007 was “of unprecedented detail, showing surnames classified by self-reported race/ethnicity, based on almost 270 million individuals with valid surnames enumerated on Census 2000.” The results demonstrated that “151,671 surnames listed by 100 or more individuals, along with each surname’s self-reported racial/ethnic distribution, are publicly available and represent 89.8% of all individuals enumerated on Census 2000.”²⁶⁴ These surnames are separated into six race and ethnicity categories: White, Black, American Indian or Alaska Native (AI/AN), Asian or Pacific Islander (API), Multiracial, and Hispanic.

3. Employing the BISG Method

Constructing the BISG proxy for Relief Borrowers required the last name and census block group of the Relief Borrowers, and the census surname list and census demographics for the address by census block group.²⁶⁵ Bates White followed the method employed by the CFPB.

First, applicants’ surnames were standardized, including removing special characters and titles and joining compound names. Second, once the surnames were standardized, they were matched to the census surname list.²⁶⁶

Third, for each name that matched the census surname list, Bates White constructed a probability that the name belonged to a given racial or ethnic group (for each of the six race and ethnicity categories). “The probability is simply the proportion (or percentage) of individuals who identify as being a member of a given race or ethnicity for a given surname.”²⁶⁷ For example, according to the census surname list, 73% of individuals with the surname Smith report being non-Hispanic White. Thus, for any individual with the last name Smith, the surname-based probability of being non-Hispanic White is 73%. For borrowers with names that do not match the census surname list, the probability is determined by the race and ethnicity distribution of all unlisted surnames.²⁶⁸

Fourth, Bates White used census data to calculate the percentage of the adult population for each race and ethnicity residing in the geographic area containing the address of the Relief Borrower.²⁶⁹ Fifth, Bates White used Bayes' Theorem to update the surname-based probabilities constructed in step three with the information on the concentration of the U.S. adult population construction in step four to create a probability—a value between, or equal to, zero and one—of assignment to each of the six race and ethnicity categories. In summary, the method used publicly available data from the Census to construct two probabilities: the probability that a person with a given surname identifies as a specific race or ethnicity, and the probability that a person of a given race or ethnicity resides in a particular location, typically a census block group. The latter probability is used to “update” the former probability to compute the probability in question—the probability that a person with a given surname who lives in a given location identifies as one of six mutually exclusive races or ethnicities. These proxy probabilities can be used in statistical analysis aimed at identifying potential differences in lending outcomes.²⁷⁰

B. Reference Portfolio

1. Construction and Purpose of the Reference Portfolio

In order to determine whether certain racial groups were over- or underrepresented in Citi's relief portfolio, Bates White created a reference portfolio to approximate Citi's retained residential mortgage portfolio. The retained residential portfolio represents all of the Citi-held loans for which Citi could have offered relief under the Settlement Agreement. To create the reference portfolio, Bates White started with data collected in accordance with the Home Mortgage Disclosure Act (HMDA). The HMDA requires mortgage lenders to collect and publicly disclose, with some exceptions, race, ethnicity, and sex data for mortgage applications and mortgage loans. Because the HMDA data is anonymized, there are no names of borrowers and the BISG method cannot be used when race or ethnicity information is not provided (e.g., in the case of purchased loans). Further, the HMDA data does not provide information about the performance of the loan over time, meaning that it cannot be used to identify which loans remain active or which loans were charged off at the time of relief. Bates White therefore constructed a reference portfolio that (1) approximated the population of loans eligible for relief and (2) contained information about the race and ethnicity of borrowers holding the loans in the population eligible for relief. Bates White then compared the race and ethnicity distribution of the reference population with the race and ethnicity distribution of borrowers who received relief.

In the HMDA data, about 46% of loans potentially eligible for relief were originated by Citi, while the remaining 54% were purchased by Citi.²⁷¹ Because the HMDA data does not report race or ethnicity information for purchased loans, Bates White constructed an estimated race and ethnicity distribution by matching each purchased loan to corresponding originations using information about the loan's origination year, loan amount, and geography. The actual race and ethnicity distribution of originations and estimated race and ethnicity distribution of purchased loans provided Bates White with a starting point to determine the race and ethnicity distribution of the reference portfolio. Then, Bates White's goal was

to evaluate the performance of the loans over time and to determine the race and ethnicity distribution of the reference portfolio at the time relief was offered. In addition to the HMDA data, Bates White also used data from publicly available sources in order to construct the reference portfolio. Although the HMDA data is available for loans that Citi adds to its portfolio each year, the HMDA data does not follow these loans over time. Loan balances will be paid down due to regular amortization (repayment), and loans may exit the portfolio entirely due to prepayment in full, foreclosure, or charge-off. As a result, Bates White could not use the HMDA data alone to determine the race and ethnicity distribution of Citi's portfolio at a certain point in time.

Because it is not possible using publicly available data to link a Citi loan observed in the HMDA data to the same loan in a performance data set, Bates White compiled a data set of loans with similar characteristics from which to approximate the Citi loan performance. The data set that Bates White compiled contains information for approximately two million loans held in nearly 400 private-label securitizations and for approximately 30 million loans acquired by Fannie Mae. The loan performance data set contains borrower and loan characteristics, such as lien position, origination year, and full five-digit zip code or the first three digits of the zip code, as well as monthly performance information that indicates whether a loan is active or has exited.²⁷²

2. Matching Procedure

To determine the rates at which Citi loans exit the portfolio, Bates White matched the Citi loans to loans in the performance data set that have similar characteristics. In particular, Bates White first grouped the Citi loans and the loans in the performance data set into categories based on the loan's lien position and origination year. Bates White then used a matching algorithm to match loans within each lien and origination year category to loans with similar amounts at origination, that are originated in zip codes with similar levels of house price appreciation, and for which the borrower has a similar payment burden.²⁷³

3. Constructing the Subpopulations

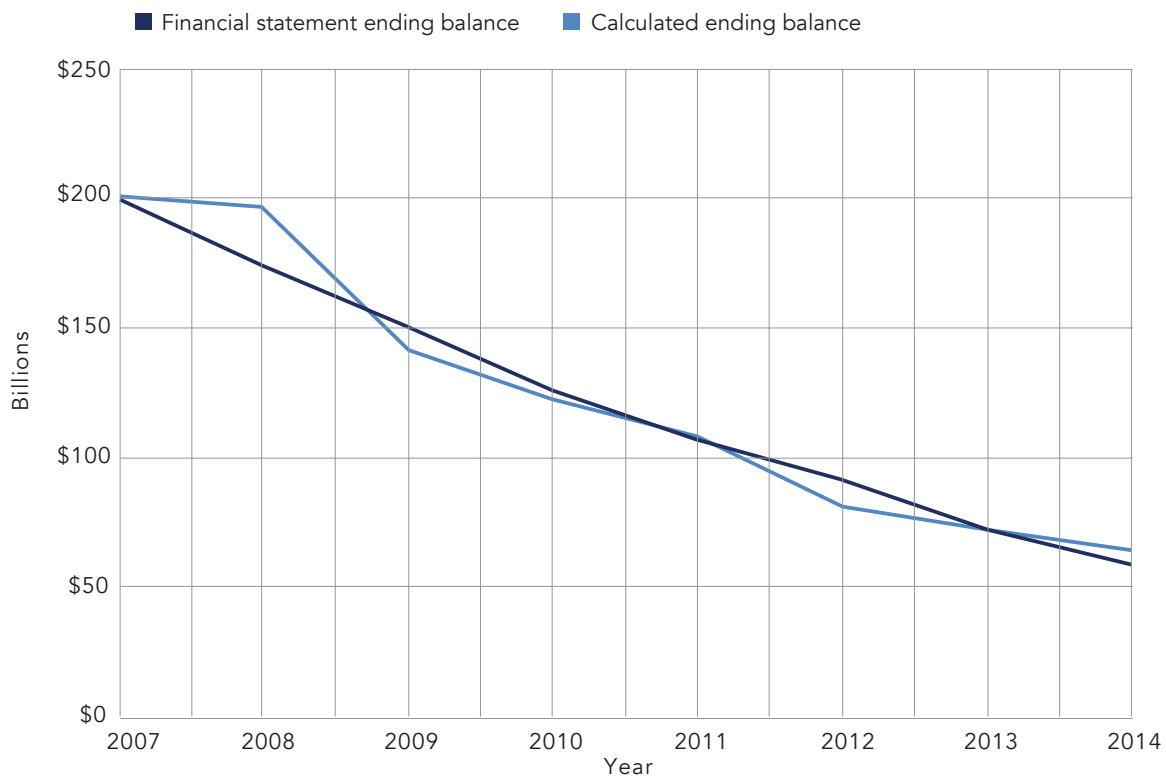
Once the Citi loans had been matched to similar loans in the performance data set, Bates White divided the remaining aggregate principal balance of the matched loans at the end of each year in the following way. For loans that were active at the end of a given year, the remaining loan balance was categorized as either current or delinquent, with further categorization of 30+, 60+, and 90+ days delinquent. For loans that had exited by the end of a given year, Bates White categorized the balance at exit as prepaid in full or liquidated, with further categorization of liquidated loans for foreclosure and charge-off.

For example, if the category of matched first-lien loans originated in 2008 had a total balance at origination of \$1,000,000 and a remaining balance at the end of 2008 of \$900,000, then the aggregate loan balance was reduced by \$100,000, or 10%. Bates White then assumed that the corresponding category of Citi first-lien loans originated in 2008 also experienced a balance reduction of 10% by the end of 2008. This approach was also used

to determine the remaining balance for this category of Citi loans in each subsequent year in the data. Bates White repeated this process for all lien-origination year categories, and for all years through the end of 2014. Then, Bates White aggregated the remaining balances for all lien-origination year categories to arrive at an aggregate remaining balance for the end of 2014. Because the race and ethnicity distribution and the amount of balance reduction differed for each lien-origination year category, the race and ethnicity distribution at the end of 2014 was not the same as the race and ethnicity distribution at origination.

Citi financial statements provided the annual ending loan balance for different business units. Bates White adjusted its estimate of aggregate repayment each year to ensure that the annual change in ending loan balance was equal to the sum of loan balances added in that year (through originations and purchases) less the sum of loan balances that exit in that year (through sales, repayment, and charge-offs).²⁷⁴ Figure 92, below, compares the annual ending loan balance for Citi Holdings, which comprises CitiMortgage (CMI) and CitiFinancial Servicing (CFS) – North America, to the annual ending mortgage balance that Bates White calculated, before adjusting aggregate repayment.²⁷⁵ Figure 92 shows how well the model components (originations, purchases, sales, repayment, and charge-offs) reconcile with annual ending loan balances; importantly, differences between the actual ending loan balance and the modeled ending loan balance are small, and the model does not systematically under- or over-predict annual balance changes. Differences in estimated and actual ending loan balances may be attributed to differences in reporting between the financial statements and the HMDA data, unobserved loan purchases or sales, or error in repayment estimation.

FIGURE 92: ANNUAL VS. CALCULATED ENDING MORTGAGE BALANCE FOR CITI HOLDINGS



The reference population considered all loans originated or purchased by CFS or CMI that Bates White estimated to be active at the end of 2014. However, loans had to meet eligibility requirements to be considered for certain menu items. As a result, Bates White limited the reference population to subsets of loans that met eligibility requirements, including lien position and whether the loan was distressed. Bates White also used the analysis described above to approximate the set of loans that had been charged off.

Appendix H: Settlement Agreement and Annex 2

This Settlement Agreement (“Agreement”) is entered into between the United States acting through the United States Department of Justice (“Department of Justice”), along with the States of California, Delaware, Illinois, and New York and the Commonwealth of Massachusetts, acting through their respective Attorneys General (collectively, “the States”), and Citigroup Inc. (“Citigroup”). The United States, the States, and Citigroup are collectively referred to herein as “the Parties.”

RECITALS

A. The Department of Justice conducted investigations of the packaging, marketing, sale, structuring, arrangement, and issuance of residential mortgage-backed securities (“RMBS”) and collateralized debt obligations (“CDOs”) by Citigroup between 2006 and 2007. Based on those investigations, the United States believes that there is an evidentiary basis to compromise potential legal claims by the United States against Citigroup for violations of federal laws in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of RMBS and CDOs.

B. The States, based on their independent investigations of the same conduct, believe that there is an evidentiary basis to compromise potential legal claims by California, Delaware, Illinois, Massachusetts, and New York against Citigroup for state law violations in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of RMBS and CDOs.

C. Citigroup has resolved claims filed by the Federal Deposit Insurance Corporation as Receiver for Strategic Capital Bank, and the Federal Deposit Insurance Corporation as Receiver for Colonial Bank (collectively, “FDIC”), alleging violations of federal and state securities laws in connection with private-label RMBS issued, underwritten, and/or sold by

Citigroup. The terms of the resolution of those claims are memorialized in a separate agreement, attached as Exhibit A.

D. Citigroup acknowledges the facts set out in the Statement of Facts set forth in Annex 1, attached and hereby incorporated.

E. In consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. **Payment.** Citigroup shall pay a total amount of \$4,500,000,000.00 to resolve pending and potential legal claims in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of RMBS and CDOs by Citigroup (“Settlement Amount”). As set out below, \$4,000,000,000.00 of that amount will be deposited in the United States Treasury and the remainder is paid to resolve the claims of the States and the FDIC, pursuant to the subsequent provisions of this Paragraph 1.

A. Within fifteen business days of receiving written payment processing instructions from the Department of Justice, Office of the Associate Attorney General, Citigroup shall pay \$4,208,250,000.00 of the Settlement Amount by electronic funds transfer to the Department of Justice.

- i. \$4,000,000,000.00 of the Settlement Amount, and no other amount, is a civil monetary penalty recovered pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), 12 U.S.C. § 1833a. It will be deposited in the General Fund of the United States Treasury.
- ii. \$208,250,000.00 and no other amount, is paid by Citigroup in settlement of the claims of the FDIC identified in Recital Paragraph C, pursuant to the settlement

agreement attached hereto as Exhibit A, the terms of which are not altered or affected by this Agreement.

B. \$102,700,000.00, and no other amount, will be paid by Citigroup to the State of California pursuant to Paragraph 6, below, and the terms of written payment instructions from the State of California, Office of the Attorney General. Payment shall be made by electronic funds transfer within fifteen business days of receiving written payment processing instructions from the State of California, Office of the Attorney General.

C. \$7,350,000.00, and no other amount, will be paid by Citigroup to the State of Delaware pursuant to Paragraph 7, below, and the terms of written payment instructions from the State of Delaware, Office of the Attorney General. Payment shall be made by electronic funds transfer within fifteen business days of receiving written payment processing instructions from the State of Delaware, Office of the Attorney General.

D. \$44,000,000.00, and no other amount, will be paid by Citigroup to the State of Illinois pursuant to Paragraph 8, below, and the terms of written payment instructions from the State of Illinois, Office of the Attorney General. Payment shall be made by electronic funds transfer within fifteen business days of receiving written payment processing instructions from the State of Illinois, Office of the Attorney General.

E. \$45,700,000.00, and no other amount, will be paid by Citigroup to the Commonwealth of Massachusetts pursuant to Paragraph 9, below, and the terms of written payment instructions from the Commonwealth of Massachusetts, Office of the Attorney General. Payment shall be made by electronic funds transfer within fifteen business days of receiving written payment processing instructions from the Commonwealth of Massachusetts, Office of the Attorney General.

F. \$92,000,000.00, and no other amount, will be paid by Citigroup to the State of New York pursuant to Paragraph 10, below, and the terms of written payment instructions from the State of New York, Office of the Attorney General. Payment shall be made by electronic funds transfer within fifteen business days of receiving written payment processing instructions from the State of New York, Office of the Attorney General.

2. **Consumer Relief.** In addition, Citigroup shall provide \$2.5 billion worth of consumer relief as set forth in Annex 2, attached and hereby incorporated as a term of this Agreement. The value of consumer relief provided shall be calculated and enforced pursuant to the terms of Annex 2. An independent monitor will be appointed to determine whether Citigroup has satisfied the obligations contained in this Paragraph (such monitor to be Thomas J. Perrelli), and any costs associated with said Monitor shall be borne by Citigroup.

3. **Covered Conduct.** “Covered Conduct” as used herein is defined as the creation, pooling, structuring, arranging, formation, packaging, marketing, underwriting, sale, or issuance prior to January 1, 2009 by Citigroup of the RMBS and CDOs identified in Annex 3, attached and hereby incorporated. Covered Conduct includes representations, disclosures, or non-disclosures to RMBS investors made in connection with the activities set forth above about the underlying residential mortgage loans, where the representation or non-disclosure involves information about or obtained during the process of originating, acquiring, securitizing, underwriting, or servicing residential mortgage loans included in the RMBS identified in Annex 3. Covered Conduct also includes representations, disclosures, or non-disclosures made in connection with the activities set forth above about the CDOs identified in Annex 3, attached and hereby incorporated. Covered Conduct does not include: (i) conduct relating to the origination of residential mortgages, except representations or non-disclosures to investors in the

RMBS listed in Annex 3 about origination of, or about information obtained in the course of originating, such loans; (ii) origination conduct unrelated to securitization, such as soliciting, aiding or abetting borrower fraud; (iii) the servicing of residential mortgage loans, except representations or non-disclosures to investors in the RMBS listed in Annex 3 about servicing, or information obtained in the course of servicing, such loans; or (iv) representations or non-disclosures made in connection with the trading of RMBS, except to the extent that the representations or non-disclosures are in the offering materials for the underlying RMBS listed in Annex 3.

4. **Cooperation.** Until the date upon which all investigations and any prosecution arising out of the Covered Conduct are concluded by the Department of Justice, whether or not they are concluded within the term of this Agreement, Citigroup shall, subject to applicable laws or regulations: (a) cooperate fully with the Department of Justice (including the Federal Bureau of Investigation) and any other law enforcement agency designated by the Department of Justice regarding matters arising out of the Covered Conduct; (b) assist the Department of Justice in any investigation or prosecution arising out of the Covered Conduct by providing logistical and technical support for any meeting, interview, grand jury proceeding, or any trial or other court proceeding; (c) use its best efforts to secure the attendance and truthful statements or testimony of any officer, director, agent, or employee of any of the entities released in Paragraph 5 at any meeting or interview or before the grand jury or at any trial or other court proceeding regarding matters arising out of the Covered Conduct; and (d) provide the Department of Justice, upon request, all non-privileged information, documents, records, or other tangible evidence regarding matters arising out of the Covered Conduct about which the Department or any designated law enforcement agency inquires.

5. **Releases by the United States.** Subject to the exceptions in Paragraph 12 (“Excluded Claims”), and conditioned upon Citigroup’s full payment of the Settlement Amount (of which \$4 billion will be paid as a civil monetary penalty pursuant to FIRREA, 12 U.S.C. § 1833a), and Citigroup’s agreement, by executing this Agreement, to satisfy the terms in Paragraph 2 (“Consumer Relief”) and Paragraph 4 (“Cooperation”), the United States fully and finally releases Citigroup and each of its current and former subsidiaries and affiliated entities (collectively, the “Released Entities”), and each of their respective successors and assigns from any civil claim the United States has against the Released Entities for the Covered Conduct arising under FIRREA, 12 U.S.C. § 1833a; the False Claims Act, 31 U.S.C. §§ 3729, *et seq.*; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801, *et seq.*; the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961, *et seq.*; the Injunctions Against Fraud Act, 18 U.S.C. § 1345; common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud, and aiding and abetting any of the foregoing; or that the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 C.F.R. § 0.45.

6. **Releases by the California Attorney General.** Subject to the exceptions in Paragraph 12 (Excluded Claims), and conditioned solely upon Citigroup’s full payment of the Settlement Amount (of which \$102,700,000.00 will be paid to the Office of the California Attorney General, in accordance with written payment instructions from the California Attorney General, to remediate harms to the State, pursuant to California Government Code §§ 12650-12656 and 12658, allegedly resulting from unlawful conduct of the Released Entities), the California Attorney General fully and finally releases the Released Entities from any civil or

administrative claim for the Covered Conduct that the California Attorney General has authority to bring, including but not limited to: California Corporate Securities Law of 1968, Cal. Corporations Code § 25000 *et seq.*, California Government Code §§ 12658 and 12660 and California Government Code §§ 12650-12656, common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud and aiding and abetting any of the foregoing. The California Attorney General executes this release in her official capacity and releases only claims that the California Attorney General has the authority to release for the Covered Conduct. The California Attorney General agrees that no portion of the funds in this paragraph is received as a civil penalty or fine, including, but not limited to any civil penalty or fine imposed under California Government Code § 12651. The California Attorney General and Citigroup acknowledge that they have been advised by their attorneys of the contents and effect of Section 1542 of the California Civil Code (“Section 1542”) and hereby expressly waive with respect to this Agreement any and all provisions, rights, and benefits conferred by Section 1542.

7. **Releases by the State of Delaware.** Subject to the exceptions in Paragraph 12 (Excluded Claims), and conditioned solely upon Citigroup’s full payment of the Settlement Amount (of which \$7,350,000.00 will be paid to the State of Delaware, in accordance with written payment instructions from the State of Delaware, Office of the Attorney General, to remediate harms to the State allegedly resulting from unlawful conduct of the Released Entities), the Delaware Department of Justice fully and finally releases the Released Entities from any civil or administrative claim for the Covered Conduct that it has authority to bring, including but not limited to: 6 Del. C. Chapter 12 (the Delaware False Claims and Reporting Act), 6 Del. C. §§ 2511 *et seq.* (the Delaware Consumer Fraud Act), 6 Del. C. Chapter 73 (the Delaware

Securities Act), and common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud and aiding and abetting any of the foregoing. The State of Delaware agrees that no portion of the funds in this paragraph is received as a civil penalty or fine, including, but not limited to any civil penalty or fine imposed under 6 Del. C. § 1201 or § 2522.

8. **Releases by the State of Illinois.** Subject to the exceptions in Paragraph 12 (Excluded Claims), and conditioned solely upon Citigroup's full payment of the Settlement Amount (of which \$44,000,000.00 will be paid to the State of Illinois, Office of the Attorney General, in accordance with the written payment instructions from the State of Illinois, Office of the Attorney General, to remediate harms to the State allegedly resulting from unlawful conduct of the Released Entities), the Illinois Attorney General of the State of Illinois fully and finally releases the Released Entities from any civil or administrative claim for the Covered Conduct that it has authority to bring, including but not limited to: Illinois Securities Law of 1953, 815 Ill. Comp. Stat. 5/1 *et seq.*, and common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud and aiding and abetting any of the foregoing. The State of Illinois agrees that no portion of the funds in this paragraph is received as a civil penalty or fine.

9. **Releases of the Commonwealth of Massachusetts.** Subject to the exceptions in Paragraph 12 (Excluded Claims), and conditioned solely upon Citigroup's full payment of the Settlement Amount (of which \$45,700,000.00 will be paid to the Commonwealth of Massachusetts, in accordance with the written payment instructions from the Commonwealth of Massachusetts, to remediate harms to the Commonwealth allegedly resulting from unlawful conduct of the Released Entities), the Attorney General of the Commonwealth of Massachusetts

fully and finally releases the Released Entities from any civil claim for the Covered Conduct that she has authority to bring, including but not limited to: M.G.L. c. 93A, M.G.L. c. 12, and common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud and aiding and abetting any of the foregoing. The payment to the Commonwealth of Massachusetts shall be made to a trustee chosen by the Commonwealth, which shall hold the monies and distribute them as directed by the Massachusetts Office of the Attorney General for consumer relief, compensation to the Commonwealth and its entities, and pursuant to M.G.L. c. 12 § 4A, implementation of this Agreement and related purposes. Funds or portions of the funds remaining in the trust after 90 days, at the discretion of the Massachusetts Office of the Attorney General, may be transferred to the Massachusetts Treasury. The Commonwealth of Massachusetts agrees that no portion of the funds in this paragraph is received as a civil penalty or fine.

10. **Releases by the State of New York.** Subject to the exceptions in Paragraph 12 (Excluded Claims), and conditioned solely upon Citigroup's full payment of the Settlement Amount (of which \$92,000,000.00 will be paid to the State of New York, in accordance with written payment instructions from the State of New York, Office of the Attorney General, to remediate harms to the State allegedly resulting from unlawful conduct of the Released Entities), the State of New York, by Eric T. Schneiderman, Attorney General of the State of New York, fully and finally releases the Released Entities from any civil or administrative claim for the Covered Conduct that it has authority to bring, including but not limited to any such claim under: New York General Business Law Article 23A, New York Executive Law § 63(12), and common law theories of negligence, payment by mistake, unjust enrichment, money had and

received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud and aiding and abetting any of the foregoing. The payment to the State of New York shall be used, to the maximum extent possible, for purposes of redeveloping and revitalizing housing and home ownership and rebuilding communities in the State, and for programs intended to avoid preventable foreclosures, to ameliorate the effects of the foreclosure crisis, to provide funding for housing counselors and legal assistance, housing remediation and anti-blight projects, for code enforcement, and to enhance law enforcement efforts involving financial fraud or unfair or deceptive acts or practices. The State of New York agrees that no portion of the funds in this paragraph is received as a civil penalty or fine.

11. **Releases by the FDIC.** The release of claims by the FDIC is contained in a separate settlement agreement with Citi, attached as Exhibit A. Any release of claims by the FDIC is governed solely by that separate settlement agreement.

12. **Excluded Claims.** Notwithstanding the releases in Paragraphs 5-11 of this Agreement, or any other term(s) of this Agreement, the following claims are specifically reserved and not released by this Agreement:

- a. Any criminal liability;
- b. Any liability of any individual;
- c. Any liability arising under Title 26 of the United States Code (the Internal Revenue Code);
- d. Any liability to or claims of the FDIC (in its capacity as a corporation, receiver, or conservator), except as expressly set forth in the separate agreement with the FDIC;

- e. Any claim related to compliance with the National Mortgage Settlement (“NMS”), or to compliance with the related agreements reached between the settling banks and individual states;
- f. Any liability to or claims of the United States of America, the Department of Housing and Urban Development/Federal Housing Administration, the Department of Veterans Affairs, or Fannie Mae or Freddie Mac relating to whole loans insured, guaranteed, or purchased by the Department of Housing and Urban Development/Federal Housing Administration, the Department of Veterans Affairs, or Fannie Mae or Freddie Mac, except claims based on or arising from the securitizations of any such loans in the RMBS or CDOs listed in Annex 1.
- g. Any administrative liability, including the suspension and debarment rights of any federal agency;
- h. Any liability based upon obligations created by this Settlement Agreement;
- i. Any liability for the claims or conduct alleged in the following *qui tam* actions, and no setoff related to amounts paid under this Agreement shall be applied to any recovery in connection with any of these actions:
 - (i) *United States, et al. ex rel. Szymoniak v. American Home Mortgage Servicing, Inc. et al.*, No. 0:10-cv-01465-JFA (D.S.C.), and *United States ex rel. Szymoniak v. ACE Securities Corp. et al.*, No. 13-cv-464-JFA (D.S.C.); and
 - (ii) *United States ex rel. [Sealed] v. [Sealed]*, as disclosed to Citigroup;
- j. Claims raised in *Commonwealth of Massachusetts v. Bank of America, N.A., et al.*, Civ. No. 11-4363 (BLS1)(Massachusetts Suffolk Superior Court); and

k. Any claims related to the alleged manipulation of the London Interbank Offered Rate or other currency benchmarks.

13. **Releases by Citigroup.** Citigroup and any current or former affiliated entity and any of their respective successors and assigns fully and finally release the United States and the States, and their officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Citigroup has asserted, could have asserted, or may assert in the future against the United States and the States, and their officers, agents, employees, and servants, related to the Covered Conduct and the investigation and civil prosecution to date thereof.

14. **Waiver of Potential FDIC Indemnification Claims by Citi.** Citigroup hereby irrevocably waives any right that it otherwise might have to seek (and in any event agrees that it shall not seek) any form of indemnification, reimbursement or contribution from the FDIC in any capacity, including the FDIC in its Corporate Capacity or the FDIC in its Receiver Capacity for any payment that is a portion of the Settlement Amount set forth in Paragraph 1 of this Agreement or of the Consumer Relief set forth in Paragraph 2 of this Agreement, including payments to the United States and the States made pursuant to Paragraphs 1 and 2 of this Agreement.

15. **Waiver of Potential Defenses by Citigroup.** Citigroup and any current or former affiliated entity (to the extent that Citigroup retains liability for the Covered Conduct associated with such affiliated entity) and any of their respective successors and assigns waive and shall not assert any defenses Citigroup may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under

the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

16. **Unallowable Costs Defined.** All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Citigroup, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- a. the matters covered by this Agreement;
- b. the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- c. Citigroup's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- d. the negotiation and performance of this Agreement; and
- e. the payment Citigroup makes to the United States pursuant to this Agreement, are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

17. **Future Treatment of Unallowable Costs.** Unallowable Costs will be separately determined and accounted for by Citigroup, and Citigroup shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

18. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of New York.

19. The Parties acknowledge that this Agreement is made without any trial or adjudication or finding of any issue of fact or law, and is not a final order of any court or governmental authority.
20. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
21. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.
22. Nothing in this Agreement in any way alters the terms of the NMS, or Citigroup's obligations under the NMS.
23. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for the purposes of the Internal Revenue laws, Title 26 of the United States Code.
24. For the purposes of construing the Agreement, this Agreement shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.
25. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.
26. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.
27. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
28. This Agreement is binding on Citigroup's successors, transferees, heirs, and assigns.

29. All parties consent to the disclosure to the public of this Agreement, and information about this Agreement, by Citigroup, the United States, the States, and the FDIC whose separate settlement agreement is referenced herein and attached as an exhibit to this Agreement.

30. This Agreement is effective on the date of signature of the last signatory to the Agreement (“Effective Date of this Agreement”). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

For the United States:



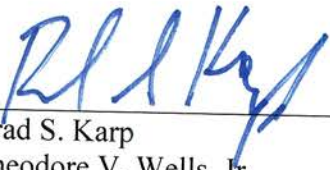
TONY WEST
Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Phone: (202) 514-9500

Dated: July 11, 2014

For Citigroup Inc.:



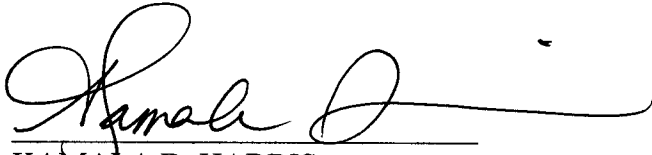
Rohan Weerasinghe
General Counsel
Citigroup Inc.
399 Park Avenue
New York, New York 10022
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Brad S. Karp
Theodore V. Wells, Jr.
Bruce Birenboim
Susanna M. Buerger
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019
Phone: (212) 373-3000
Facsimile: (212) 492-0316

Dated: July 11, 2014


For the California Department of Justice:

A handwritten signature in black ink, appearing to read "Kamala D.", written over a horizontal line.

KAMALA D. HARRIS
California Attorney General
California Department of Justice
455 Golden Gate, Suite 1000
San Francisco, CA 94102
Phone: (415) 703-5500

Dated: 7/11/14

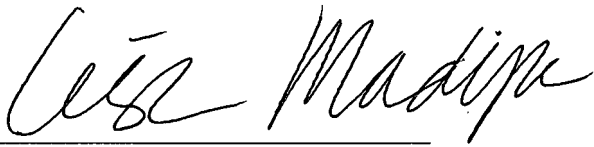
For the State of Delaware:



JOSEPH R. BIDEN, III
Attorney General for the State of Delaware
Delaware Department of Justice
Carvel State Office Building
820 N. French Street
Wilmington, DE 19801
Phone: (302) 577-8338

Dated: 7/11/14

For the State of Illinois:

A handwritten signature in black ink, appearing to read "Lisa Madigan". The signature is written in a cursive, flowing style.

LISA MADIGAN
Attorney General State of Illinois
500 South Second Street
Springfield, IL 62706
Phone: (217) 782-1090

Dated: July 14, 2014

For the Commonwealth of Massachusetts:

Office of the Attorney General
Attorney General Martha Coakley
By:



GLENN KAPLAN
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
Phone: (617) 727-2200

Dated: 7/11/14

For the State of New York:



ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
120 Broadway
New York, NY 10271
Phone: (212) 416-8000

Dated: 7/11/14

Consumer Relief

Eligibility: The Consumer Relief eligibility criteria shall reflect only the terms set forth below and the following principles and conditions: (1) Consumer Relief will not be implemented through any policy that violates the Fair Housing Act or the Equal Credit Opportunity Act; (2) Consumer Relief will not be conditioned on a waiver or release by a borrower, provided that waivers and releases shall be permitted in the case of a contested claim where the borrower would not otherwise have received as favorable terms or consideration; and (3) Eligible modifications may be made under the Making Home Affordable Program (including the Home Affordable Modification Program (“HAMP”) and the Housing Finance Agency Hardest Hit Fund) and any proprietary or other modification program.

Menu¹

<u>Menu Item²</u>	<u>Credit Towards Settlement</u>	<u>Minimum</u>
1. <u>Modification – Forgiveness/Forbearance^{3, 4, 5}</u>		
A. First Lien – Principal Forgiveness ⁶	\$1.00 Forgiveness = \$1.00 Credit 115% Early Incentive Credit ⁷ 115% Credit for incremental LTV reduction below 100%	

¹ Start date of crediting is 4/30/2014 (based on first payment date for completed modifications and other actions under this Menu). Consumer Relief to be completed no later than 12/31/2018. No Credit will be provided for a modification if payments are required unless the borrower makes the required scheduled payments under the modification to include trial period payments (the required scheduled payments for CMI are 3 payments; the required scheduled payments for CFS are 2 payments). With respect to earned forgiveness principal reduction modifications, credit can be immediate, provided the borrower makes the required payments (to include any trial payments) and the earned forgiveness period is a maximum of 3 years. If a borrower receives more than one form of consumer relief, Credit shall be provided for each form of relief, provided that the forms of relief must be segregated for purposes of determining Credit. The Credits for principal forgiveness modifications shall be net of any state or federal funds paid to Citi, such netting calculated on a basis consistent with the National Mortgage Servicing Settlement Consent Judgment entered into by Citi and various government parties on April 4, 2012 and filed in the U.S. District Court for the District of Columbia. Credit can be earned for all forms of relief in the 50 states, the District of Columbia, and the U.S. territories.

² Credit will be provided for any consumer relief completed by any subservicer pursuant to this Annex 2 and for loans sold to other servicers (including sales of servicing rights) where a modification is completed by the deadline set forth in footnote 1 for Citi to complete its Consumer Relief obligations, and provided that the agreement providing for such sale of servicing allows for the tracking and reporting of such subsequent Consumer Relief to the satisfaction of the Monitor. With respect to loans held in securitizations, Consumer Relief shall be credited in accordance with this Annex 2 from 4/30/2014 for all eligible modifications described in this “Menu,” provided that all principal forgiveness modifications performed on loans in securitizations shall be eligible only where: (1) the modification is permitted under the operative documents for the securitization; or (2) Citi has permission from the relevant investors and/or trustees to provide the principal reduction under the operative documents for the securitization or another agreement with trustees/investors.

³ For modifications and other actions under Menu Item 1, loan term can be shortened in lieu of payment reduction at the option of the borrower for borrowers who have evidenced good payment history. “At the option of the borrower” may entail offering the borrower with a term shortening modification and allowing the borrower to elect payment reduction. “Good Payment History” shall be defined as no payment 60 days or more past due in the last 12 months.

⁴ For Menu Items 1.A and 1.E, eligibility is limited to non-performing loans, loans in imminent default (as defined by Citi in its written policies with respect to its implementation of HAMP), high LTV loans, loans with rates substantially above Freddie Mac’s Primary Mortgage Market Survey (PMMS) and loans with troubled loan history. High LTV Loans are defined as loans at or above 100% LTV. Loans with troubled loan history are defined as loans where the borrower has missed two or more payments during the term of the loan. With respect to all other categories, eligibility is available to all borrowers unless otherwise limited under the Menu.

⁵ With respect to Menu Items 1 and 4A, credit will be provided for forgiveness of loan amounts for those loans in first lien position at the time of the consumer relief (excluding PACE, condo association fees, and other such liens that may take priority of liens without reference to the time of filing of these other such liens).

⁶ With respect to Credits achieved in Menu Items 1.A 1.B, 1.C, and 1.E, modifications must be for loans with an unpaid principal balance prior to capitalization at or below the local GSE conforming loan limit cap as of 4/30/2014.

⁷ Early Incentive Credit applies to all consumer relief activity offered or completed by 10/1/2015. Early Incentive Credit and other credits are cumulative (e.g., \$1.00 of principal forgiveness in an amount below 100% LTV completed prior to 10/1/2015 in a Participating State (as described below under “State-Specific Minimums”) where Citi has already met its state-specific minimum in an amount beyond that state-specific minimum would receive \$1.520875 Credit).

<u>Menu Item</u> ²	<u>Credit Towards Settlement</u>	<u>Minimum</u>
	\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit	
	\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP (if applicable) = \$1.00 Credit ⁸	
	Credit limited to principal forgiveness that reduces LTVs to equal to or less than 100%	
B Principal Forgiveness of Forbearance	\$1.00 Forgiveness = \$1.00 Credit	
	115% Early incentive Credit 115% Credit for incremental LTV reduction below 100%	
	\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit	
	\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP for principal reduction of first liens (if applicable) = \$1.00 Credit	
	Credit limited to principal reduction that reduces LTVs to equal to or less than 100%	
C. First Lien – Forbearance (Payment Forgiveness)	\$Forgiveness = Pre Mod Rate x Forborne UPB x Avg Life ⁹	
	115% Early Incentive Credit	
	\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit	
	\$1.00 Investor incentive payments (when paid) consistent with those paid	

⁸ With respect to investor incentive payments under Menu Item 1, Citi can apply for servicer and investor incentive payments under HAMP, but credit cannot be earned for these incentives.

⁹ Based on an average life of 8 years for the CMI portfolio and 12 years for the CFS portfolio. “CMI portfolio” refers to the portfolio serviced by CitiMortgage, Inc. “CFS portfolio” refers to the portfolio serviced by CitiFinancial Services, LLC, CitiFinancial Services, Inc. (Minnesota), CitiFinancial Company (Delaware), or CitiFinancial, Inc. (West Virginia).

<u>Menu Item</u> ²	<u>Credit Towards Settlement</u>	<u>Minimum</u>
	in HAMP (if applicable) = \$1.00 Credit	
	Credit limited to principal reduction that reduces LTVs to equal to or less than 100%	
D. Second Lien –Principal Forgiveness (including extinguishments)	<p><u>Performing (90 days or less past due on the related Second Lien) (MBA for CMI portfolio and OTS for CFS portfolio)</u>¹⁰: \$1.00 Forgiveness = \$1.00 Credit</p> <p>115% Early Incentive Credit</p> <p>\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit</p> <p>\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP (if applicable) = \$1.00 Credit</p> <p>Eligibility limited to borrowers with second lien UPBs at or below \$208,500 nationwide with the exception of Alaska, Guam, Hawaii and Virgin Islands, where eligibility is limited to borrowers with second lien UPBs at or below \$312,750.</p> <p>With respect to meeting the Menu Items 1 + 4A minimum, credit can only be earned for extinguishment. Credit can be earned towards the settlement outside of the Menu Items 1 + 4A minimum for principal reduction that is not equal to extinguishment.</p> <p><u>Seriously Delinquent & Non-Performing (> 90 days past due on the related Second Lien) (MBA for CMI portfolio and OTS for CFS portfolio)</u>: \$1.00 Forgiveness = \$0.40 Credit 115% Early Incentive Credit</p> <p>\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP (if applicable) = \$1.00 Credit</p>	

¹⁰ “MBA” refers to the Mortgage Bankers Association definition of delinquency. “OTS” refers to the Office of Thrift Supervision definition of delinquency.

<u>Menu Item</u> ²	<u>Credit Towards Settlement</u>	<u>Minimum</u>
E. Balance Forgiveness-First Lien	<p>Eligibility limited to borrowers with second lien UPBs at or below \$208,500 nationwide with the exception of Alaska, Guam, Hawaii and Virgin Islands, where eligibility is limited to borrowers with second lien UPBs at or below \$312,750.</p> <p>With respect to meeting the Menu Items 1 + 4A minimum, credit can only be earned for extinguishment. Credit can be earned towards the settlement outside of the Menu Items 1 + 4A minimum for principal reduction that is not equal to extinguishment.</p> <p>\$1.00 Forgiveness = \$1.00 Credit</p> <p>115% Early incentive Credit 115% Credit for incremental LTV reduction below 100%</p> <p>\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit</p> <p>\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP (if applicable) = \$1.00 Credit</p> <p>Credit limited to balance forgiveness that reduces LTVs to equal to or less than 100%</p>	
F. Balance Forgiveness-Second Liens (including extinguishments)	<p><u>Performing (90 days or less past due on the related Second Lien)</u> <u>(MBA for CitiMortgage and OTS for CFS)</u></p> <p>\$1.00 Forgiveness = \$1.00 Credit</p> <p>115% Early incentive Credit</p> <p>\$1.00 Forgiveness on loans serviced by Citi but owned by other investors = \$0.50 Credit</p> <p>\$1.00 Investor incentive payments (when paid) consistent with those paid in HAMP (if applicable) = \$1.00 Credit</p> <p>Eligibility limited to borrowers with second lien UPBs at or below \$208,500 nationwide with the exception of</p>	

<u>Menu Item²</u>	<u>Credit Towards Settlement</u>	<u>Minimum</u>
	Alaska, Guam, Hawaii and Virgin Islands, where eligibility is limited to borrowers with second lien UPBs at or below \$312,750.	
	With respect to meeting the Menu Items 1 + 4A minimum, credit can only be earned for extinguishment. Credit can be earned towards the settlement outside of the Menu Items 1 + 4A minimum for balance reduction that is not equal to extinguishment.	
	<u>Seriously Delinquent & Non-Performing (> 90 days past due on the related Second Lien)</u> <u>(MBA for CitiMortgage and OTS for CFS)</u>	
	\$1.00 Forgiveness = \$0.40 Credit 115% Early incentive Credit	
	Eligibility limited to borrowers with second lien UPBs at or below \$208,500 nationwide with the exception of Alaska, Guam, Hawaii and Virgin Islands, where eligibility is limited to borrowers with second lien UPBs at or below \$312,750.	
	With respect to meeting the Menu Items 1 + 4A minimum, credit can only be earned for extinguishment. Credit can be earned towards the settlement outside of the Menu Items 1 + 4A minimum for balance reduction that is not equal to extinguishment.	
G. Assistance for Borrowers to Refinance Outside Citigroup	\$1.00 Forgiveness/Extinguishments otherwise eligible under Menu Items 1 or 2A = \$1.00 Credit	
	\$1.00 Closing Costs Paid on behalf of Borrowers to a third-party originator = \$1.00 Credit	
	\$1.00 Other Costs Paid on behalf of Borrowers such as to lienholders other than Citi to facilitate refinancing = \$1.00 Credit	
	\$1.00 of cost of HUD approved counseling Citi is not otherwise obligated to provide = \$1.00 Credit	

<u>Menu Item²</u>	<u>Credit Towards Settlement</u>	<u>Minimum</u>
	115% Early incentive Credit	
H. Junior Liens (Liens less than 2nd Lien position) and Outstanding	\$1.00 Forgiveness = \$0.40 Credit	
	115% Early incentive Credit	
Unsecured Mortgage Debt Principal Forgiveness/ Extinguishment	Eligibility limited to borrowers with UPBs at or below \$208,500 nationwide with the exception of Alaska, Guam, Hawaii and Virgin Islands, where eligibility is limited to borrowers with UPBs at or below \$312,750.	
	With respect to meeting the Menu Items 1 + 4A minimum, credit can only be earned for extinguishment. Credit can be earned towards the settlement outside of the Menu Items 1 + 4A minimum for principal or balance reduction that is not equal to extinguishment.	
		Menu Items 1 + 4A Credit Minimum = \$820 million
		With respect to Menu Item 1, to the extent Credit is derived from CMI borrowers, 50% of the CMI borrower derived Credit must be from HHA areas ¹¹

¹¹ Hardest Hit Areas are defined by HUD. The list is available on the HUD website at <http://www.huduser.org/NSP2/excel/Total US.zip>.

2. Rate Reduction/Refinancing¹²

A. Rate Reduction¹³

For rate reductions >200 bps and <400 bps:
 $\$Credit = Rate\ Reduction \times Avg.\ Life^{14}$
 x
 \$UPB (post mod interest bearing UPB if applicable)

Menu Item 2A Credit Minimum = \$299 million

For rate reductions equal to or greater than 400 bps:
 $\$Credit = Rate\ Reduction \times Avg.\ Life^{15}$
 x\$UPB (post mod interest bearing UPB if applicable) x 1.25

\$1.00 Other Costs Paid on behalf of Borrowers such as to lienholders other than Citi to facilitate refinancing = \$1.00 Credit

\$1.00 Closing Costs Paid on behalf of Borrowers to a third-party originator = \$1.00 Credit

115% Early incentive Credit
 115% Credit for LTV reduction below 100%

Eligibility for credit to include rate reductions facilitated by Citi for borrowers refinancing through third parties

\$1.00 Principal Forgiveness or Balance Forgiveness to facilitate a refinancing = \$1.00 Credit

Credit for Principal Forgiveness or Balance Forgiveness under this Menu Item 2A is limited to a maximum of \$74 million. Credit in excess of \$74 million to facilitate a refinancing will receive credit under Menu Item 1.

¹² All rate reduction and refinancing under any Menu Item must be provided at no cost to the borrower, excluding any tax consequences which shall be the responsibility of the borrower.

¹³ With respect to Menu Item 2.A, principal reduction and balance reduction is available to all borrowers regardless of loan performance status.

¹⁴ Based on an average life of 8 years for the CMI portfolio, and 12 years for the CFS portfolio.

¹⁵ Based on an average life of 8 years for the CMI portfolio, and 12 years for the CFS portfolio.

B. Cross-Servicer HARP

$$\text{\$Credit} = \text{Rate Reduction} \times \text{Avg. Life}^{16} \times \text{\$UPB}$$

115% Early incentive Credit

¹⁶ Based on an average life of 5 years.

3. **Low to Moderate Income Lending**

A. Low to Moderate Income and Other Lending \$1.00 of Down Payment Assistance = \$1.00 Credit

\$1.00 Reasonable and Customary Closing Costs Paid on behalf of Borrowers = \$1.00 Credit (up to a maximum of \$5,000 per borrower)

\$1.00 Other Costs Paid on behalf of Borrowers such as to other lienholders = \$1.00 Credit

\$1.00 of cost of HUD approved counseling Citi is not otherwise obligated to provide = \$1.00 Credit

Eligibility is limited to (1) borrowers in HHA; (2) borrowers who lost homes to foreclosure or short sales; and (3) first time LMI homebuyers¹⁷

115% Early Incentive Credit

¹⁷ Any LMI loan must be made to borrowers with income at or below 100% of the area median income (“AMI”) and originated after 4/30/2014. AMI shall be as calculated in accordance with the parameters used by the U.S. Department of Housing and Urban Development.

4. Community Reinvestment and Neighborhood Stabilization

A. Forgiveness of principal associated with a property where foreclosure is not pursued and liens are released A. \$1.00 Forgiveness = \$1.00 Credit¹⁸

B. Cash costs paid for demolition and property remediation of abandoned and uninhabitable residential properties as part of a comprehensive local strategy to stabilize neighborhoods B. \$1.00 payment = \$1.00 Credit
\$1.00 reasonable remediation costs = \$1.00 Credit

C. Mortgages or REO properties donated to accepting municipalities, land banks, or non-profits or to servicemembers with disabilities or relatives of deceased servicemembers C. \$1.00 property value¹⁹ = \$1.00 Credit
\$1.00 reasonable rehabilitation costs = \$1.00 Credit

D. Donations to capitalize certified Community Development Financial Institutions (“CDFIs”)²⁰, land banks subject to state or local regulation, or community development funds administered by non-profits or local governments D. \$1.00 payment = \$2.00 Credit

Menu Item 4D Minimum = \$25 million payment

¹⁸ Citi will, in good faith, endeavor to keep the credit earned for Menu item 4A to under \$553 million credit.

¹⁹ Any property value used to calculate credits for this provision shall have a property valuation meeting the standards acceptable under the Making Home Affordable programs received within three months of the transaction.

²⁰ The list of Community Development Institutions certified by the CDFI Fund of the U.S. Treasury is available on the Treasury Department website at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=9.

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E. Donations to state-based Interest on Lawyers' Trust Account (IOLTA) organizations (or other statewide bar-association affiliated intermediaries) that provide funds to legal aid organizations, to be used for foreclosure prevention legal assistance and community redevelopment legal assistance

E. \$1.00 payment = \$2.00 Credit

Menu Item 4E Minimum = \$15 million payment

F. Donations to HUD-approved housing counseling agencies to provide foreclosure prevention assistance and other housing counseling activities²¹

F. \$1.00 payment = \$2.00 Credit

Menu Item 4F Minimum = \$10 million payment

115% Early Incentive Credit for Menu Items 4A-F

²¹ The list of HUD-approved housing counseling agencies is available on the HUD website at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.

5. Affordable Rental Housing

For Critical Need Family Housing²² developments:
\$1.00 Loss²³ = \$3.75 Credit

For other developments:
\$1.00 Loss = \$3.25 Credit

115% Early incentive Credit

Credits for Critical Need Family Housing developments and for other developments will be given for developments that are equivalent to affordable housing developed through LIHTC. For example, developments eligible for credits (i) must have at least 20% of the residential units affordable up to 50% AMI or at least 40% of the units affordable up to 60% AMI, (ii) must have a Land Use Restriction Agreement for at least 30 years, and (iii) must agree to accept Housing Choice vouchers. Other features also must be equivalent to affordable housing developed through LIHTC.

Menu Item 5 Minimum = \$180 million Loss

With respect to Menu Item 5, at least 50% of units generating credit must be in Critical Need Family Housing developments. Each year, at least 40% of all units generating credit in Critical Need Family Housing developments must have 2 or more bedrooms. Each year, at least 10% of all units generating credit in Critical Need Family Housing developments must have 3 or more bedrooms.

To earn credit, developments must meet the same affirmative marketing standards as are set forth in 24 C.F.R. 200.620.

²² “Critical Need Family Housing” is defined as housing developments selected by Citi that (i) are located within Small Area DDAs or State-Defined High Opportunity/Low Poverty Areas, and (ii) none of the units have age restrictions for any of the occupants. For these purposes, “Small Area DDAs” are Small Area Difficult Development Areas defined by HUD as set forth in 78 Fed. Reg. 69,113 (Nov. 18, 2013), and “State-Defined High Opportunity/Low Poverty Areas” refers to “high opportunity” or “low poverty” areas as defined in State Qualified Allocation Plans (for those states that use such designations). The list of Small Area DDAs for 2014 for purposes of this agreement shall be the list of Hypothetical Small Area DDAs for 2014 that was transmitted to Citi by the Department of Justice on July 11, 2014. The list of Small Area DDAs for subsequent years will be available on HUD’s website.

²³ Loss is measured as the difference between the fair value and par value, as reflected on the books and records of Citi, on the origination date of the subordinated loan made to facilitate the construction, rehabilitation or preservation of affordable rental multi-family housing. Credit will only be given up to \$100,000 per affordable housing unit. Origination date is defined as the date the commitment to lend is issued. For crediting purposes, origination date is the determinative date for crediting as described above. If Citi’s Loss is substantially reversed due to circumstances such as cancellation of the project during the term of this Annex 2, Citi’s credit shall be calculated on the actual Loss incurred. The Credit shall be reduced to \$3.25 for \$1.00 Loss if the location of the project is moved outside a Small Area DDA or State-Defined High Opportunity/Poverty Area.

State-Specific Consumer Relief

Minimum credit, which can be derived from any Menu Item (1-5 above), must be earned in the following Participating States and denominations: \$90 million for California, \$90 million for New York, \$40 million for Illinois, \$10 million for Massachusetts, and \$10 million for Delaware.

115% Additional Credit for Credit Amounts in Menu Items 1, 2, 3, and 4A-C in excess of the Minimum Amounts for each Participating State.

Additional Parameters

Citi shall not be responsible for any tax consequences to borrowers of the Consumer Relief described in the Menu, but Citi is required to clearly disclose to borrowers to tax consequences of any relief offered, and recommend that borrowers seek appropriate counsel as needed.

Required Outreach

Citi agrees to hold four Road to Recovery events each year for the term of the agreement. These events will be carried out on a rotational basis to provide geographically dispersed borrower access, with priority given to the Hardest Hit Areas and Participating States. In preparation for each event, Citi will conduct targeted borrower outreach through personalized invitational letters, emails and/or outbound phone calls with eligible customers. The multi-lingual event team will conduct this outreach in English, Spanish, and, on a best efforts basis, other languages to encourage customers to make appointments in advance. As part of this preparation, Citi will notify the State Attorneys General, State Housing Finance Authorities and local not-for-profits of the schedule of events to build further awareness and encourage increased participation. Specialists in both loss mitigation and refinancing programs will be on-site at each event to provide a setting where a customer can be guided across the full range of customer relief alternatives. In addition, specialists in new mortgage origination will be available to assist any borrowers in Hardest Hit Areas, borrowers who lost homes to foreclosure or short sales, and first time low-to-moderate income homebuyers who may be interested in purchasing a new home. Multilingual translation and interpretation services for Spanish, and, on a best efforts basis, other languages, will be offered and available to customers requesting such support. In addition to Citi-sponsored Road to Recovery events, Citi will continue to provide a qualified staff of agents to participate in and support additional events annually across the nation sponsored by national intermediaries and local not-for-profits throughout the term of the agreement, as invited. Finally, Citi will prepare a short, plain-language document (translated into Spanish, Chinese, Tagalog, Vietnamese, and Korean), available online, that can be distributed by third parties to explain to customers the forms of relief available under this agreement. Citi shall translate this document into other languages as appropriate on a best efforts basis.

The Monitor will evaluate and certify Citi's compliance with the Required Outreach set forth above using a methodology similar to the methodology employed to determine Citi's compliance with the remainder of this Annex.

Credit Minimums, Reporting Requirements, and Liquidated Damages

Citi shall endeavor to satisfy the Consumer Relief obligations set forth in this Annex 2 by 7/1/2017, but shall have until 12/31/2018 to complete all Consumer Relief. An independent Monitor acceptable to the parties and paid for by Citi, shall be appointed to publicly: 1) report progress towards completion, including reporting on overall progress on a quarterly basis commencing no later than 180 days after the date of this Agreement; 2) report on Credits earned as promptly as practicable following the date the Monitor has confirmed the methodology for validation of Credits under this Menu; and 3) ultimately determine and certify Citi's compliance with the terms of this Borrower Relief obligation. If the Monitor determines that a shortfall in that obligation remains as of 12/31/2018, Citi shall make a compensatory payment in cash in an amount equal to the shortfall (the "Liquidated Damages") to Neighborworks America, to provide

Annex 2

housing counselling, neighborhood stabilization, foreclosure prevention or similar programs. The payment of Liquidated Damages shall be the sole remedy for any failure to complete the Consumer Relief. The calculations regarding the Credit Minimums shall be performed by the Monitor and the Monitor shall determine at the end of the period whether there are Liquidated Damages and, if so, the amount due.

The Monitor shall provide Citi with flexibility on the evidencing requirements for non-CitiMortgage mortgage loans where the standard evidence is unavailable and Citi is able to provide alternative evidence that enables the Monitor to satisfactorily carry out his duties under this Annex. For example, the Monitor may (but is not required to) determine that balance forgiveness may be evidenced by transaction screenshots, before and after statements and/or 1099c statements.

For categories 1, 2, 3, 4.A, 4.B, 4.C, and 5, Citi is required to report data to the Monitor at the census block level.

Credit earned is contingent upon satisfactory reporting of data and performance of required outreach.

Glossary

Adjustable-Rate Mortgage (ARM)

Mortgage loan for which the interest rate changes over the course of the loan. An adjustable-rate mortgage generally has a lower initial rate than a borrower could obtain on a fixed-rate mortgage but exposes the borrower to the risk that the loan's interest rate will increase over the loan's lifetime.

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. (See "Low-Income Housing Tax Credit.") Under the Settlement Agreement, affordable housing relief was directed to rental housing and was provided under Menu Item 5.

Affordable Rental Housing Unit

A rental housing unit in a development receiving Menu Item 5 relief that satisfied Annex 2's requirements for being affordable by households making no more than a specified percentage of the Area Median Income.

Annex 2

Annex 2 to the Settlement Agreement. Under the Settlement Agreement, Citi was required to provide \$2.5 billion worth of consumer relief as set forth in Annex 2.

Anti-Blight Measures

Consumer relief designed to help communities mitigate harms associated with distressed or abandoned properties. In the context of the Settlement Agreement, this Report uses the term interchangeably with "Community Reinvestment and Neighborhood Stabilization." Citi provided anti-blight relief under Menu Items 4A and 4D–F of the Settlement Agreement.

Balance Forgiveness

Method of modifying a mortgage loan in which the borrower's unpaid balance, including the unpaid principal balance and any accrued but uncapitalized interest, is permanently reduced. Citi provided balance forgiveness relief under Menu Items 1G and 2A of the Settlement Agreement.

Bankruptcy

Legal proceeding involving a person or business 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.

CFPB

Consumer Financial Protection Bureau.

CFS

CitiFinancial Servicing, a Citi business unit that provided various forms of consumer relief under the Settlement Agreement.

Citi

Citigroup, Inc.

Citi Community Capital

The Citi business unit that provided consumer relief under the Settlement Agreement in the form of subordinated debt lending for affordable rental housing (Menu Item 5).

Citi Community Development

The Citi business unit that provided consumer relief under the Settlement Agreement in the form of anti-blight donations (Menu Items 4D–F).

CMI

CitiMortgage, Inc., a Citi business unit that provided various forms of consumer relief under the Settlement Agreement.

Collateralized Debt Obligation (CDO)

A form of structured asset-backed security.

Community Reinvestment Act (CRA)

Federal law, enacted in 1977 and codified at 12 U.S.C. § 2901 *et seq.*, that requires federal banking regulators to encourage financial institutions to help meet the credit needs of the communities in which they do business, including low- and moderate-income neighborhoods. It is regulated by the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of the Comptroller of the Currency.

Community Reinvestment and Neighborhood Stabilization

See “Anti-Blight Measures.”

Consumer Relief

Any of the forms of relief that Citi could provide for credit under the Settlement Agreement.

Consumer Relief Settlements

As used in this Report, this term refers to certain settlements between the federal government (usually DOJ) and financial institutions from 2012 to 2017 that included obligations to provide relief directly to consumers and their communities: the NMS (five settlements), the NMS-related settlements (three settlements), and the RMBS consumer relief settlements (six settlements). The states were also often parties to the consumer relief settlements.

Costs Paid

Money paid to cover costs related to a loan refinancing. Citi provided costs paid relief under Menu Items 1G and 2A of the Settlement Agreement.

Credit

Credit earned by Citi under the Settlement Agreement by providing consumer relief (also referred to in this Report as "settlement credit").

Critical Need Family Housing (CNFH)

A category of affordable rental housing defined by Menu Item 5 of Annex 2 of the Settlement Agreement. Housing developments funded by lending credited under Menu Item 5 qualified as CNFH housing if they (i) were located in Small Area Difficult Development Areas (areas in which it is typically difficult to build or rehabilitate affordable housing) or in State-Defined High Opportunity/Low Poverty Areas (as identified by state housing finance agencies) and (ii) did not impose any age restrictions on their occupants. Citi received approximately 15% more credit for every \$1.00 it lost lending to CNFH developments than for every \$1.00 it lost lending to other Menu Item 5 developments. CNFH developments were also subject to requirements to provide multi-bedroom units that do not apply to other Menu Item 5 developments.

Debt-to-Income Ratio (DTI)

The ratio between borrowers' total monthly debts and their gross monthly incomes. For purposes of this Report, this ratio compares a borrower's monthly mortgage payments and related housing expenses (such as property taxes and homeowners and mortgage insurance) to the borrower's gross monthly income.

Deed in Lieu of Foreclosure

An arrangement whereby a borrower voluntarily turns over ownership of a home to the lender to avoid the foreclosure process.

Delinquency Rate

The percentage of residential mortgages where payment is past due thirty days or more.

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 was one of the parties to the Settlement Agreement.

Difficult to Develop Area (DDA)

As defined by the Department of Housing and Urban Development, DDAs are areas with high land, construction, and utility costs relative to the Area Median Income.

Early Incentive Credit

Bonus credit of 15% for all consumer relief activity Citi offered or completed by October 1, 2015.

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.

Equity

The amount (if any) by which the value of a home exceeds the amount owed on any mortgages on the home.

Extinguishment

As used in the Settlement Agreement and this Report, extinguishment means reducing a debt to a zero balance. Citi provided extinguishment relief under Menu Items 1D (second liens), 1H (junior liens and unsecured debt), and 4A (first liens) of the Settlement Agreement.

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.

Fannie Mae and Freddie Mac

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) are United States government-sponsored enterprises. Their purpose is to increase the supply of money available for mortgage lending, which, in turn, increases the money available for new home purchases.

Federal Housing Administration Short Refinance Program

Refinance program offered by the Federal Housing Administration.

FIRREA

Financial Institutions Reform, Recovery, and Enforcement Act of 1989, codified at 12 U.S.C. § 1833a.

First Lien

A 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 (e.g., mechanic's liens), in the event of borrower default.

Fixed-Rate Mortgage Loan

A mortgage loan with an interest rate that does not change over the life of the loan.

Forbearance

When the loan servicer allows the borrower to temporarily reduce the regular payment amount or temporarily stop making payments on the mortgage.

Foreclosure

The legal process in which a borrower who has failed to make timely payments on a mortgage loan loses ownership of the home secured by the mortgage. It is not automatic and must be initiated by the lender. The process may or may not require the lender to seek a court's approval. Foreclosure 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.

Freddie Mac

See "Fannie Mae and Freddie Mac."

HAMP Principal Reduction Alternative Program (HAMP PRA)

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 through principal reduction.

Hardest Hit Areas (HHAs)

Census tracts that the Department of Housing and Urban Development identified as having experienced the most significant financial hardship associated with foreclosures.

Hardest Hit Fund (HHF)

A fund established in February 2010 that provided aid to state housing finance agencies in selected states particularly harmed by the financial crisis.

HMDA Data

Data reported in accordance with the Home Mortgage Disclosure Act, which requires financial institutions to maintain, report, and disclose certain loan-level information about mortgages.

Home Affordable Foreclosure Alternatives Program (HAFA)

A federal program intended to help homeowners who could no longer afford their home—even with a modification—to transition to more affordable housing through a short sale or a deed in lieu of foreclosure.

Home Affordable Modification Program (HAMP)

A federal government loan modification program intended to help struggling homeowners reduce monthly mortgage payments to affordable, sustainable levels and prevent avoidable foreclosures. Part of the broader “Making Home Affordable” federal initiative launched in 2009.

Home Affordable Refinance Program (HARP)

A federal government loan modification program intended to help underwater and near-underwater homeowners refinance their mortgages. Launched in 2009 by the Federal Housing Finance Agency, HARP allowed certain homeowners with a mortgage owned or guaranteed by Fannie Mae or Freddie Mac to refinance into a more affordable mortgage.

Home Affordable Unemployment Program (UP)

A federal government program to provide temporary forbearance for unemployed homeowners. Part of the broader “Making Home Affordable” federal initiative launched in 2009.

HOME Investment Partnership Program

HOME is the largest federal block grant to state and local government designed exclusively to create affordable housing for low-income households.

Home Mortgage Disclosure Act (HMDA)

Federal law, codified at 12 U.S.C. § 2801 *et seq.*, that requires many financial institutions to maintain, report, and publicly disclose loan-level information about mortgages.

HUD

United States Department of Housing and Urban Development.

Income Shock

An unexpected or unpredictable change in a borrower’s income, such as a reduction caused by job loss or illness.

IRG

Citi’s Internal Review Group. The IRG was a group of Citi employees and vendors that, at all times, was required to be independent of Citi’s mortgage loan services operations. The IRG tested and confirmed the eligibility of Citi’s consumer relief activities and the amount of credited relief through an independent review.

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 Modification

A change to the terms of a borrower's mortgage. Modifications may involve extending the number of years for repayment, reducing the interest rate, and/or forbearing or reducing the principal balance.

Loan Origination

The process by which borrowers take out a loan.

Loan-to-Value Ratio (LTV)

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 the 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 the mortgage.

Low- and Moderate-Income (LMI)

There are differing definitions of the term "low- and moderate-income." Menu Item 3 of Annex 2 defines LMI borrowers as having no more than 100% of Area Median Income (AMI). Another common cut-off is 80% AMI. The Community Reinvestment Act uses the 80% AMI cut-off for moderate income, setting a 50% cut-off for low income.

Low-Income Housing Tax Credit (LIHTC)

Federal tax credit awarded to certain affordable rental housing projects. Project developers sell the tax credits to private investors, who use the tax credits to reduce their federal tax liabilities. To receive tax credits, an affordable rental housing project must meet certain requirements governing what percentage of its units are affordable to households earning certain percentages of the area median income. These affordable rental units are subject to rent restrictions to ensure that they remain affordable for at least thirty years.

Menu Items

The categories of Consumer Relief specified in Annex 2 of the Settlement Agreement.

Monitor

Thomas J. Perrelli of the law firm Jenner & Block, appointed as independent monitor to determine whether Citi has satisfied the consumer relief obligations in accordance with Annex 2 of the Settlement Agreement and to report periodically on Citi's progress towards completing its consumer relief obligations.

Monitor's Report

Report issued periodically by the Monitor to update the public on Citi's progress toward satisfying its consumer relief obligations in accordance with Annex 2 of 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."

Negative Equity

The amount (if any) by which the amount owed on any mortgages on the home exceeds the value of a home. See also "Underwater."

NMS

The April 2012 National Mortgage Settlement, which comprised five separate settlements involving all U.S. states except Oklahoma, the federal government, and five banks (Bank of America, Citi, JPMorgan Chase, ResCap, and Wells Fargo) involving allegations of robo-signing and other mortgage servicing misconduct.

NMS-Related Settlements

Three settlements involving all U.S. states except Oklahoma, the federal government, and three banks (HSBC, Ocwen, and SunTrust) that followed the NMS and that also resolved allegations relating to robo-signing and other mortgage servicing misconduct.

Post-Action

In the context of relief under the Settlement Agreement, this term refers to the state of a quantity or the like after Citi offered relief. For example, if Citi provided relief that lowered an interest rate, the "post-action interest rate" was the newer, lower interest rate after the borrower received the relief.

Pre-Action

In the context of relief under the Settlement Agreement, this term refers to the state of a quantity or the like immediately before Citi offered relief. For example, if Citi provided relief that lowered an interest rate, the "pre-action interest rate" was the older, higher interest rate that existed before Citi provided the relief.

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.

Principal Reduction

Permanent forgiveness of debt, typically used to refer to partial rather than complete forgiveness. Citi provided principal reduction relief under Menu Items 1A (first liens), 1G (refinancing assistance), and 2A (rate reductions) of the Settlement Agreement.

Rate Reduction

A reduction to the interest rate of a loan (also referred to in this Report as "interest rate reduction"). Citi provided rate reduction relief under Menu Item 2A of the Settlement Agreement.

Refinance

Taking out a new mortgage to pay off and replace an existing mortgage, often either to obtain a lower interest rate or monthly payment or to borrow additional money.

Relief

Assistance given to borrowers or communities. Citi received credit under the Settlement Agreement for some, but not all, of the relief it provided.

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 Settlements

As used in this Report, the term generally refers to six consumer relief settlements between the federal government (and sometimes state governments) and certain financial institutions that resolved allegations related to the packaging, securitizing, issuing, marketing, and selling of RMBS around the 2005–2007 time frame. The financial institutions were Bank of America, Citi, Credit Suisse, Deutsche Bank, Goldman Sachs, and JPMorgan Chase.

Second Lien

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

Second Lien Modification Program (2MP)

A federal subprogram under HAMP that provided for borrower relief in the form of modification of second liens.

Settlement Agreement

The July 11, 2014 agreement among Citi, the U.S. Department of Justice (DOJ), and the states of California, New York, Illinois, Delaware, and the Commonwealth of Massachusetts resolving potential federal and state legal claims for violations of law in connection with the packaging, marketing, sale, structuring, arrangement, and issuance of RMBS and CDOs between 2006 and 2007.

Settling States

States that participated in the Settlement Agreement: California, New York, Illinois, Delaware, and the Commonwealth of Massachusetts.

Short Sale

The sale of a home for less than what the borrower owes on the mortgage.

State Minimums Bonus

A 15% bonus that Citi received for earning credit affecting the Settling States after Citi satisfied the State Minimums by earning state-specific minimum amounts of credit under any menu item. Such bonus credit could be earned only for relief provided under Menu Item 1 (forgiveness/forbearance), Menu Item 2 (rate reduction/refinancing), Menu Item 3 (low- to moderate-income lending), and Menu Items 4A–C (certain anti-blight relief).

Test Plans

For each menu item, the Monitor and Citi's IRG developed a Test Plan that set forth step-by-step procedures for the IRG to undertake to access and review the data needed to validate Citi's claimed credit.

Underwater

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

Unpaid Principal Balance (UPB)

Amount owed on a loan at any given time and on which interest generally accrues until it is repaid.

Endnotes

- 1 Settlement Agreement (July 11, 2014), Recitals. Capitalized and other key terms in this Report are defined in the Glossary.
- 2 Settlement Agreement, Terms and Conditions.
- 3 A more detailed description of the Settlement Agreement, and the consumer relief provisions therein, can be found in the Monitor's First Report. All Monitor's reports are available on the Monitor's website at <http://www.citigroupmonitorship.com/reports/> and via links provided in Appendix A.
- 4 Annex 2 at 2 n.7, 14.
- 5 Monitor's First Report (Jan. 2015).
- 6 Settlement Agreement, Annex 2 at 2 n.1.
- 7 Annex 2 at 1.
- 8 Annex 2 at 1.
- 9 Settlement Agreement at 4.
- 10 See Press Release, Citigroup Inc., *CitiMortgage Inc. Announces Strategic Exit of Mortgage Servicing Operations by End of 2018* (Jan. 30, 2017), <https://www.citigroup.com/citi/news/2017/170130a.htm>.
- 11 Monitor's Sixth Report (Feb. 2017) at 12.
- 12 For example, in 2018, it loaned slightly over \$6.0 billion to affordable rental housing properties, about \$700 million more than the second-place lender. Christine Serlin, *Despite Challenges, Lenders Upbeat for 2019*, Affordable Housing Lenders (Mar. 4, 2019), https://www.housingfinance.com/finance/despite-challenges-lenders-upbeat-for-2019_o; see also Christine Serlin, *Lenders Persevere through Market Disruptions*, Affordable Housing Finance (Feb. 28, 2018), https://www.housingfinance.com/finance/lenders-persevere-through-market-disruptions_o; Benedix Anderson, *AHF Announces Top 25 Lenders of 2016*, Affordable Housing Finance (Mar. 6, 2017), https://www.housingfinance.com/finance/ahf-announces-top-25-lenders-of-2016_o; Benedix Anderson, *AHF Announces Top 25 Affordable Housing Lenders*, Affordable Housing Finance (Mar. 10, 2016), https://www.housingfinance.com/finance/ahf-announces-top-25-affordable-housing-lenders_o; Christine Serlin, *AHF Announces Top 25 Affordable Housing Lenders of 2014*, Affordable Housing Finance (Mar. 2, 2015), https://www.housingfinance.com/finance/ahf-announces-top-25-affordable-housing-lenders-of-2014_o.
- 13 Monitor's Sixth Report at 27; Monitor's Seventh Report (June 2017) at 9.
- 14 Annex 2 at 13.
- 15 Annex 2 at 13.
- 16 Annex 2 at 14.
- 17 Annex 2 at 14.
- 18 Citi held nine Road to Recovery events in 2015 (see Monitor's Third Report (Sept. 2015) at 19; Monitor's Fifth Report (June 2016) at 17); four events in 2016 (see Monitor's Seventh Report at 10), four events in 2017 (see Monitor's Eighth Report (Apr. 2018) at 18), and four events in 2018 (see Monitor's Tenth Report (May 2019) at 15).

- 19 Monitor's First Report at 13–14.
- 20 Annex 2 at 14.
- 21 Monitor's First Report at 13–14. At the time Citi sent these letters, it was uncertain whether borrowers would be taxed on the debt forgiveness. The Mortgage Forgiveness Debt Relief Act of 2007, which exempted principal forgiveness as taxable income, was subsequently extended.
- 22 Annex 2 at 1.
- 23 The Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report* 23 (Jan. 2011), <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf> (the "Commission Report") (quoting testimony of Mark Zandi, chief economist of Moody's Economy.com); see also Center on Budget and Policy Priorities, *Chart Book: The Legacy of the Great Recession* (June 6, 2019), <https://www.cbpp.org/research/economy/chart-book-the-legacy-of-the-great-recession>.
- 24 See, e.g., Martin Neil Baily et al., *The Origins of the Financial Crisis*, Initiative on Business and Public Policy at Brookings 7 (Nov. 2008) (The crisis "had its origins in an asset price bubble that interacted with new kinds of financial innovations that masked risk; with companies that failed to follow their own risk management procedures; and with regulators and supervisors that failed to restrain excessive risk taking."); see generally Commission Report; John M. Griffin, *Ten Years of Evidence: Was Fraud a Force in the Financial Crisis?* (Apr. 4, 2019).
- 25 Michael Calhoun, *Lessons from the Financial Crisis: The Central Importance of a Sustainable, Affordable and Inclusive Housing Market*, Brookings (Sept. 5, 2018), www.brookings.edu/research/lessons-from-the-financial-crisis.
- 26 Between December 2007 and early 2010, 8.7 million jobs were lost. See Center on Budget and Policy Priorities, *Chart Book: The Legacy of the Great Recession*. In 2008 alone, 3.6 million jobs were lost, representing the largest single-year plunge in job rates since recordkeeping began in 1940 (through, at least, 2019). See Commission Report at 390. By November 2010, a million jobs had been regained, but, even then, 26.2 million Americans were out of work, could not find full-time work, or had stopped looking for work altogether. *Id.* at 391.
- 27 Unemployment increased from 8.8% in December 2007 to 13.7% in December 2008, and reached as high as 17.4% in October 2009. See Commission Report at 390.
- 28 Worldwide stock prices dropped by 40% in 2008 (rebounding by 24% the following year), and the S&P 500 fell by one-third in 2008. Though the market recovered somewhat, by the end of 2010 the S&P 500 was still about 13% below where it had been at the start of 2008. See Commission Report at 393.
- 29 Net wealth—the difference between what households own and what they owe—also fell as a result of the financial crisis. Between 2007 and 2009, \$17 trillion was lost in household net wealth. See Commission Report at 391.
- 30 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* 6 (Dec. 2017), <https://institute.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-mortgage-debt-reduction.pdf>.
- 31 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 6.
- 32 Board of Governors of the Federal Reserve System (U.S.), *Delinquency Rate on Single-Family Residential Mortgages, Booked in Domestic Offices, All Commercial Banks [DRSFRMACBS]*, retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/DRSFRMACBS> (last visited May 26, 2020).

- 33 Board of Governors of the Federal Reserve System (U.S.), *Delinquency Rate on Single-Family Residential Mortgages, Booked in Domestic Offices, All Commercial Banks (DRSFRMACBS)*, <https://fred.stlouisfed.org/graph/fredgraph.png?g=sZB9>. Figure 8 was generated using a tool available on the website of the Federal Reserve Bank of St. Louis. DRSFRMACBS, Fed. Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/DRSFRMACBS>.
- 34 Commission Report at 216, 393.
- 35 Commission Report at 215–16.
- 36 ATTOM Data Solutions, *U.S. Foreclosure Activity Drops to 13-Year Low in 2018* (Jan. 15, 2019), <http://www.attomdata.com/news/most-recent/2018-year-end-foreclosure-market-report/>.
- 37 ATTOM Data Solutions, *U.S. Foreclosure Activity Drops to 13-Year Low in 2018*.
- 38 CoreLogic, *United States Residential Foreclosure Crisis: Ten Years Later* 5 (Mar. 2017), <http://www.corelogic.com/research/foreclosure-report/national-foreclosure-report-10-year.pdf>.
- 39 ATTOM Data Solutions, *U.S. Foreclosure Activity Drops to 13-Year Low in 2018*.
- 40 ATTOM Data Solutions, *U.S. Foreclosure Activity Drops to 13-Year Low in 2018*.
- 41 CoreLogic, *United States Residential Foreclosure Crisis: Ten Years Later* at 4–5; see also Commission Report at 402 (“Since the housing bubble burst, about four million families have lost their homes to foreclosure and another four and a half million have slipped into the foreclosure process or are seriously behind on their mortgage payments.” (footnotes omitted)).
- 42 CoreLogic, *United States Residential Foreclosure Crisis: Ten Years Later* at 3.
- 43 U.S. Bureau of the Census, *Homeownership Rate for the United States* [RHORUSQ156N], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/RHORUSQ156N> (last visited May 26, 2020); see also Calhoun, *Lessons from the Financial Crisis* (citing Laurie Goodman, Christopher Mayer & Monica Coldius, *The US Homeownership Rate Has Lost Ground Compared with Other Developed Countries*, Urban Institute (Mar. 12, 2018), www.urban.org/urban-wire/us-homeownership-rate-has-lost-ground-compared-other-developed-countries).
- 44 U.S. Bureau of the Census, *Homeownership Rate for the United States* [RHORUSQ156N].
- 45 U.S. Bureau of the Census, *Homeownership Rate for the United States* [RHORUSQ156N].
- 46 Katie Jones, Congressional Research Service, *Preserving Homeownership: Foreclosure Prevention Initiative* 3 (2013) (hereinafter referenced as the “CRS Report”).
- 47 CRS Report at 3.
- 48 CRS Report at 3.
- 49 NeighborWorks America, *Foreclosure Statistics 2*, http://www.fdic.gov/about/comein/files/foreclosure_statistics.pdf.
- 50 Center for Responsible Lending, *2013 Update: The Spillover Effects of Foreclosures* (Aug. 29, 2013), <https://www.responsiblelending.org/publication/2013-spillover-costs-foreclosure>.
- 51 NeighborWorks America, *Foreclosure Statistics* at 2.
- 52 Commission Report at 402–03 (quoting congressional testimony of a senior managing director with Amherst Securities: “Negative equity is the most important predictor of default. When the borrower has negative equity, unemployment acts as one of many possible catalysts, increasing the probability of default.”)
- 53 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 6, see also NeighborWorks America, *Foreclosure Statistics* at 2 (citing job loss and health crisis as “tipping points” that pushed borrowers over the financial edge to foreclosure).

54 Fernando Ferreira & Joseph Gyourko, *A New Look at the U.S. Foreclosure Crisis: Panel Data Evidence of Prime and Subprime Borrowers from 1997 to 2012* at 4 n.4 (National Bureau of Economic Research, Working Paper No. 21261, June 2015); see also Peter Ganong & Pascal Noel, *The Effect of Debt on Default and Consumption: Evidence from Housing Policy During the Great Recession*, Joint Center for Housing Studies of Harvard University (JCHS) 30–32 (May 17, 2017), https://www.jchs.harvard.edu/sites/default/files/harvard_jchs_noel_2017_effect_of_debt_on_default.pdf (discussing “optimizing double trigger” default model); Christopher L. Foote et al., *Negative Equity and Foreclosure: Theory and Evidence* 3, 26 (Federal Reserve Bank of Boston Research Department of Public Policy Discussion Papers, No. 08-3, 2008) (finding a “foreclosure requires both negative equity and a household level cash-flow problem that makes the monthly mortgage payment unaffordable” and concluding policies should focus on lowering monthly payments rather than directly addressing negative equity), <https://www.bostonfed.org/publications/public-policy-discussion-paper/2008/negative-equity-and-foreclosure-theory-and-evidence.aspx>.

55 Timothy Geithner, *Stress Test* 310 (2014); see also Ganong & Noel, *Effect of Debt* at 1 (“A wide range of economists have argued that failing to address debt levels by permanently forgiving mortgage principal was a missed opportunity and one of the biggest policy mistakes of the Great Recession. Others have argued instead that if borrowers are liquidity constrained, focusing on short-term payment reductions is more cost effective.” (footnote omitted)).

56 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 19.

57 NeighborWorks America, *Foreclosure Statistics* at 1. Though the rate of personal savings generally increased after the Great Recession (see U.S. Bureau of Economic Analysis, Personal Saving Rate [PSAVERT], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/PSAVERT> (last visited May 27, 2020)), a recent survey suggests that many Americans continue to lack savings to withstand an income shock. When polled on how much money they have in their savings accounts, 69% of respondents answered that they have less than \$1,000, with 45% of those respondents stating that they have \$0 in savings. See Cameron Huddleston, *Survey: 69% of Americans Have Less Than \$1,000 in Savings*, GOBankingRates (Dec. 16, 2019), <https://www.gobankingrates.com/saving-money/savings-advice/americans-have-less-than-1000-in-savings/>.

58 Unsurprisingly, in the wake of the financial crisis, there arose actual and threatened litigation as well as government investigations, followed by private and public settlements, including the consumer relief settlements described herein. According to a 2017 NERA Economic Consulting study, altogether crisis-related settlements—that is, settlements to resolve lawsuits, investigations, or private claims relating to the “downturn in the financial and mortgage markets”—totaled \$133.2 billion between January 2007 and July 2017. See Faten Sabry, Sungi Lee, & Linh Nguyen, *Trends In Credit Crisis Settlement*, Law360 at 1 n.1 (Sept. 18, 2017). That total is nearly evenly split between so-called “litigation settlements” (e.g., securities lawsuits, insurance claims, shareholder derivative actions, class actions, and individual state and federal lawsuits) and “non-litigation settlements” (e.g., settlements of state and federal investigations, government enforcement actions, private negotiations between RMBS issuers and trustees on behalf of institutional investors, and the RMBS settlements with DOJ). *Id.* at 1, 6.

59 It is true that there are often costs, including closing costs, associated with refinancing that are not associated with modification. Many of the consumer relief efforts discussed in this Report included relief designed to offset or eliminate such additional refinancing costs for borrowers.

60 There is a technical difference between “principal forgiveness” and “balance forgiveness.” For principal forgiveness, the bank forgives only what is treated as principal rather than the full balance, which can include accrued but non-capitalized interest. Thus, principal forgiveness is a more appropriate menu item for entities such as CMI that capitalize their interest, whereas balance forgiveness is more appropriate for entities such as CFS that do not. For simplicity’s sake, this Report uses

“principal reduction” for both forms of relief, as well as for forgiving forbearance amounts. They all share the common key trait of reducing how much money the borrower owes the lender on a loan that has not undergone foreclosure or a foreclosure alternative.

61 Ganong & Noel, *Effect of Debt* at 1 n.4, 8.

62 Ganong & Noel, *Effect of Debt* at 1 n.4, 8.

63 Ganong & Noel, *Effect of Debt* at 1 n.4, 8.

64 U.S. Constitution, amend. V.

65 See, e.g., Diana Olick, *Bank of America Offers Principal Reductions to 200,000 Homeowners*, CNBC (May 8, 2012), <https://www.cnbc.com/id/47331680> (“Bank executives say that before choosing which borrowers will get the offer, they performed a net present value test on each loan, making sure that the principal reduction modification would net Bank of America or the investor who owns the loan more than foreclosing on the home.”).

66 Patricia A. McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* 16–17 (2013), https://www.jchs.harvard.edu/sites/default/files/hbtl-01_0.pdf; see also Release, FHFA, Statement by Edward J. DeMarco, Acting Director, FHFA, on the Use of Principal Forgiveness by Fannie Mae and Freddie Mac (July 31, 2012), <https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-by-Edward-J-DeMarco-Acting-Director-FHFA-on-the-Use-of-Principal-Forgiveness-by-Fannie-Mae-and-Freddie-Ma.aspx>; Release, FHFA, Letter from Edward J. DeMarco, Acting Director, FHFA, to Congress on the Use of Principal Forgiveness by Fannie Mae and Freddie Mac (July 31, 2012), <https://www.fhfa.gov/Media/PublicAffairs/Pages/Letter-to-Congress-on-the-Use-of-Principal-Forgiveness-by-Fannie-Mae-and-Freddie-Mac.aspx>.

67 See, e.g., John Griffith, *The FHA Is on Board with Principal Reduction*, Center for American Progress (June 11, 2012), <https://www.americanprogress.org/issues/economy/news/2012/06/11/11699/the-fha-is-on-board-with-principal-reduction/> (“The Federal Housing Administration . . . does not have the authority to directly reduce principal on the loans it insures, according to agency officials.”).

68 See Jane Dokko & Karen Dynan, *Ten Years Since the Financial Crisis: Some Lessons for Reducing Risks to Households* 4–5 (2018) (observing that homeowners with negative and near-negative equity, however, are shut out of refinancing markets because their mortgages provide no collateral for refinancing).

69 JP Morgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 6–7.

70 FHFA-OIG, *An Overview of the Home Foreclosure Process* 17, <https://www.fhgaig.gov/Content/Files/SAR%20Home%20Foreclosure%20Process.pdf>.

71 FHFA-OIG, *An Overview of the Home Foreclosure Process* at 17–18.

72 FHFA-OIG, *An Overview of the Home Foreclosure Process* at 18.

73 McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 17, 29.

74 McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 29–30.

75 Renae Merle, *After Helping a Fraction of Homeowners Expected, Obama’s Foreclosure Prevention Program Is Finally Ending*, Wash. Post (Dec. 30, 2016), <https://www.washingtonpost.com/news/business/wp/2016/12/30/after-helping-a-fraction-of-homeowners-expected-obamas-foreclosure-prevention-program-is-finally-ending/>; see also McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 7 (noting that only 1.136 million permanent loan modifications were completed under HAMP by the program’s original December 31, 2012 end date, falling far short of the goal to assist three to four million homeowners in that time frame).

- 76 CRS Report at 19–23; see also Making Home Affordable, *Administrative Website for Services, Home Affordable Modification Program*, <http://www.hmpadmin.com/portal/programs> (last visited May 27, 2020).
- 77 Making Home Affordable, *Home Affordable Modification Program (HAMP) Performance Summary—First Quarter 2020*, <https://www.treasury.gov/initiatives/financial-stability/reports/Documents/HAMP%20Performance%20Summary%20-%20First%20Quarter%202020.pdf>.
- 78 CRS Report at 10–11.
- 79 FHFA, *Foreclosure Prevention & Refinance Report* (Third Quarter 2019) at 45, <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/3Q2019-FPR-Refi-FPM.pdf>.
- 80 FHFA *Foreclosure Prevention & Refinance Report* (Third Quarter 2019) at 45–46 (reporting that 3,495,413 loans were refinanced under HARP). To be eligible, the HARP application had to be submitted by December 31, 2018, and the refinancing processes had to be completed by September 30, 2019.
- 81 CRS Report at 23–28; see also Dep’t of Treasury, FHFA, and HUD, *Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis Can Influence the Path Forward* at App’x B (July 25, 2016) (providing timeline of government-sponsored financial crisis efforts).
- 82 HOPE NOW, *Snapshot: Industry Extrapolations and HAMP Metrics 5* (Dec. 2019), formerly available at <http://www.hopenow.com/industry-data/HopeNow.FullReportDecember2019.pdf>. HOPE NOW estimates that 5,273,155 proprietary modifications were completed between 2009 and 2016, and 7,062,478 proprietary modifications were completed from mid-2007 through 2019. *Id.*
- 83 McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 7–8.
- 84 Compare CoreLogic, *United States Residential Foreclosure Crisis: Ten Years Later* with HopeNow, *Snapshot: Industry Extrapolations and HAMP Metrics*. In 2014 and 2015, there were actually more completed foreclosures than modifications. See *id.*
- 85 This subsection draws extensively on publicly available consent judgments, settlements, and reports relating to the settlements analyzed. This subsection generally does not provide individual citations for each piece of information. Instead, the key sources relied upon are indicated in [Appendix E](#).
- 86 Joseph A. Smith Jr., *A Review and Assessment of the National Mortgage Settlement by Its Monitor*, 21 N.C. Banking Institute 29, 32–34 (2017). Under the NMS, Ocwen eventually became a successor in interest to ResCap. Ocwen also reached its own, separate NMS-related settlement, as described below.
- 87 Although Morgan Stanley’s February 2016 \$2.6 billion RMBS settlement with DOJ did not include consumer relief, Morgan Stanley did enter into a February 2016 RMBS settlement with the state of New York for \$550 million, which included \$400 million in consumer relief to be overseen by an independent monitor. Morgan Stanley DOJ Settlement Agreement ¶¶ 1–2 (Feb. 11, 2016), <https://www.justice.gov/opa/file/823671/download>; Morgan Stanley New York State Settlement Agreement ¶¶ 1–2 (Feb. 11, 2016), https://ag.ny.gov/pdfs/Final_NYAG_Settlement_Agreement.pdf; Morgan Stanley N.Y. Settlement Agreement, Appendix B (Feb. 11, 2016), https://ag.ny.gov/pdfs/Final_Consumer_Relief_AppendixB.pdf. Also in February 2016, Morgan Stanley entered into an RMBS settlement with Illinois that provided \$22.5 million to state worker retirement funds. Press Release, Illinois Attorney General, *Madigan Announces \$22.5 Million Morgan Stanley Settlement* (Feb. 11, 2016), https://illinoisattorneygeneral.gov/pressroom/2016_02/20160211.html.
- 88 Laurie Goodman & Maia Woluchem, *National Mortgage Settlement: Lessons Learned*, Urban Institute 1, 3–4 (2014); National Mortgage Settlement, *About the Settlement*, <http://www.nationalmortgagesettlement.com/about.html> (last visited May 27, 2020).

89 The “Rate Reduction” entry in this table includes all relief offered under what the NMS Monitor called “Refinancing Programs” and defined as “[r]ate-reduction assistance for homeowners who [could not] refinance to lower rates because they would not have qualified for a refinance under the bank’s generally available refinance programs as of September 30, 2011.” OMSO, *Final Crediting Report* 4 (Mar. 18, 2014), <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1095&content=mortgage-settlements>.

90 The \$1.26 in credit per \$1.00 of rate reduction exceeds the theoretical maximum of \$1.25 in credit per \$1.00 of relief available under the NMS for rate reduction. That appears to be, at least in part, the result of how the NMS monitor calculated rate reduction relief. Principal reduction relief is relatively straightforward to calculate: if a bank forgives, say, \$1,000, the relief is \$1,000 (although the *credit* for that relief can be more or less than \$1,000). But relief associated with a rate reduction is necessarily an estimate because the actual relief a borrower receives from a reduced interest rate depends upon, among other things, the exact amount of time left on the loan when the rate is reduced and whether the borrower goes on to make extra payments or to miss required payments. In estimating the amount of rate reduction relief given borrowers under the NMS, the NMS monitor estimated an average post-reduction lifetime for all the loans receiving a rate reduction. OMSO, *Final Crediting Report* at 9 n.6.

91 Consistent with the Bank of America settlement’s terms, rather than paying the \$490.2 million to the IRS, Bank of America disbursed it to organizations that provided community-focused services similar to those provided by organizations that received payments under the settlement’s anti-bligh provisions.

92 Such forbearance credit was not a feature of the NMS or the NMS-related settlements. Although the NMS and some of the NMS-related settlements allowed \$0.05 in credit per \$1.00 of *new* forbearance, no bank received any such credit under those settlements.

93 Annex 2 at 2 n.3.

94 OMSO, *Final Crediting Report* at 5.

95 Although rate reduction relief was creditable under both the NMS and some of the RMBS settlements, this Report does not attempt to compare across those two categories of settlements how many dollars of credit a given bank received per dollar of rate reduction relief. It is difficult to calculate rate reduction relief appropriately for any given settlement and still more difficult to ensure consistency of calculation across settlements. Among other obstacles to reliable calculation, unlike principal reduction or cash donations, rate reduction does not provide relief in the form of a specific amount of money. Instead, it offers a reduced interest rate designed to lower the borrower’s monthly payment. How much money this saves the borrower depends upon the timing and amount of the borrower’s payments. Late payments, early payments, missed payments, extra payments, underpayments, and overpayments will all affect how much money a rate reduction saves the borrower. So will selling the property before the end of the loan’s term or foreclosure, as will any post-relief refinancing or modification that affects the relevant terms of the loan.

96 Neither the NMS nor its RMBS settlement allowed JPMorgan Chase to receive credit for relief given for junior liens or unsecured loans.

97 Under its RMBS consumer relief settlement, JPMorgan Chase received \$300,000,000 in credit for providing for 4,328 instances of principal forgiveness of forbearance totaling \$231,487,510 in relief. The round dollar amount is the result of a \$300 million cap on such credit.

98 Under its RMBS consumer relief settlement, Bank of America received \$565,181,334 in credit for providing for 7,668 instances of principal forgiveness of forbearance totaling \$444,444,974 in relief.

99 Deutsche Bank Monitor’s Fifth Report (Feb. 2019) at 1–2, https://deutschebankmortgagemonitor.com/wp-content/uploads/2019/02/22213260-v1-Monitor_s-Fifth-Report-February-2019.pdf.

- 100 Deutsche Bank Settlement Agreement, Annex 2 (Jan. 17, 2017) at 6, https://deutschebankmortgagemonitor.com/wp-content/uploads/2017/04/annex_2_-_consumer_relief.pdf.
- 101 Deutsche Bank Monitor's Final Report (July 2020) at 2, <https://deutschebankmortgagemonitor.com/wp-content/uploads/2020/07/Deutsche-Bank-Monitor-Final-Report-July-2020.pdf>.
- 102 Deutsche Bank Monitor's Fifth Report at 1.
- 103 The affordable housing relief provided in the Citi settlement is separately addressed in [Section VII](#).
- 104 Smith, *Review and Assessment* at 33.
- 105 See Making Home Affordable, *Home Affordable Modification Program (HAMP) Performance Summary—First Quarter 2020*; FHFA *Foreclosure Prevention & Refinance Report* (Third Quarter 2019) at 45–46.
- 106 See Board of Governors of the Federal Reserve System, *Independent Foreclosure Review* 11, 14–15 (July 2014), <https://www.federalreserve.gov/publications/other-reports/files/independent-foreclosure-review-2014.pdf> (reporting six loan servicers regulated by the Federal Reserve were billed a combined total of nearly \$424 million by consultants and \$40 million by legal counsel); see generally U.S. Government Accountability Office, GAO-13-277, *Foreclosure Review: Lessons Learned Could Enhance Continuing Reviews and Activities under Amended Consent Orders* (2013), <https://www.gao.gov/assets/660/653327.pdf> (concluding that complexity of the file reviews, overly broad guidance from regulators, and limited monitoring of the consultants' reviews hampered the foreclosure review process). The Independent Foreclosure Review process moved slowly. The first Consent Orders requiring this review were entered in April 2011, and borrower outreach began in November 2011. Yet, as of December 2012, the independent consultants conducting the reviews reported having completed only 14% of the loan files slated for review and estimated that full file reviews were taking thirty to sixty-seven hours per file. See Board of Governors of the Federal Reserve System, *Independent Foreclosure Review* at 9.
- 107 Joint News Release from Board of Governors of the Federal Reserve System & Office of the Comptroller of the Currency, *Independent Foreclosure Review to Provide \$3.3 Billion in Payments, \$5.2 Billion in Mortgage Assistance* (Jan. 7, 2013), <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20130107a.htm>; see also generally Board of Governors of the Federal Reserve System, *Independent Foreclosure Review*. After “nearly two years” of “file-by-file review” that took “substantial time and required significant resources,” the regulators concluded “that this process resulted in unacceptable delays” and decided to replace the Independent Foreclosure Review with a Payment Agreement in order to speed up remediation to borrowers. The Federal Reserve concluded that this change in course was “the best of the available options.” Board of Governors of the Federal Reserve System, *Independent Foreclosure Review* at 13.
- 108 Mitchell Remy & Damien Moore, *Options for Principal Forgiveness in Mortgages Involving Fannie Mae and Freddie Mac* (Cong. Budget Office, Working Paper Series 2013-02, May 2013). During the financial crisis, principal reduction represented just 1.4% of private loan workouts in the fourth quarter of 2008. Manuel Adelino et al., *Why Don't Lenders Renegotiate More Home Mortgages* (Federal Reserve Bank of Boston, Public Policy Discussion Paper No. 09-4, 2009).
- 109 Making Home Affordable, *Home Affordable Modification Program (HAMP) Performance Summary—First Quarter 2020*. Given that much of the data studied to date on crisis-responsive principal reduction are drawn from HAMP and HAMP PRA, the restrictions of these programs further limit our ability to fully assess the effectiveness of principal reduction. HAMP PRA, for example, did not restore borrowers to positive home equity; as a result, studies of principal forgiveness based on HAMP PRA cannot capture whether restoring a borrower to positive home equity may effectively ward off foreclosure by giving borrowers the ability to sell their homes or pursue other alternatives to foreclosure. JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 14.

110 By the third quarter of 2012, principal reductions made up 38% of all private-label loan modifications, while principal write-downs accounted for 37.8% of modifications to loans held in portfolio. McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 14–15.

111 McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned* at 17–18 (noting that an estimated 26% of defaults in late 2008 and early 2009 were strategic, but that the “vast majority of underwater borrowers do not default,” evidenced by the finding that almost 85% of underwater borrowers in the second quarter of 2012 were current on their payments, and that a large proportion of defaulting underwater borrowers defaulted due to cash flow difficulties, not strategic behavior); Jian Chen et al., *Re-Default Risk of Modified Mortgages*, 21 *International Real Estate Review* 1, 31 (2018) (“[T]he overall majority of the mortgage borrowers with negative equity are still making their payments. When the borrower is both unwilling **AND** unable to pay, default will occur.”).

112 The Monitor asked Citi to determine the relationship, if any, between principal reduction under Menu Item 1A and mortgage default and foreclosure rates. Citi identified a total of 463 loans for which it provided Menu Item 1A relief. Citi sold roughly 65% of these loans, and thus had no data on the loans’ post-relief history. Citi foreclosed on 2 of the 165 loans it did not sell.

113 See, e.g., JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 5 (finding that mortgage crisis default “was correlated with income loss, regardless of debt-to-income ratio or home equity” suggesting that “income shock rather than a high payment burden or negative home equity . . . triggered default” and that modification programs designed to reach affordability targets based on DTI will be less effective at preventing default); Ganong & Noel, *Effect of Debt* at 15, 17–18 (finding that “[m]issed mortgage payments coincide with a sharp decline in income, indicating short-term financial distress,” that “affordability shocks such as unemployment or large income losses are the strongest predictors of mortgage default,” and that lower mortgage payments reduce default rates, while principal reduction has no effect on default).

114 Based on JPMorgan Chase’s study of 450,000 mortgage customers who received mortgage modification liens, with and without principal reduction, a 10% reduction in mortgage payments reduced default rates by 22%. JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 10–11. But principal reductions that did not restore borrowers to positive equity had no effect on default. *Id.* at 14. Another study found that reducing a monthly payment by an additional 1% lowered the default rate by 0.26 percentage points, and that had HAMP been designed to focus on reducing monthly payments instead of debt, an additional 240,000 defaults could have been avoided at no additional cost to investors or taxpayers. Peter Ganong & Pascal Noel, *Liquidity vs. Wealth in Household Debt Obligations: Evidence from Housing Policy in the Great Recession* 4–5, 32–33 (National Bureau of Economic Research, Working Paper No. 24964, 2018), <https://www.nber.org/papers/w24964.pdf>. However, though the risk of re-default after a modification initially declines as the amount of mortgage payment reduction increases, one study has found that the probability of re-default increases at higher levels of payment reduction. Chen et al., *Re-Default Risk* at 3–4. The study found that a reduction in payment of around 10% to 30% is most effective at reducing re-default, and that the risk of re-default increased as the reduction in payment exceeded 40%. *Id.* This may be because those borrowers who receive higher levels of payment reduction are those borrowers who have experienced higher levels of income loss, and thus are subject to more volatile income. *Id.* at 31. High income volatility, in turn, increases the possibility that the borrower will be unable to accumulate sufficient savings to meet mortgage payments when future income shocks occur. *Id.* at 31, 35.

115 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 4, 13–14. This result was based on HAMP PRA data. HAMP PRA required that mortgages be modified by first forgiving a borrower’s unpaid principal balance until the new monthly payment reached the set affordability target of 31% of the borrower’s income, or the LTV target of 115%. Ganong & Noel, *Effect of Debt* at 8. If, after principal forgiveness, the borrower’s monthly payment was still above

the 31% affordability target, a combination of interest rate reduction, term extension, and principal forbearance would be provided until the payment reached the target. *Id.* Even though some servicers could vary the LTV target—and 15% of servicers did, using a 100% LTV target, *id.* at 8 n.15—the goal of HAMP’s principal reduction program was plainly not to bring underwater borrowers to a state of positive equity, but rather to lower negative equity in service of lowering monthly payments to the 31% payment-to-income target that the program assumed was affordable for all borrowers. As the JPMorgan Chase study found, principal reduction that targeted DTI measures without regard to payment reduction, or specific LTV ratios without bringing borrowers into positive equity, were less effective at reducing defaults. JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 13–14. But another study found that principal reduction through HAMP PRA had a modest effect on default risk by reducing subsequent rates of delinquency by 1.9%. Therese Scharlemann & Stephen H. Shore, *The Effect of Negative Equity on Mortgage Default: Evidence from HAMP PRA* 5, 33, 45 (Office of Financial Research, Working Paper No. 15-06, 2015), https://www.financialresearch.gov/working-papers/files/OFRwp-2015-06_Effect-of-Negative-Equity-on-Mortgage-Default.pdf.

116 Chen et al., *Re-Default Risk of Modified Mortgages* at 6–7; Arthur Acoca et al., *The Performance of New Private-Label Mortgage Loan Modifications After 2009*, at 10, 21–22 (2012), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2101463; Andrew Haughwout et al., *Second Changes: Subprime Mortgage Modification and Re-Default* 23 (2010), https://conference.nber.org/conferences/2010/SI2010/PERE/Tracy_Haughwout.pdf. Principal reduction may also enhance the efficacy of interest rate reductions and other default-prevention tools. See Martin Beraja et al., *Regional Heterogeneity & Monetary Policy* 1–4, 31 (National Bureau of Economic Research, Working Paper No. 23270, 2018), <https://www.nber.org/papers/w23270.pdf> (showing that reductions in interest rates spurred less refinancing activity and spending in regions where there was higher negative equity, suggesting that negative equity muted effectiveness of these default-prevention interventions).

117 Loans serviced by CMI qualified for Menu Item 1A relief, while loans serviced by CFS qualified for Menu Item 1E relief. The Settlement Agreement intimated, in places, that Menu Items 1A and 1E were intended to be limited to only loans that Citi was actively servicing at the time of relief. Because the Settlement was insufficiently clear on this point, however, the Monitor decided to permit Citi to receive Menu Item 1E credit for loans it had charged off at the time of relief. Ultimately, Citi did not receive credit under Menu Item 1E.

118 Annex 2 at 2–5. Menu Items 1A and 1D provided credit for principal forgiveness of first and second liens, respectively.

119 See Annex 2 at 11 n.18. (“Citi will, in good faith, endeavor to keep the credit earned for Menu Item 4A to under \$553 million credit.”).

120 See Monitor’s Tenth Report at 5–6; Monitor’s Eleventh Report (Oct. 2019) at 5–6.

121 JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 10–11.

122 See Sumit Agarwal et al., *Mortgage Refinancing, Consumer Spending, and Competition: Evidence from the Home Affordable Refinance Program 2* (National Bureau of Economic Research, Working Paper 21512, revised Apr. 2020), <https://www.nber.org/papers/w21512.pdf> (finding that, during the 2009–2013 period studied, HARP participants received an average reduction of 1.4% in interest rate, amounting to \$3,000 in annual savings and 20% reduction in monthly mortgage payments, and that consumer spending on durable goods increased significantly after refinancing, especially among more indebted borrowers); see also Joshua Abel & Andreas Fuster, *How Do Mortgage Refinances Affect Debt, Default & Spending? Evidence from HARP*, 2–3 (Federal Reserve Bank of New York, Staff Report No. 841, 2018), https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr841.pdf (showing that lower mortgage payments reduce default rates on mortgage

and non-mortgage debts by around 40% and 25%, respectively, and help support consumption of non-housing goods and services by expanding consumer/non-mortgage debt by a net of approximately 20% of the savings from decreased mortgage payments, and that decrease in default rate is particularly high for borrowers with low credit scores and high credit utilization rates); JPMorgan Chase & Co. Institute, *Mortgage Modifications after the Great Recession* at 10–11 (based on study of mortgage modifications that included rate reduction, a 10% reduction in mortgage payments reduced default rates by 22%).

123 One study observes that HAMP PRA, which combined principal reduction with rate reduction, mortgage term extension, and principal forbearance, was less cost-effective than standard HAMP relief that did not offer principal reduction. Scharlemann & Shore, *Effect of Negative Equity* at 5–6. The study estimated that, based on its sample data—i.e., a 3.1% default rate, average unpaid balance of \$292,000, an average principal forgiveness amount of 28% of unpaid principal balance, and a 2.5-year sample period—around \$877,000 in principal, across loans, would have to be forgiven to avoid a single foreclosure. *Id.* Preventing default under HAMP without principal forgiveness, by contrast, cost only an estimated \$41,000 over five years. *Id.* at 6 n.6. The study noted, however, that the “true cost of [principal] forgiveness” would be “far less than the forgiven amount, because it costs nothing to write down a mortgage that would otherwise not have been paid.” *Id.* at 6 n.5.

124 Though HARP aimed to facilitate refinancing for up to 8 million borrowers, only around 3.5 million borrowers—around just 40% to 60% of borrowers who were potentially eligible for HARP relief at the program’s start date—actually refinanced during the first five years of the program. Agarwal et al., *Mortgage Refinancing* at 8–9 & n.8; Federal Housing Finance Agency, *Refinance Report, Third Quarter 2018* at 1 (2018). HAMP aimed to facilitate modifications for up to four million borrowers, but under two million modifications were completed before the program’s end. See Making Home Affordable, *Home Affordable Modification Program (HAMP) Performance Summary—First Quarter 2020*.

125 Patricia McCoy, *Barriers to Foreclosure Prevention During the Financial Crisis*, 55 *Ariz. L. Rev.* 723, 732–33, 769 (2013).

126 Abel & Fuster, *How Do Mortgage Refinances Affect Debt, Default & Spending?* at 5. HARP was limited to mortgages that were GSE-guaranteed, but prior to HARP, GSEs did not buy mortgages with low borrower equity unless the borrower had purchased private mortgage insurance. *Id.* HARP was also initially limited to mortgages with LTVs capped below 105%; this cap was eventually eliminated. *Id.*

127 Borrowers with the most to gain from participating in these programs—i.e., borrowers with low credit scores and high credit utilization and/or deeply underwater borrowers—were the least likely to participate in HARP, possibly because such borrowers were not prepared to pay the immediate costs of refinancing due to their current distress, or because such borrowers were less financially sophisticated, leading to both the financial distress and lower likelihood of refinancing. Abel & Fuster, *How Do Mortgage Refinances Affect Debt, Default & Spending?* at 22–23, 24. Perhaps in recognition of this, HARP was reformed in 2012 to eliminate the LTV cap, reduce fees charged by the GSEs when acquiring mortgages, eliminate the need for a manual appraisal of the property in most cases, and relax required documentation for borrower income, among other information. *Id.* at 5–6. The eligibility criteria, moreover, excluded borrowers who had experienced sharp declines in income due to job loss, an important driver of mortgage defaults. Dokko & Dynan, *Ten Years Since the Financial Crisis* at 7–8.

128 One basis point is a difference of 1/100 of a percent. An interest rate reduction of 200 basis points, for example, is a reduction of two percentage points.

129 HAMP offered incentives to servicers to extinguish, or modify, junior liens under HAMP 2MP. McCoy, *The Home Mortgage Foreclosure Crisis: Lessons Learned*; Sean MacDonald, *Could an Alternative Policy Design Have Produced a Stronger Mortgage Modification Outcome for HAMP?*, *New York Economic Review* 77 (2018). Only 166,415 modifications under HAMP 2MP were started; 49,395 involved full lien extinguishments, while 9,621 involved partial lien extinguishments. *Making Home Affordable, Program Performance Report Through the Fourth Quarter of 2017* at 12 (2017).

130 There has been reporting, for example, that another settling institution chose not to forgive mortgages in a specific city where it had planned a significant financial reinvestment for fear of, among other things, depriving municipal governments of property taxes on abandoned properties or otherwise destabilizing the housing market. See David Dayen, *Special Investigation: How America's Biggest Bank Paid Its Fine for the 2008 Mortgage Crisis—With Phony Mortgages!*, *Nation* (Oct. 5, 2017), <https://www.thenation.com/article/archive/how-americas-biggest-bank-paid-its-fine-for-the-2008-mortgage-crisis-with-phony-mortgages/>.

131 Crediting is complete for JPMorgan Chase's and Deutsche Bank's RMBS settlements. Although each settlement had anti-bligh extinguishment as a menu item, neither bank received any credit under that menu item. The remaining RMBS consumer relief settlements, Goldman Sachs and Credit Suisse, do not include anti-bligh menu items.

132 Of the cities the Monitor's team visited, Pittsburgh, Pennsylvania, had the most abandoned properties (14 out of 36, or 39%). Youngstown, Ohio, had the most vacant lots (8 out of 40, or 20%). In both cities, the Monitor's team observed abandoned properties and vacant lots in heavily blighted neighborhoods as well as in stable, fully occupied neighborhoods, suggesting that abandonment and demolition are widespread and longstanding issues in each city.

Ian Beniston, Executive Director of the Youngstown Neighborhood Development Corporation, confirmed that vacant lots in Youngstown are common, particularly for REOs or foreclosed properties, and that demolitions occur more frequently in underpopulated, less stable communities. Levana Layendecker, Deputy Director of the Housing Alliance of Pennsylvania, and Winnie Branton, an independent consultant and partner with the Housing Alliance, suggested that the presence of abandoned properties in Pittsburgh may reflect, in part, the reality that communities in Pittsburgh and elsewhere in Pennsylvania have limited funds for property rehabilitation or demolition. Abandoned properties burdened by outstanding private mortgage debt may compound this problem: local institutions that work to put abandoned properties back into the housing market, like vacant property boards and land banks, can relatively easily negotiate the release of tax liens, but lack the capacity to do the same for private liens.

133 Detroit had the highest absolute number of underwater properties, with a total of 29 out of the 40 visited (72.5%), while Chicago had the highest percentage of underwater properties among those visited, with 23 of the 31 (74.2%) properties visited flagged as underwater.

134 Stable neighborhoods are those that, by the Monitor's team's observation, were fully occupied and, with the exception of the Relief Borrower property, did not have abandoned properties or vacant lots.

135 See Monitor's Ninth Report (Nov. 2018) at 10–12, 14–15, 19.

136 See, e.g., Alan Mallach, *The Empty House Next Door: Understanding and Reducing Vacancy and Hypervacancy in the United States*, *Lincoln Institute of Land Policy* 19 (2018), <https://www.lincolninst.edu/sites/default/files/pubfiles/empty-house-next-door-full.pdf> ("Vacant buildings and lots can significantly reduce the value of the occupied properties close to them. Studies in Philadelphia and Columbus, Ohio, found that a vacant building on a block can reduce the value of nearby properties by 20 percent or more[.]").

137 See, e.g., Matthew Goldstein, *Detroit: From Motor City to Housing Incubator*, *New York Times* (Nov. 4, 2017), <https://www.nytimes.com/2017/11/04/business/detroit-housing.html>.

Housing advocates in Pittsburgh and Youngstown echoed the potential drawbacks of extinguishment, and the possible value of more targeted alternatives, to neighborhood stabilization. Layendecker and Branton noted that lien extinguishment could help free up certain abandoned properties—specifically, those that lacked other private, unextinguished liens and remained in habitable condition—for acquisition by vacant property boards and land banks, which could, in turn, put the properties back to productive use. And they agreed that the fewer burdens on a property’s transferability, the better its odds at redevelopment. The market, however, would remain inaccessible for properties with more private liens than value, and for properties in need of repair to get up to code or demolition; as noted above, local institutions lack the resources to disentangle properties for private liens, or for rehabilitation or demolition of abandoned properties in disrepair. Beniston observed that the value of extinguishments of private liens on vacant lots is next to nothing, because the lots will still accrue property taxes.

To better address neighborhood destabilization caused by blight, Layendecker and Branton recommended that banks take charge of abandoned properties, whether by securing and maintaining abandoned properties until they can be repurchased, foreclosing on and donating abandoned properties that retain resale value to land banks, or paying to demolish foreclosed and abandoned properties with little value.

138 Housing advocates in Pittsburgh and Youngstown agreed that extinguishment is most valuable for homeowners who continue to occupy their properties. Beniston recommended that banks work with low-income homeowners to stay in their homes, through extinguishment and mortgage counseling. Layendecker and Branton reiterated that extinguishments for homeowners still in their homes would stave off abandonment by giving homeowners the ability to sell the homes rather than abandon them or to obtain loans to make repairs that could, in turn, mitigate blight.

139 The selection of examples is skewed to more rural than urban areas because the property records for the former tended to provide more comprehensive data on a property’s valuation history.

140 This loan, and many others discussed below, may have been home equity lines of credit. Citi could still receive credit for extinguishing such loans if the property owner otherwise owned the home free and clear.

141 JCHS, *America’s Rental Housing 2020* at 8 (2020), https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf. From 2007 to 2016, the number of renter households grew by approximately eight million, though it fell slightly from 2016 to 2018 before rising slightly more through the first three quarters of 2019. *Id.* From 2007 to 2016, the percentage of renter households rose from approximately 32% to approximately 36%.

142 JCHS, *Rental Housing 2020* at 8.

143 JCHS, *America’s Rental Housing 2017* at 21–22 (2017), https://www.jchs.harvard.edu/sites/default/files/harvard_jchs_americas_rental_housing_2017_0.pdf; JCHS, *Rental Housing 2020* at 3.

144 JCHS, *Rental Housing 2017* at 4, 18.

145 JCHS, *State of the Nation’s Housing 2018* at 28; JCHS, *Rental Housing 2020* at 2.

146 Ali Foyt, *Legal Obstacles to Affordable Housing Development*, 56 *Housing Law Review* 505, 511 (2018); Corianne Payton Scally et al., *How the Tax Cuts and Jobs Act Puts Affordable Housing Production at Risk*, Urban Institute (updated July 16, 2019), <https://www.urban.org/urban-wire/how-tax-cuts-and-jobs-act-puts-affordable-housing-production-risk>; JCHS, *Rental Housing 2017* at 17–18; JCHS, *State of the Nation’s Housing 2018* at 26.

- 147 JCHS, *State of the Nation's Housing 2018* at 30; Foyt, *Legal Obstacles* at 513; HUD, *Affordable Housing*, formerly available at https://www.hud.gov/program_offices/comm_planning/affordable-housing/ (content current as of Mar. 17, 2020). In 2017, 47.4% of renter households were cost-burdened, down from 2011 peak of 50.7%. JCHS, *Rental Housing 2020* at 4.
- 148 JCHS, *State of the Nation's Housing 2018* at 30–31; JCHS, *Rental Housing 2020* at 26; Foyt, *Legal Obstacles* at 513.
- 149 JCHS, *Rental Housing 2020* at 7; JCHS, *Rental Housing 2017* at 10.
- 150 See, e.g., Cal. Department of Housing and Community Development, et al., *Affordable Housing Cost Study: Analysis of the Factors that Influence the Cost of Building Multi-Family Affordable Housing in California* 9–19 (Oct. 6, 2014), http://www.treasurer.ca.gov/ctcac/affordable_housing.pdf; Keith Wardrip, Laura Williams, & Suzanne Hague, *The Role of Affordable Housing in Creating Jobs and Stimulating Local Economic Development: A Review of the Literature*, Center for Housing Policy (Jan. 2011), <https://providencehousing.org/wp-content/uploads/2014/03/Housing-and-Economic-Development-Report-2011.pdf>.
- 151 JCHS, *Rental Housing 2020* at 30–31.
- 152 JCHS, *Rental Housing 2020* at 29–30; JCHS, *State of the Nation's Housing 2018* at 30.
- 153 JCHS, *State of the Nation's Housing 2018* at 10–11.
- 154 JCHS, *Rental Housing 2020* at 26.
- 155 JCHS, *Rental Housing 2020* at 27.
- 156 JCHS, *Rental Housing 2017* at 32; JCHS, *Rental Housing 2020* at 32.
- 157 JCHS, *Rental Housing 2020* at 32; Nicole E. Watson, et al., *Worst Case Housing Needs: 2017 Report to Congress*, HUD Office of Policy Development and Research at ix–x (Aug. 2017), <https://www.huduser.gov/portal/sites/default/files/pdf/Worst-Case-Housing-Needs.pdf>.
- 158 Watson et al., *Worst Case* at ix–x.
- 159 Watson et al., *Worst Case* at ix. HUD defines “severely inadequate housing” as housing with “one or more serious physical problems related to heating, plumbing, and electrical systems or maintenance.” *Id.* at 2. Such problems include lacking a flush toilet, being uncomfortably cold during the winter for at least twenty-four hours due to broken heating, and rats. *Id.* at 73. 95.6% of renter households with worst case housing needs were severely cost-burdened only, and 2.6% were both severely cost-burdened and subjected to severely inadequate conditions. *Id.* at 3.
- 160 Watson et al., *Worst Case* at ix.
- 161 JCHS, *Rental Housing 2017* at 32; JCHS, *Rental Housing 2020* at 32; Watson et al., *Worst Case* at 13; HUD, *Assisted Housing: National and Local*, <https://www.huduser.gov/portal/datasets/assthsg.html> (last visited June 1, 2020). HUD’s three key rental housing assistance programs provide assistance to roughly 4.5 million households: public housing (approximately 1.0 million households live in units owned and managed by local public housing agencies), project-based assisted housing (approximately 1.2 million households receive assistance attached to privately owned units), and Housing Choice Vouchers (approximately 2.3 million households receive assistance designated for tenants in privately owned units). Watson et al., *Worst Case* at 67; see also JCHS, *Rental Housing 2020* at 32 (estimating 4.6 million total households and 2.2 million Housing Choice Voucher households).
- 162 See HUD, *HOME Investment Partnership Programs*, https://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/programs/home/ (content current as of May 19, 2020).

163 See HUD, *CPD Appropriations Budget/Allocations*, https://www.hud.gov/program_offices/comm_planning/budget (content current as of Apr. 17, 2020).

164 Data from spreadsheet available via HUD, *CDBG Activity Expenditures Reports*, <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/> (last visited June 1, 2020).

165 Such estimates indicate that rent restrictions on roughly 1.1 million affordable housing units ended or will end in the late 2020s. National Low Income Housing Coalition & Public and Affordable Housing Research Corp., *Balancing Priorities: Preservation and Neighborhood Opportunity in the Low-Income Housing Tax Credit Program Beyond Year 30* at 4 (Oct. 2018) (estimating that nearly 500,000 LIHTC units will reach the end of their thirty-year affordability period by 2029); JCHS, *Rental Housing 2017* at 5 (estimating 500,000 LIHTC units and 650,000 other subsidized units will reach the ends of their affordability periods over “the next decade”); JCHS, *State of the Nation’s Housing 2018* at 6, 33–34 (estimating 533,000 LIHTC units, 425,000 project-based Section 8 units, and 142,000 other subsidized units will reach the ends of their affordability periods “within the next 10 years”). Another estimate indicates that such rent restrictions will end for 935,000 subsidized rentals in the ten-year period ending in 2030. JCHS, *Rental Housing 2020* at 33.

166 Michael Novogradac et al., *Tax Reform and Its Consequences for Affordable Rental Housing*, 27 J. Affordable Housing & Community Development Law 107, 112 (2018). The reduced corporate tax rate may cause a \$1.7 billion drop in equity invested in LIHTC projects each year. If so, that would reduce the price that investors pay for a dollar of tax credit from over \$1.00 to \$0.90. *Id.* at 115. JCHS, *State of the Nation’s Housing 2018* at 34.

167 Corianne Payton Scally et al., *The Low-Income Housing Tax Credit: Past Achievements, Future Challenges*, Urban Institute 9 (updated Sept. 12, 2018), https://www.urban.org/sites/default/files/publication/98761/lihtc_past_achievements_future_challenges_finalized_0.pdf; JCHS, *Rental Housing 2017* at 32. Some estimates indicate that under the TCJA, LIHTC could create roughly 20,000 fewer units per year. See JCHS, *State of the Nation’s Housing 2018* at 6; Novogradac et al., *Tax Reform* at 114. As noted in [Figure 32](#), HUD data indicate that since 2014, fewer than 80,000 LIHTC units have been created each year.

168 Monitor’s Sixth Report at 5–7. The Sixth Report provides greater detail on the complex financial and organizational demands of a LIHTC project. *Id.*

169 Data from spreadsheet available via HUD, *Low-Income Housing Tax Credits*, May 24, 2019, <https://www.huduser.gov/portal/datasets/lihtc.html#data>.

170 Annex 2 at 13.

171 CohnReznick LLP, *Housing Tax Credits Investments: High Performance and Increased Need* 13 (2017), https://www.cohnreznick.com/-/media/resources/cr_lihtc_sept2017.pdf.

172 The Community Reinvestment Act of 1977 (CRA) (12 U.S.C. § 2901 *et seq.*) obliges banks to help meet the credit and community development needs of the communities they serve, including the needs of low-income community members. Providing equity or hard debt lending to LIHTC projects offers a reliable, albeit complex, way for banks to satisfy those obligations. Dept. of the Treasury, Memorandum for the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation 7 (Apr. 3, 2018), <https://home.treasury.gov/sites/default/files/2018-04/4-3-18%20CRA%20memo.pdf>.

173 Soft debt lenders usually require loan payments only when the project has sufficient cash flow or, in some cases, only when the loan matures. CohnReznick, *Housing Tax Credits* at 22.

174 Citi was not required to create a certain number of affordable rental units but rather to lose a certain amount of money lending to affordable housing developments, so its projections regarding the number of units that would be funded were not binding on it and did not affect its eligibility for credit under Menu Item 5.

175 Monitor's Sixth Report at 8–11. Annex 2 also requires that Menu Item 5 developments meet the affirmative marketing standards set forth in 24 C.F.R. § 200.620 as well as satisfy certain requirements as to the developments' location and number of bedrooms. Annex 2 at 13.

176 Citi's soft debt lending obligations under the Settlement Agreement also arguably gave Citi a competitive advantage over senior lenders not subject to a settlement agreement in that Citi could, in theory, charge a higher interest rate on its senior loan but still cost the developer less overall after factoring in the soft debt lending Citi was providing under Menu Item 5.

177 In satisfying its CNFH obligations, Citi generally focused on Small Area DDAs and did not track whether its developments were in State-Defined High-Opportunity/Low Poverty Areas.

178 HUD, *Metropolitan Small Difficult Development Areas (SDDAS)*, <https://www.huduser.gov/portal/qct/saddatables.html> (last visited June 1, 2020); Mark Shelburne, *Comprehensive DDA Changes Require Early Developer Action to Maximize Potential Benefit*, Novogradac (Oct. 26, 2015), <https://www.novoco.com/notes-from-novogradac/comprehensive-dda-changes-require-early-developer-action-maximize-potential-benefit>.

179 The CRA requires banks to provide certain kinds of services in defined geographic areas called "assessment areas." Citi indicated to the Monitor that CRA's incentives and restrictions encouraged Citi to select Menu Item 5 projects in the bank's assessment areas, especially large metropolitan areas such as New York, Chicago, Los Angeles, San Francisco, the District of Columbia, and Miami. This is common. The CRA defines assessment areas in ways that often funnel banks' CRA efforts, including LIHTC investment, toward "CRA hot spots," thereby creating "CRA deserts" elsewhere. Many CRA hot spots are in metropolitan areas. Comments of National Housing Conference at 2–3, Docket ID OCC-2018-0008 (OCC Nov. 19, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-1146>; Treasury Dept., *Memorandum* at 4–5. Many CRA deserts are rural areas with the greatest need for affordable housing. Comments of LIHTC Working Group at 2–4, Docket ID OCC-2018-0008 (OCC Apr. 8, 2020), <https://www.regulations.gov/document?D=OCC-2018-0008-3060>; Comments of LIHTC Working Group at 2, Docket ID OCC-2018-0008 (Nov. 19, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-1148>.

180 LIHTC offers a bonus of up to 30% in tax credits for projects in DDAs. 26 U.S.C. § 42(d)(5)(B)(i), (iii); Statutorily Mandated Designation of Difficult Development Areas for 2014, 78 Fed. Reg. 69,113 (Nov. 18, 2013).

181 Monitor's Sixth Report at 25–26.

182 This affordability percentage is based on information updated after the Monitor's Sixth Report.

183 Annex 2 at 1.

184 42 U.S.C. § 3605.

185 See *Implementation of the Fair Housing Act's Discriminatory Effects Standard*, 78 Fed. Reg. 11,460 (Feb. 15, 2013).

186 24 C.F.R. § 100.500(a).

187 See *Texas Department of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015).

188 See generally *Inclusive Communities*, 576 U.S. at 519.

189 *Inclusive Communities*, 576 U.S. at 533.

190 *Inclusive Communities*, 576 U.S. at 533 (quoting *Ricci v. DeStefano*, 557 U.S. 557, 578 (2009)).

191 *Inclusive Communities*, 576 U.S. at 542 (emphasis added).

192 *Inclusive Communities*, 576 U.S. at 542.

193 HUDS's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42,854 (Aug. 19, 2019).

194 84 Fed. Reg. at 42,858.

195 84 Fed. Reg. at 42,858.

196 84 Fed. Reg. at 42,858.

197 84 Fed. Reg. at 42,858.

198 84 Fed. Reg. at 42,859.

199 84 Fed. Reg. at 42,859.

200 84 Fed. Reg. at 42,859.

201 15 U.S.C. § 1691(a).

202 15 U.S.C. § 1691(a).

203 Annex 2 at 14–15.

204 See FHA, *FHA Short Refinance Program Requirements* (Oct. 5, 2010), https://www.fha.com/fha_article?id=177.

205 Bates White examined nationwide data rather than data within the forty-five states where First Alliance did business. See [Appendix G](#). Given First Alliance's broad coverage, this should not impact Bates White's analysis.

206 Citi also excluded loans with a balance below \$35,000, current FICO credit scores of less than 500 (in Texas the FICO minimum went up to 580), mobile home or other non-single family dwellings, non-owner-occupied properties, or customers in bankruptcy proceedings. Additionally, Citi's internal rules excluded loans that were included in an upcoming asset sale, legal action flagged on an account, and accounts owned by CFS but serviced by CMI. The servicing by CMI was planned but never implemented and thus did not have a significant impact.

207 *Home Mortgage Disclosure Act (HMDA) Non-Restricted Final Loan Application Register (LAR) Data, 2000–2014*, via National Archives Catalog, <https://catalog.archives.gov/> (accessed July 2018). "Originations" refers to originations and purchases reported by covered institutions, as defined in § 1003.2 of Regulation C, that were not sold to a covered institution in the same calendar year.

208 Consent Order at 2, *In re Citibank N.A.*, No. AA-EC-2019-8, Enforcement Action No. 2019-009 (U.S. Office of the Comptroller of the Currency Mar. 19, 2019), <https://www.occ.gov/static/enforcement-actions/ea2019-009.pdf>.

209 Consent Order at 2.

210 Consent Order at 2–3

211 Consent Order at 3.

212 Although this Report uses the term "Black," HMDA data uses "Black/African American." Therefore, graphics in this report that rely on HMDA data use both terms.

213 For example, for Menu items 1A and 1E, "[E]ligibility is limited to non-performing loans, loans in imminent default (as defined by Citi in its written policies with respect to its implementation of HAMP), high-LTV loans, loans with rates substantially above Freddie Mac's Primary Mortgage Market Survey (PMMS) and loans with troubled loan history. High LTV Loans are defined as loans at or above 100% LTV. Loans with troubled loan history are defined as loans where the borrower has missed two or more payments during the term of the loan." Annex 2 at 2 n.4.

214 See [Appendix F](#) for maps showing the Black or Hispanic proportion by census tract for the surrounding areas for select affordable housing developments.

215 The proportion of mortgage loans with credit scores less than 620 peaked at 15% in 2007 and was 12% on average in the five-year period from 2004 through 2008. Most recently, this figure has been approximately 4%. See Federal Reserve Bank of New York, *Quarterly Report on Household Debt and Credit* (released Aug. 2019), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/hhdc_2019q2.pdf. For Citi, the proportion of loans with credit score less than 620 remained elevated through the first quarter of 2009—the average proportion was 8% from the fourth quarter of 2007 through the first quarter of 2009, and 1% from the second quarter of 2009 through 2010. See Citi, *Citi U.S. Consumer Mortgage Lending Data and Servicing Foreclosure Prevention Efforts, Fourth Quarter 2008*, https://www.citigroup.com/citi/investor/data/4q08_datareport.pdf; Citi, *Citi U.S. Consumer Mortgage Lending Data and Servicing Foreclosure Prevention Efforts, Fourth Quarter 2009*, https://www.citigroup.com/citi/investor/data/4q09_datareport.pdf; Citi, *Citi U.S. Consumer Mortgage Lending Data and Servicing Foreclosure Prevention Efforts, Fourth Quarter 2010*, https://www.citigroup.com/citi/investor/data/4q10_datareport.pdf.

216 *HMDA Non-Restricted Final LAR Data 2000–2014*. Nationwide originations refers to originations reported by covered institutions, as defined in § 1003.2 of Regulation C. CFS and CMI lending refers to the total dollar amount of loans originated and purchased by either entity that are not sold in the calendar year.

217 *HMDA Non-Restricted Final LAR Data 2000–2014*.

218 See Board of Governors of the Federal Reserve System, *Report to the Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit* 133 (Federal Reserve, 2007), <https://www.federalreserve.gov/boarddocs/rptcongress/creditscore/creditscore.pdf> (for the national distribution of FICO credit scores in 2007).

219 *HMDA Non-Restricted Final LAR Data 2000–2014*. CFS and CMI lending refers to the total dollar amount of loans originated and purchased by either entity that are not sold in the calendar year. A loan is considered to be subprime or near prime if the institution was required to report the rate spread of a loan, the difference between the interest rate on the loan and the annual average prime offer rate. According to a 2008 Federal Reserve Bulletin, “Borrowers in the higher-priced market segment generally fall into one of two market categories—‘subprime’ or ‘near prime’ (sometimes referred to as ‘alt-A’). Individuals in the subprime category generally pay the highest prices because they tend to pose the greatest credit or prepayment risk.” Robert B. Avery et al., *The 2007 HMDA Data*, 94 Fed. Reserve Bull. A107 & n.7 (2008), <http://www.federalreserve.gov/pubs/bulletin/2008/pdf/hmda07final.pdf>. For the relief data, a FICO score of 620 or less, a widely used indicator of subprime credit, is used as a proxy for subprime originations.

220 CFPB, *Borrower Risk Profiles*, <https://www.consumerfinance.gov/data-research/consumer-credit-trends/student-loans/borrower-risk-profiles> (accessed Dec. 2019).

221 *HMDA Non-Restricted Final LAR Data 2000–2014*. Nationwide originations refers to originations reported by covered institutions, as defined in § 1003.2 of Regulation C. Citigroup, CFS, and CMI lending refers to the total dollar amount of loans originated and purchased by these entities that is not sold in the calendar year. Percentile income thresholds are determined using borrower income for nationwide originations.

222 Nationwide origination volume refers to the total dollar amount of all HMDA-reportable originations. CFS and CMI lending refers to the total dollar amount of loans originated and purchased by either entity that are not sold in the calendar year, as reported in the HMDA data. Rankings are determined by total nominal dollars reported in 2000 through 2014. Presenting CFS and CMI rankings in terms of dollars originated and purchased and not sold presents the rankings in terms that are relevant for relief provision; namely, it represents the loan volume that CFS or CMI may hold in portfolio.

223 *HMDA Non-Restricted Final LAR Data 2000–2014*. CFS and CMI lending refers to loans originated and purchased by either entity that are not sold in the calendar year.

224 Federal Housing Finance Agency (FHFA), *All-Transactions Indexes, U.S. and States*, <https://www.fhfa.gov/DataTools/Downloads/Pages/House-Price-Index.aspx> (accessed May 2020).

225 There is evidence that the California housing market began to become more illiquid earlier in the crisis but then rebounded faster. The Sunbelt market also became more illiquid earlier but did not rebound as quickly. See Matthew Famiglietti, Carlos Garriga, & Aaron Hedlund, *The Geography of Housing Market Liquidity During the Great Recession*, 102 Fed. Reserve Bank of St. Louis Review 51 (First Quarter 2020), <https://files.stlouisfed.org/files/htdocs/publications/review/2020/01/17/the-geography-of-housing-market-liquidity-during-the-great-recession.pdf>.

226 FHFA, *All-Transactions Indexes, U.S. and Census Divisions*.

227 Calhoun, *Lessons from the Financial Crisis*.

228 The Economic Policy Institute's assessment of inequality fifty years after the Kerner Commission found that "[t]he typical black family had almost no wealth in 1968 (\$2,467, data refer to 1963). Today, that figure is about six times larger (\$17,409), but it is still not that far from zero when you consider that families typically draw upon their wealth for larger expenses, such as meeting basic needs over the course of retirement, paying for their children's college education, putting down a down payment on a house, or coping with a job loss or medical crisis." Janelle Jones et al., *50 Years after the Kerner Commission: African Americans are Better Off in Many Ways but Are Still Disadvantaged by Racial Inequality*, Economic Policy Institute 4 (Feb. 26, 2018), <https://files.epi.org/pdf/142084.pdf>. The wealth gap continues to grow: "[o]ver the same period, the wealth of the typical white family almost tripled, from a much higher initial level. In 2016, the median African American family had only 10.2 percent of the wealth of the median white family (\$17,409 versus \$171,000)." *Id.*

229 *HMDA Non-Restricted Final LAR Data 2000–2014*. Loans originated or purchased. Nationwide originations refers to originations reported by covered institutions, as defined in § 1003.2 of Regulation C. Citi lending refers to Citigroup-originated and -purchased loans.

230 The U.S. Department of Housing and Urban Development concluded in a report on subprime lending that "[s]ubprime loans are five times more likely in black neighborhoods than in white neighborhoods" and that "[h]omeowners in high-income black neighborhoods are twice as likely as homeowners in low-income white neighborhoods to have subprime loans." HUD, *Unequal Burden: Income & Racial Disparities in Subprime Lending in America* (ND), https://www.huduser.gov/Publications/pdf/unequal_full.pdf. This report used 1998 HMDA data. These numbers only got more pronounced as lending criteria relaxed. Two academics theorize "that past and continued social and spatial segregation along racial lines in the United States led to multiple points of inequality in the mortgage market during the subprime boom." Carolina Reid & Elizabeth Laderman, *The Untold Costs of Subprime Lending: Examining the Links among Higher-Priced Lending, Foreclosures and Race in California* 3 (Federal Reserve Bank of San Francisco, Working Paper 2009-09, Nov. 2009), <https://www.frbsf.org/community-development/files/wp2009-09.pdf>. In addition, Reid and Laderman believe that "black and Hispanic borrowers received loans from a different set of lenders than white borrowers, and that differences in underwriting criteria, profit and incentive structures, and regulatory regimes led to different product outcomes for minority borrowers." *Id.* at 4.

231 *HMDA Non-Restricted Final LAR Data 2000–2014*. Loans originated or purchased. Nationwide originations refers to originations reported by covered institutions, as defined in § 1003.2 of Regulation C. Citi lending refers to Citigroup-originated and -purchased loans.

232 See Algernon Austin, *Subprime Mortgages are Nearly Double for Hispanics and African-Americans*, Economic Policy Institute (June 10, 2008), https://www.epi.org/publication/web-features_snapshots_20080611/. Citi was not alone in this pattern of lending. According to the Center for American Progress: "[o]ne study of 14 major banks found that [discriminatory lending] was systematic: 30.9 percent of Hispanics and 41.5 percent of African Americans were offered" expensive subprime loans "while only 17.8 percent of Whites were offered a similar mortgage."

Jennifer Rokosa, *Latinos Bearing the Brunt of the Foreclosure Crisis*, Center for American Progress (Apr. 19, 2012), <https://www.americanprogress.org/issues/economy/news/2012/04/19/11416/latinos-bearing-the-brunt-of-the-foreclosure-crisis/>.

233 See generally Carlos Garriga, Lowell R. Ricketts, & Don Schlagenhauf, *The Homeownership Experience of Minorities During the Great Recession*, Federal Reserve Bank of St. Louis Review (First Quarter 2017), <https://files.stlouisfed.org/files/htdocs/publications/review/2017-02-15/the-homeownership-experience-of-minorities-during-the-great-recession.pdf>. In a sample of approximately 73,000 loans originated between 2004 and 2008, Asian and White borrowers are shown to have higher average income and FICO scores at origination than Black and Hispanic borrowers.

234 Citi relief data and BISG race and ethnicity imputation.

235 Eligibility was limited to borrowers with UPBs at or below \$208,500 nationwide with the exception of Alaska, Guam, Hawaii, and the Virgin Islands, where eligibility is limited to borrowers with UPBs at or below \$312,750.

236 As discussed in the Monitor's Ninth Report, Citi previously submitted relief for credit under Menu Item 1D along with other loans submitted for credit under Menu Item 1 and Menu Item 4A. However, the Monitor identified problems with some of the submitted loans that called into question whether the loans actually qualified for credit. Given those concerns, Citi withdrew the loans, and the Monitor thus did not credit any loans under Menu Item 1D. Monitor's Ninth Report at 4, 6–7. After Citi withdrew the Menu Item 1D loans, Citi and the Monitor agreed upon revised screening and testing procedures and eligibility criteria for Menu Item 1D. The Menu Item 1D loans credited in this Appendix underwent the revised procedures and met the revised criteria.

237 Often, a government agency or other party foreclosing on a property—for unpaid taxes or unpaid HOA fines, for example—can step into the first position at the time of foreclosure. In that circumstance, the other lienholders get bumped down a position. The former senior lienholder ends up in second position, and Citi ends up in third.

238 Annex 2 at 4–5. For loans securing properties in Alaska, Guam, Hawaii, and the Virgin Islands, the maximum allowable unpaid principal balance for a Menu Item 1D loan was \$312,750 rather than \$208,500.

239 Annex 2 at 7.

240 Annex 2 at 4–5. Under Annex 2, if Citi had received any credit under Menu Item 1D for relief that decreased the borrower's principal balance without dropping it to zero, such credit would have counted toward the Settlement Agreement's overall \$2.5 billion minimum for consumer relief without counting toward the \$820 million minimum for Menu Items 1 and 4A.

241 Under Menu Item 1D, the base credit for seriously delinquent or non-performing loans was \$0.40 for every \$1.00 in creditable relief provided. Annex 2 at 4–5. However, when Citi received a HAMP incentive payment in relation to a loan modification or extinguishment, the Settlement Agreement required that the amount of that payment be subtracted from the forgiveness amount before credit for that loan was calculated. See Annex 2 at 3 n.8. Citi received such incentive payments in relation to all the loans credited under Menu Item 1D. As a result, the average amount of credit per dollar of relief for these loans was less than \$0.40.

242 As discussed in the main body of this Report (§ II), CMI was one of the Citi business units responsible for issuing relief under the Settlement.

243 Annex 2 at 7 & n.11.

244 Annex 2 at 7 n.11.

245 Monitor's Third Report; Monitor's Fourth Report (Jan. 2016); Monitor's Eighth Report.

246 The list appears to consist of all census tracts in existence in 2000. Although a number of census tracts subsequently came into existence in 2010, the census tracts on the list accounted for roughly 89.7% of all census tracts in existence during the Monitorship.

247 Under Annex 2, properly identifying HHAs was relevant not only to CMI Menu Item 1 lending but also to all lending under Menu Item 3 and to the locations of Citi-hosted Road to Recovery events. Being in an HHA was one of the three ways to qualify for credit under Menu Item 3. Annex 2 at 10. However, Citi did not seek credit under Menu Item 3, making any HHA issues moot for that menu item. Annex 2 also required that Road to Recovery events be “carried out on a rotational basis to provide geographically dispersed borrower access, with priority given to the Hardest Hit Areas and Participating States.” *Id.* at 14. Citi’s Road to Recovery events took place in Atlanta, Chicago, Dallas, Detroit, Los Angeles, Houston, Miami, Philadelphia, New York City, and Washington, DC (including multiple events in some cities). Annex 2 did not require that a specific number of events be dedicated to HHAs or specify how many HHAs had to be in or near the event site. The Monitor is satisfied that cities hosting events and their surrounding areas contained sufficient HHAs to satisfy Citi’s Road to Recovery Annex 2 obligations. Road to Recovery events are described in the Monitor’s January 2015 First Report.

248 Monitor’s Sixth Report at 5–7.

249 Annex 2 required that developments credited under Menu Item 5 be “equivalent to affordable housing developed through LIHTC.” Annex 2 at 13. It offered examples of applicable requirements, including that either (i) at least 20% of the units in each development be affordable at 50% Area Median Income (AMI) or (ii) at least 40% of the units in each development be affordable at 60% median income. *Id.* However, the federal LIHTC program allows a development in New York City to qualify for tax credits provided that at least 25% of the development’s units are affordable at 60% AMI. 26 U.S.C. § 42(g)(4); 26 U.S.C. § 142(d)(6). Accordingly, projects in New York City could earn credit under Menu Item 5 provided that they satisfied LIHTC’s New York City AMI percentage as well as the other Menu Item 5 requirements.

250 The Housing Choice Voucher program is the federal government’s major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects. HUD, *Housing Choice Vouchers Fact Sheet*, https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited June 2, 2020).

251 See generally Monitor’s Sixth Report.

252 Monitor’s Seventh Report at 9–10.

253 Citi’s actual Menu Item 5 losses cannot be known until the payoff dates of its Menu Item 5 loans. However, the Monitorship will end long before then, which means that Citi’s losses must be estimated in advance. The Sixth Report describes the method for estimating those losses. Monitor’s Sixth Report at 15–16.

254 After crediting the relief offered under Menu Item 5 in the Seventh Report, the Monitor determined that Citi had been calculating its compliance with the 50% affordability minimum for CNFH projects in a manner different from the Monitor-approved method. As explained in the Sixth Report, the Monitor considers Annex 2 to be satisfied only if the percentage of *affordable* CNFH units out of all Menu Item 5 affordable rental units is greater than 50%. Citi had been basing its CNFH calculations on the *total* number of units in CNFH housing out of the total number of Menu Item 5 units. The difference between Citi’s method and the Monitor-approved method did not matter for the Menu Item 5 relief credited in the Monitor’s Sixth Report and Seventh Report because that relief satisfied the requirement under either method. However, using the Monitor-approved method, Citi’s final submission under Menu Item 5 brought the CNFH percentage slightly below 50%. Although

Citi believed that it had adopted a good faith interpretation of Annex 2's requirements, it voluntarily removed a non-CNFH Menu Item 5 project from its final credit submission, thereby satisfying Annex 2 under the Monitor-approved method. This did not affect the developers or tenants of the withdrawn project. Although Citi will not receive credit for that project under the Settlement, the project itself received funding as planned and will continue to respect the conditions imposed by Annex 2.

255 Annex 2 at 14.

256 During the relevant period, Greenwood Park Apartments was in a State of Illinois defined Illinois Housing Development Authority High Opportunity/Low Poverty Opportunity Zone.

257 See generally CFPB, *Using Publicly Available Information to Proxy for Unidentified Race and Ethnicity: A Methodology and Assessment* (Summer 2014), https://files.consumerfinance.gov/f/201409_cfpb_report_proxy-methodology.pdf.

258 CFPB, *Using Publicly Available Information* at 3.

259 CFPB, *Using Publicly Available Information* at 8. A census block group contains between 600 and 3,000 people. Each census tract contains at least one block group, and block groups are uniquely numbered within the census tract. A block group is the smallest geographical unit for which the census publishes sample data. U.S. Census Bureau, "Block Group," Glossary, <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

260 Marc N. Elliott, et al. *Using the Census Bureau's Surname List to Improve Estimates of Race/Ethnicity and Associated Disparities*, Health Serv. Outcomes Res. Method 9, 69 (2009), <https://doi.org/10.1007/s10742-009-0047-1>.

261 Elliott et al., *Using the Census Bureau's Surname List* at 70.

262 Elliott et al., *Using the Census Bureau's Surname List* at 70.

263 Elliott et al., *Using the Census Bureau's Surname List* at 70.

264 Elliott et al., *Using the Census Bureau's Surname List* at 71.

265 The Census surname list and documentation are available at https://www.census.gov/topics/population/genealogy/data/2010_surnames.html. The census block group demographic data are available at <https://www.nhgis.org/>. The most recent census year for which the surname list and geography data exist is 2010.

266 For applicants with hyphenated surnames, the hyphen-removed surname was used to match to the surname data. For example, if an applicant's last name is Smith-Jones, the demographic information associated with SmithJones would be used. David L. Word, *Demographic Aspects of Surnames from Census 2000* (Jan. 2008), <https://www2.census.gov/topics/genealogy/2000surnames/surnames.pdf>.

267 CFPB, *Using Publicly Available Information* at 9 (noting that because the census surname list indicates that 73% of people with the surname Smith report being non-Hispanic White, there is a 73% surname-based probability that a person with the surname Smith is non-Hispanic White).

268 Bates White determined the race and ethnicity distribution of the population with unlisted names using the race and ethnicity distribution for "all other names" provided in the Census surname list. The race and ethnicity distribution of that population is the following: 66.65% White, 13.67% Hispanic, 8.53% Black, 7.97% API, 2.32% multiracial, and 0.86% AI/AN.

269 For census block groups in the Citi relief data that are not matched to the Census list of block groups, the five-digit state-county code is used instead. For remaining borrowers whose census block group and five-digit state-county code are not matched, the race and ethnicity probabilities are the surname-only probabilities.

270 CFPB, *Using Publicly Available Information* at 3.

271 Bates White could see loan purchases to the extent that they are not acquired through a branch or bank acquisition and can see same-year sales (loans originated and then sold in the same year) but not bulk sales of seasoned loans.

272 If a loan is active, it can be current (the borrower is up-to-date on all payments) or delinquent (the borrower is at least thirty days behind on their payments). If a loan has exited, the exit can be classified as a prepayment in full (the borrower has paid off the remaining balance) or as a liquidation (the loan has been delinquent for some time and the property has been foreclosed or the loan balance has been charged off).

273 See Elizabeth A. Stuart, *Matching Methods for Causal Inference: A Review and a Look Forward*, 25 *Statistical Science* 1 (2010), https://projecteuclid.org/download/pdfview_1/euclid.ss/1280841730; Garriga, Ricketts, & Schlagenhaut, *The Homeownership Experience of Minorities During the Great Recession*; Yuliya Demanyak & Otto Van Hemert, *Understanding the Subprime Mortgage Crisis*, 24 *Oxford Review of Financial Studies* 1848 (2011). Where available, payment burden is assessed using standardized loan-to-income ratios in the Citi HMDA data and debt-to-income ratios in the loan performance data.

274 Alan Greenspan & James Kennedy, 2005-41, *Estimates of Home Mortgage Originations, Repayments, and Debt on One-to-Four-Family Residences*, Finance and Economics Discussion Series, Division of Research and Statistics and Monetary Affairs, Federal Reserve Board (2005), <https://ssrn.com/abstract=874821>.

275 See Investor Relations: Quarterly Earnings Releases and Supplements, Citigroup, <https://www.citigroup.com/citi/investor/qer.htm>.