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Racing the Clock to Avoid Foreclosures

Bank of America Scrambles to Modify Loans Ahead of Government Deadline

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PLANO, Tex. -- Bank of America employees are reminded every day of how far they still have to go. Just outside the elevators of their vast third-floor command center, attached to the wall, is a cardboard thermometer that shows them inching toward their goal of signing up 125,000 struggling borrowers for a federal program to modify their mortgages.

The company faces many of the same challenges as other major lenders addressing the foreclosure crisis. But with weeks remaining to meet the November deadline set by the Obama administration, Bank of America is trailing well behind the other large banks, according to Treasury Department data.

The company's effort has been hamstrung by a staff shortage and by adapting its computer systems and even fax machines to the scale of the program, which began in March. The company was also slow out of the box because it initially took a more conservative approach than some other banks, requiring that borrowers document their income and complete other paperwork before granting preliminary approval for a modification. In August, Bank of America softened the requirement and began authorizing some modifications without getting all the documents first.

Adding to borrowers' difficulties was a letter sent this summer by Bank of America that mistakenly informed some of them that they did not qualify for the administration's foreclosure-prevention program because their loans were not backed by Fannie Mae or Freddie Mac, the government-controlled mortgage giants. "Bank of America is not actively participating in this program," the bank wrote to some borrowers, according to a copy of the letter obtained by The Washington Post.

After a reporter asked the company about the letter, Bank of America stopped sending it out. A company spokeswoman said the bank reviewed the cases of borrowers who received it, adding that she did not know how many there were.

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Even as the administration urges lenders to do more to help homeowners, some Bank of America employees continue to express skepticism about whether all of those seeking assistance really need it. "There's a difference between hardship and entitlement," said Jerry Durham, Bank of America's vice president of home retention.

Under the Making Home Affordable program, lenders are paid with taxpayer funds to reduce borrowers' mortgage payments by lowering their interest rates, for example, or by extending the terms of their loans

A progress report released last week by the Treasury Department showed that only 11 percent (about 95,000) of Bank of America's delinquent borrowers who were potentially eligible for the program had been given a loan modification. That compares with 27 percent, or 117,000, for J.P. Morgan Chase, and 33 percent, or 68,000, at Citigroup, the Treasury reported. The figure for Saxon Mortgage Services, which is owned by Morgan Stanley, is 41 percent, or 32,000.

"We're sure working hard," Ken Scheller, senior vice president for home retention at Bank of America, said when asked about his company's low ranking. "We don't want to be down there." He added that the bank had modified 215,000 mortgages outside the federal program this year, including some under the terms of a settlement reached with state attorneys general related to subprime loans issued by Countrywide Financial, which Bank of America bought last year.

Many of the 62 other mortgage lenders participating in the government program have also ramped up, industry officials said. Wells Fargo reported that call volume tripled after the program was announced in February, prompting the company to hire an additional 5,800 employees to address loan modifications this year. Citigroup increased its loss-mitigation department from 450 employees in early 2008 to more than 4,000. J.P. Morgan Chase switched from a paper fax system to an electronic one to handle the volume of documents being submitted by borrowers.

"I remember two years ago sitting at a table with lenders and asking, 'Are you guys staffed up for this?' And they were like, 'Yeah, we're prepared,' " said Mark A. Calabria, an expert in financial regulation at the Cato Institute. "This was a much bigger

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wave than the lending industry was expecting."

The problems are especially acute at Bank of America, partly because its mortgage portfolio more than doubled with the acquisition of Countrywide, analysts said. Countrywide had a loan portfolio heavy with risky mortgages and delinquent borrowers. Especially now, Bank of America is "like a big oil tanker, and it takes time for them to shift focus," said Guy Cecala, publisher of Inside Mortgage Finance.

Even after top Treasury officials called in industry leaders for a series of meetings on the program in July, chastising them for their poor progress, the foreclosure crisis continues to worsen. Borrowers are becoming delinquent on their mortgages at record rates, and rising unemployment rates are exacerbating the problem, economists say. Already, 4.4 million borrowers have lost their home since the mortgage crisis began in 2007, and another 2 million will this year, according to Moody's Economy.com.

Bank of America's complex of office towers on the outskirts of Dallas is at the center of its efforts to address the crisis. At a rectangular control center in the middle of an open floor, employees monitor computer screens reporting how long callers from around the country have to wait to talk to a representative. Overhead, large screens record in red when calls have been on hold for more than two minutes.

In a surrounding sea of cubicles, other employees dubbed home-retention specialists -- some completely new to the business -- tackle 40 to 50 calls a day. Clusters of work stations are demarcated with streamers, identifying teams that compete to help the most distressed borrowers and collect the most in delinquent payments. Executives say both are high priorities.

The telephone conversations illustrate the challenge that the government has set for Bank of America in identifying borrowers whose troubles are serious enough to qualify for the program.

On a recent morning, Tiffany Palmer was on the line with a frustrated borrower looking for help with his mortgage. He was $6,000 behind in his payments.

"Do you have a 401(k) or savings -- liquid assets that can be quickly converted into

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cash?" she asked him. He was going to have to come up with money for the mortgage. Because his monthly mortgage payments represented less than 31 percent of his income, he made too much to qualify for a modified mortgage under the federal initiative. "You will not be eligible for the program," she said.

The next caller was out of work. Palmer suspected that even with unemployment benefits, the borrower would not make enough to qualify for a loan modification.

"Do you have any job prospects, interviews lined up?" Palmer asked her.

Could she generate more income by renting out a room in her home? What about a garage sale? Could she skip her credit card payments, about $400 a month?

"I am only giving them suggestions, not telling them what to do," said Palmer, who previously provided telephone technical assistance for T-Mobile customers last year before being laid off and then hired by Bank of America.

The number of employees handling loan modifications for Bank of America has doubled this year to 11,000, and the bank still has 240 openings. It plans to open another facility in Fort Worth by the end of the year staffed with 300 more employees, and then it would add yet another 300 by the middle of 2010.

Executives say frequent changes in the program required nearly constant retraining of employees. "It is a challenge to find folks and get them up to speed as quickly as we're moving," Scheller said.

There have also been technological challenges. The bank is developing software to help identify eligible borrowers faster. "You are dealing with such volumes, you have to have computers to do the decisioning," Durham said. "We had to build a machine to handle 14 million loans."

Even the fax machines have been an issue. Housing counselors and homeowners have complained that they are often forced to resubmit documents multiple times after being told the paperwork has been misplaced or never received.

Kevin McFarland, a former Marine Corps sergeant, said he has repeatedly submitted his documents since late last year when he

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began pressing for a mortgage modification. Several times, McFarland said, he was told the documents were nowhere to be found. After submitting the documents in August for a fifth time, McFarland is still waiting for a ruling.

Bank of America said it is still reviewing McFarland's case and has acknowledged problems with its faxing system.

Last month, the company added a bigger server for its digital fax machine and more employees to sort the documents.

Even as Bank of America triages thousands of loans, it is facing pressure from groups that own the mortgages the bank services on their behalf -- meaning it collects monthly mortgage payments for these investors. Most investors have agreed to allow Bank of America to modify mortgages in line with the administration program, but about 5 percent have refused and another 15 percent require the bank to get their approval on a case-by-case basis.

Meanwhile, in another setback, a federal judge this summer rejected Bank of America's argument that it was protected against lawsuits by mortgage investors unhappy with the modified terms given to borrowers.

Bank of America and other lenders have a lot riding on the foreclosure prevention program. The company stands to collect about $6 billion -- some of which will be passed on to investors -- of the $75 billion the administration has set aside for the Making Home Affordable program.

At the same time, the banking industry faces a threat from senior Democrats in Congress who may revive legislation allowing bankruptcy judges to modify mortgages if more is not done to help borrowers. Last week, Sen. Jack Reed (D-R.I.) introduced a bill allowing a borrower to fight a foreclosure in court by arguing that the lender did not offer a loan modification.