

*Supplemental Directive 18-01**December 10, 2018****Making Home Affordable Program – Program End Date and Administrative Clarifications***

In February 2009, the Making Home Affordable (MHA) Program was introduced to stabilize the housing market and help struggling homeowners obtain relief and avoid foreclosure. In March 2009, the U.S. Department of the Treasury (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance. Section 709(b) of the Consolidated Appropriations Act, 2016, P.L. 114-113 (Act), signed into law on December 18, 2015, provided that the MHA Program would terminate on December 31, 2016, except with respect to certain loan modification applications made before such date. On December 21, 2017, Treasury issued version 5.2 of the Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (*Handbook*), a consolidated resource for guidance related to the MHA Program for mortgage loans that are not owned, securitized or guaranteed by Fannie Mae or Freddie Mac (Non-GSE Mortgages).

This Supplemental Directive provides administrative updates and clarifications to the Home Affordable Modification Program<sup>SM</sup> (HAMP<sup>®</sup>), the Second Lien Modification Program<sup>SM</sup> (2MP<sup>SM</sup>), Treasury Federal Housing Administration HAMP (Treasury FHA-HAMP) and Rural Development HAMP (RD-HAMP). This Supplemental Directive also includes guidance that relates to servicers' continuing obligations to meet requirements set forth in the Servicer Participation Agreement and related documents (SPA), and announces that certain of these requirements will expire on December 29, 2023 (Program End Date). Those requirements that are being retired as of the Program End Date are specifically addressed herein, as well as those tasks that a servicer may continue to perform at its discretion, but are no longer required as of such date. Servicers that are subject to the terms of SPA must follow the guidance set forth in this Supplemental Directive.

Except as stated herein, this Supplemental Directive does not apply to mortgage loans that are insured or guaranteed by the Department of Veterans Affairs, the Department of Agriculture's Rural Housing Service, or the Federal Housing Administration and mortgage loans that are owned, securitized or guaranteed by Fannie Mae or Freddie Mac (each, a GSE).

This Supplemental Directive amends and supersedes the notated portions of the *Handbook* and, unless otherwise specified, is effective immediately.

This Supplemental Directive covers the following topics:

- Transfer of Loans
- Program Participation Caps
- Compliance
- Borrower Eligibility & Compliance Portal
- Federal Government Shutdowns
- Borrower Notices
- Post-Modification Counseling
- Delayed Conversion
- Treasury Reporting Requirements
- Official Monthly Reporting
- HAMP Modified Loans Repurchased from GSEs
- Incentive Compensation
- *Handbook* Mapping Clean-up and Clarifications

### **Transfer of Loans**

As set forth in Section 1.4.1 of Chapter I of the *Handbook*, Non-SPA servicers are no longer required to execute an Assignment and Assumption Agreement (AAA) on or after September 1, 2016, for loans that, at the time of transfer or assignment, are not under consideration or in process under one or more of the MHA Programs, or for which the transferor servicer is not performing services under the SPA, regardless of delinquency; such loans are not considered Eligible Loans under any MHA Program. This Supplemental Directive further provides that transferor servicers are no longer required to transfer a HAMP modification in the HAMP Reporting Tool provided, at the time that servicing is transferred, (a) the loan's payment status has been reported as of the sixth anniversary of the HAMP Trial Period Plan Effective Date, and (b) if the loan has interest rate step-up terms, the final rate step-up has occurred. Similarly, a transferor servicer is no longer required to transfer a 2MP modification in the HAMP Reporting Tool once the loan's payment status has been reported as of the fifth anniversary of the Modification Effective Date, or, if applicable, the final interest rate step-up occurs, whichever is later. Lastly, transferor servicers are no longer required to transfer a Treasury FHA-HAMP or RD-HAMP modification in the HAMP Reporting Tool once the loan's payment status has been reported as of the sixth anniversary of the trial payment due date under FHA-HAMP or Special Loan Servicing, respectively. In any event, however, all reporting activity regarding transferred loans, including corrections, must be completed in the HAMP Reporting Tool at least 30 days prior to the Program End Date.

### **Program Participation Caps**

Section 1.5 of Chapter I of the *Handbook* states that, although the Servicer Cap Model will initially be calculated on a quarterly basis, Treasury may increase the frequency of calculation at any time. This Supplemental Directive provides that Treasury may now also decrease the frequency of calculation of the Servicer Cap Model at any time, but such calculation must occur at least once every six months.

Section 1.5 also states that, for each servicer participating in MHA and for each Cap Determination Date, the Program Participation Cap shall be equal to the Hard Cap Amount if (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than \$100,000 and (iv) the Required Cap Reduction Amount is equal to zero. Similarly, Section 1.5 also states that the Program Participation Cap for such servicer shall be equal to the greater of (A) \$100,000 or (B) the Hard Cap Amount for such servicer minus the Required Cap Reduction Amount if (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than \$100,000 and (iv) the Required Cap Reduction Amount is greater than zero. This Supplemental Directive amends romanette (iii) of the cited guidance such that the Hard Cap Amount must now be greater than \$1,000,000,000.

## **Compliance**

Section 2 of Chapter I of the *Handbook* states that Making Home Affordable-Compliance (MHA-C), an independent division of Freddie Mac, acting in its role as Compliance Agent for MHA, will conduct periodic compliance assessments and servicer reviews, such as those described in Section 2.1. This Supplemental Directive provides that the latest date upon which MHA-C will conduct such assessments and reviews will be communicated to servicers once that date has been determined, but, in any event, shall not exceed 90 days beyond the Program End Date.

Section 2.2 requires servicers to retain MHA-related documentation in its system notes or in loan files for seven years from the date of document collection. This Supplemental Directive clarifies that, subject to applicable law and investor requirements regarding document retention, servicers should retain those documents specified under Section 2.2 for a period of seven years from the date the document was either collected from the borrower or transmitted by the servicer. In the event a document was created by the servicer for its own internal use while conducting MHA-related activities (e.g., policies and procedures, control objectives), the servicer should retain such documentation, including all preceding final versions for each record of this type, for a period of seven years from the date that the item was decommissioned or last used.

## **Borrower Eligibility and Compliance Portal**

As described in Section 2.8.5 of Chapter I of the *Handbook*, servicers will no longer have access to the BE&C Portal on or after July 1, 2018, and any Alerts for which a final status was not reported will be considered to have a final status of “Not Cleared.” This Supplemental Directive confirms that the BE&C Portal was retired on July 2, 2018. Servicers no longer must comply with those requirements under Section 2.8 that require access to the portal as of this date.

## **Federal Government Shutdowns**

With respect to the federal government shutdown that occurred in October 2013 and may have impacted a borrower’s ability to make monthly mortgage payments, Section 6 of Chapter I of the *Handbook* required servicers to offer a minimum of three months of forbearance to a borrower with a loan that is eligible for HAMP and who meets certain criteria.

This Supplemental Directive expands this guidance such that, in the event a borrower is unable to make monthly mortgage payments as a result of a federal government shutdown and is in a permanent modification under either HAMP or 2MP, the servicer must consider such borrower for a forbearance plan in accordance with industry practice and investor guidelines. In such cases, servicers should offer a minimum of three months of forbearance, provided that the borrower (1) requests forbearance as a result of the government shutdown, (2) has suffered a financial hardship, such as interruption of regularly scheduled pay, loss of employment, reduction in income or increase in expenses, and (3) cannot make monthly mortgage payments as a result of the shutdown.

This Supplemental Directive further provides that a servicer may alternatively consider a borrower for forbearance under its own proprietary program following a federal government shutdown in order to meet the requirements described in Section 6. If a servicer's proprietary program requires that a reduced monthly mortgage payment be made during the forbearance period, or allows a forbearance plan that is less than three months in duration to be offered, the servicer may offer a borrower who requests forbearance as a result of a federal government shutdown a forbearance plan with such terms. Under no circumstance, however, may a reduced monthly payment, if required by the servicer, exceed the modified monthly mortgage payment that a borrower was making prior to entering the forbearance plan. In addition, the reduced monthly payment, if required, must be no more than 31 percent of the borrower's monthly gross income (as defined in Section 6.1.1 of Chapter II). Servicers are expected to have written policies and procedures that describe the circumstances under which a reduced monthly payment will be required, or a forbearance plan of less than three months will be offered under the servicer's proprietary forbearance program, and must apply those procedures consistently across all similarly situated borrowers.

A servicer's obligation to offer forbearance under Section 6 expires 45 days after the federal government shutdown ends, unless a subsequent federal government shutdown occurs, in which case the servicer must again offer forbearance to borrowers who are eligible for such assistance for a period of 45 days, as described above. When forbearance is offered, servicers should follow the guidance relating to federally declared disasters provided in Sections 5.3.2, 5.4 and 5.5 of Chapter I, as applicable. Notwithstanding the foregoing, a servicer is not required to offer the forbearance described in Section 6 in the event a federal government shutdown occurs on or after the Program End Date.

Servicers should exercise good business judgment in order to validate that borrowers seeking forbearance as a result of a federal government shutdown meet all eligibility criteria, which may, or may not, include servicers establishing their own documentation requirements.

## **Borrower Notices**

Section 2.3.1 of Chapter II of the *Handbook* requires that all Borrower Notices include certain details, including reference to the Homeowners HOPE™ Hotline number (888-995-HOPE), with an explanation that the borrower can seek assistance at no charge from HUD-approved housing counselors and can request assistance in understanding the Borrower Notice by asking for MHA Help. Similarly, Section 9.7 of Chapter II and Section 7.6 of Chapter V, require that a notice of interest rate step-up include a telephone number at the servicer for the borrower to call if they have

questions or concerns about their new payments, and the telephone number for the HOPE™ Hotline. This Supplemental Directive amends the guidance in the aforementioned sections to be consistent with that currently stated in Section 2.2 of Chapter II such that servicers are no longer required to include the telephone number for the HOPE™ Hotline in any Borrower Notices. This Supplemental Directive further provides that Borrower Notices are also no longer required to include a statement that a borrower can seek assistance by asking for MHA Help.

### **Post-Modification Counseling**

Section 6.7 of Chapter II of the *Handbook* requires that certain servicers (who meet the criteria noted) must establish and implement a process to offer budget and debt management counseling (“financial counseling”) to certain borrowers who have received a trial period plan or permanent modification under HAMP. This Supplemental Directive amends this guidance such that a servicer may utilize its own proprietary counseling programs to offer the financial counseling described in this section, provided that such counseling includes the four components specified under the current guidance and that the financial counseling services offered are provided at no cost to the borrower. Each servicer that offers financial counseling services under its own proprietary program is responsible for monitoring both the counseling services provided under such program, and the performance of any counseling agencies with which the servicer has engaged, to ensure that they remain consistent with the requirements of this section, as well as any policies and procedures established by the servicer.

Section 6.7.1.1 requires servicers to provide written notice to borrowers entering a trial period plan on or after March 1, 2014, informing them of the financial counseling services available to them and the contact information for the servicer’s chosen HUD-approved housing counseling agency. This Supplemental Directive confirms that, after September 1, 2017, servicers are no longer required to provide notice of financial counseling to this population of borrowers, nor is a servicer required to make a “reasonable effort” to contact such borrowers directly to offer financial counseling as of this date.

Section 6.7.1.2 provides that a servicer must have written policies and procedures that require each borrower in the servicer’s portfolio of HAMP permanent modifications in good standing to be reviewed and that the servicer must make a determination as to whether such borrower is a “Risk of Default Borrower” (as defined in this section). Such review and determination must be performed, at a minimum, on a monthly basis. Servicers may also define additional borrower characteristics in their written guidelines and policies that may indicate a high risk of re-default for inclusion in the monthly determination process. This Supplemental Directive confirms that those servicers that opt to offer counseling services under a proprietary counseling program must continue to make a monthly determination as to whether a borrower is a “Risk of Default Borrower”, as defined in this section along with any additional criteria specified in the servicer’s written policies and procedures, and such standard should be applied consistently among all similarly situated borrowers.

In addition, Section 6.7.1.2 requires that each Risk of Default Borrower identified be offered financial counseling until the later of (i) the sixth anniversary of the month in which the borrower’s

HAMP Trial Period Plan Effective Date occurred, and (ii) the final interest rate step-up (for a modification under HAMP Tier 1). As described in Section 6.7.1.3, servicers are also required to offer borrowers financial counseling until the borrower (i) has received two prior referrals (as defined in this section) to financial counseling, or (ii) has completed a full financial counseling engagement, as described in Section 6.7, either of which is considered to have satisfied the solicitation requirement. This Supplemental Directive clarifies that a servicer must continue to offer financial counseling to a “Risk of Default Borrower” in a HAMP Tier 2 or Streamline HAMP modification until the payment status is reported as of the sixth anniversary of the Trial Period Plan Effective Date, unless the solicitation requirement has been satisfied. With regard to a “Risk of Default Borrower” in a HAMP Tier 1 modification, a servicer must continue to offer such counseling until the final interest rate step-up occurs in cases in which such step-up is later than the sixth anniversary of the Trial Period Plan Effective Date, unless the solicitation requirement has been satisfied.

Section 6.7.1.2 also states that servicers must continue to offer counseling to those borrowers who contact the servicer with concern regarding their ability to make their modified mortgage payment or, as provided in Section 6.7.1.3, if the borrower, borrower’s counsel or bankruptcy trustee requests counseling. This Supplemental Directive confirms that financial counseling must continue to be offered in such instances, even when such counseling is being offered under a servicer’s proprietary counseling program.

Section 6.7.2 requires that servicers maintain reports of how many borrowers are offered or start financial counseling, or complete a full financial counseling engagement, all of which must be provided to Treasury and its agents upon request. In addition, servicers must maintain such information as is necessary to monitor the borrower’s performance in their modification after having received financial counseling. This Supplemental Directive clarifies that a servicer must continue to maintain the reports described above until data with respect to the last borrower for which the servicer is required to provide financial counseling is reported to Treasury. Notwithstanding the foregoing, a servicer must continue to maintain the reports required under this Section until the last borrower for whom the servicer must provide financial counseling, and who is still actively receiving such counseling, has either completed a full counseling engagement or discontinues such counseling after attending one or more sessions. Servicers may but are no longer required to maintain information beyond the Program End Date regarding a borrower’s performance after receiving counseling.

### **Delayed Conversion**

Section 9.5.1 of Chapter II of the *Handbook* provides that, if a borrower successfully completed a trial period but was not converted to a permanent HAMP modification for reasons beyond his or her control, the servicer must offer the borrower a permanent HAMP modification as soon as possible, but in no event later than 60 days after discovering the error, as long as the borrower otherwise remains eligible for such modification. In such cases, the Modification Effective Date is the date the modification would have become effective if the servicer had converted the borrower in a timely fashion.

This Supplemental Directive clarifies that, regardless of the circumstance, a servicer's ability to utilize the guidance in this Section did not supersede or extend beyond those program cut-off dates set forth in Section 1.1.1 and Section 13, respectively—namely, that the Modification Effective Date be on or before December 1, 2017 and that the modification be reported in the HAMP Reporting Tool before May 1, 2018.

## **Treasury Reporting Requirements**

As set forth in Section 11 of Chapter II of the Handbook, servicers are required to provide loan level data reporting to the Program Administrator detailing the process of the evaluation, trial period plan, modification, and servicing of a loan modified under HAMP. Specifically, servicers are required to submit four separate data files using the HAMP Reporting Tool. This Supplemental Directive clarifies that all reporting activity, including corrections, must be completed in the HAMP Reporting Tool at least 30 days prior to the Program End Date.

## **Official Monthly Reporting**

As set forth in Section 11.3 of Chapter II of the *Handbook*, and also in Section 3.3 of Chapter VI with regard to Treasury FHA-HAMP and RD-HAMP modifications, once a permanent modification has been set up, servicers must begin reporting activity on a monthly basis in the HAMP Reporting Tool until the earliest of the following occurs: (i) the loan loses good standing; (ii) the loan is paid off; (iii) the loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines; or (iv) the loan is re-modified outside of MHA. In addition, Section 9.2.2 of Chapter V requires 2MP servicers to report monthly activity in the HAMP Reporting Tool until the earliest of the following occurs: (i) the 2MP loan loses good standing and the associated first lien either loses good-standing or is paid off, (ii) the 2MP loan is paid off, (iii) the 2MP loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines, or (iv) the 2MP is re-modified outside of MHA. This Supplemental Directive amends the guidance in Section 11.3 of Chapter II to stipulate that, if one of the events noted in this Section does not occur, a servicer must wait until the sixth anniversary of the HAMP Trial Period Plan Effective Date to discontinue monthly reporting unless the modification's interest rate steps up and the final step-up occurs later than such anniversary, in which case the servicer must wait until the final rate step-up to discontinue monthly reporting. Similarly, Section 9.2.2 of Chapter V is amended to stipulate that, if one of the events noted in this Section does not occur, a 2MP servicer must wait until the fifth year anniversary of the Modification Effective Date, or, if applicable, the final interest rate step-up occurs, whichever is later, to discontinue monthly reporting. Lastly, Section 3.3 of Chapter VI is revised to include the sixth anniversary of the trial payment due date under FHA-HAMP or Special Loan Servicing as another instance after which OMR reporting is no longer required for a Treasury FHA-HAMP or RD-HAMP modification. In all cases, a servicer is not required to report an OMR under any of these MHA programs after the Program End Date.

## **HAMP Modified Loans Repurchased from GSEs**

With respect to HAMP Modified Loans repurchased after April 1, 2013, Section 11.7 of Chapter II of the *Handbook* requires that the servicer begin steps to cancel and change the investor code in the

HAMP Reporting Tool no later than the fourth (4th) business day of the month after the date of the repurchase. This Supplemental Directive amends the current guidance to stipulate that a servicer need not take any action in the HAMP Reporting Tool in the event a HAMP Modified Loan is repurchased from a GSE after the Program End Date. All reporting actions associated with a repurchase that has occurred before the Program End Date, however, must be completed in the HAMP Reporting Tool at least 30 days prior to such date.

### **Incentive Compensation**

Section 13 of Chapter II of the *Handbook* provides that incentive compensation will only be paid under the SPA with respect to permanent modifications that have been reported in the HAMP Reporting Tool before May 1, 2018. This Supplemental Directive provides notification that all corrections must be completed in the HAMP Reporting Tool at least 30 days prior to the Program End Date in order for incentive compensation to be paid under the SPA. In addition, this Supplemental Directive clarifies that, in the event that a modification was not reported timely due to extenuating circumstances, such as a pending bankruptcy court approval, the servicer is encouraged to provide the affected borrower with a proprietary modification with HAMP-like terms. The servicer is advised to make its own determination as to whether it should honor the original terms of the HAMP modification and/or pay any incentives due, as represented to the borrower in the trial period plan offer. The servicer should also disclose to the borrower that he or she is not eligible for a permanent HAMP modification and the reason for the denial, along with the servicer's determinations going forward with respect to the terms of any proprietary modification offered, as well as payment of incentives.

### ***Handbook* Mapping Clean-Up and Clarifications**

Section 11 of Chapter II of the *Handbook* is amended to delete interim guidance instructing servicers to refrain from reporting Streamline HAMP trial period plans or permanent modifications while processes to accommodate such trial period plans and permanent modifications were still under development now that those processes have been implemented in the HAMP Reporting Tool.



## EXHIBIT A MHA HANDBOOK MAPPING

### CONFORMING HANDBOOK SECTIONS

The following guidance amends and supersedes the notated portions of the Handbook. Changed or new text is indicated in italics. Text that has been lined out has been deleted.

**A. The Foreword is amended to insert the following as the fourth paragraph:**

*Servicers of Non-GSE Mortgages have continuing obligations to meet requirements set forth in the Servicer Participation Agreement and related documents. Certain of these requirements will expire on December 29, 2023 (Program End Date). Those requirements that are being retired as of the Program End Date are specifically addressed in this Handbook, as are those tasks that a servicer may continue to perform at its discretion, but are no longer required as of such date.*

**B. Section 1.4.1 of Chapter I is amended to insert the following as the last paragraph:**

*Effective December 10, 2018, transferor servicers are no longer required to transfer a HAMP modification in the HAMP Reporting Tool provided, at the time that servicing is transferred, (a) the loan's payment status has been reported as of the sixth anniversary of the HAMP Trial Period Plan Effective Date, and (b) if the loan has interest rate step-up terms, the final rate step-up has occurred. Similarly, a transferor servicer is no longer required to transfer a 2MP modification in the HAMP Reporting Tool once the loan's payment status has been reported as of the fifth anniversary of the Modification Effective Date, or, if applicable, the final interest rate step-up occurs, whichever is later. Lastly, a transferor servicer is no longer required to transfer a Treasury FHA-HAMP or RD-HAMP modification in the HAMP Reporting Tool once the loan's payment status has been reported as of the sixth anniversary of the trial payment due date under FHA-HAMP or Special Loan Servicing, respectively. In any event, however, all reporting activity regarding transferred loans, including corrections, must be completed in the HAMP Reporting Tool at least 30 days prior to the Program End Date.*

**C. The third sentence of the second paragraph of Section 1.5 of Chapter I is amended as follows:**

The Servicer Cap Model will initially be calculated (Cap Determination Date) on a quarterly basis. Treasury may increase or decrease the frequency of calculation of the Servicer Cap Model at any time, but such calculation must occur at least once every six months.

**D. The third and fourth bullets in Section 1.5 of Chapter I are amended as follows:**

- If (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than ~~\$100,000~~

*\$1,000,000,000 and (iv) the Required Cap Reduction Amount is equal to zero, then the Program Participation Cap for such servicer shall be equal to the Hard Cap Amount; or*

- *If (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than \$100,000 \$1,000,000,000 and (iv) the Required Cap Reduction Amount is greater than zero, then the Program Participation Cap for such servicer shall be equal to the greater of (A) \$100,000 or (B) the Hard Cap Amount for such servicer minus the Required Cap Reduction Amount.*

**E. The first paragraph of Section 2 of Chapter I is amended as follows:**

*Treasury has engaged Freddie Mac as the Compliance Agent for the elements of MHA that are addressed in this Handbook. Freddie Mac has created an independent division, Making Home Affordable-Compliance (MHA-C) for this purpose. MHA-C conducts independent compliance assessments and servicer reviews to evaluate servicer compliance with the requirements of MHA. The latest date upon which MHA-C will conduct such assessments and reviews will be communicated to servicers once that date has been determined, but, in any event, shall not exceed 90 days beyond the Program End Date.*

**F. The first paragraph of Section 2.2 of Chapter 1 is amended as follows:**

*Servicers are required to maintain appropriate documentary evidence of their MHA-related activities, and to provide that documentary evidence upon request to MHA-C. Servicers must maintain required documentation in well-documented servicer system notes or in loan files for all MHA activities. Subject to applicable law and investor requirements regarding document retention, servicers should retain those documents specified under this Section, for a period of seven years from the date of the document collection, was either collected from the borrower or transmitted by the servicer. In the event a document was created by the servicer for its own internal use while conducting MHA-related activities (e.g., policies and procedures, control objectives), the servicer should retain such documentation, including all preceding final versions for each record of this type, for a period of seven years from the date that the item was decommissioned or last used. Required general documentation applicable to all MHA Programs includes but is not limited to:*

**G. The fourth paragraph of Section 2.8.5 of Chapter I is amended as follows:**

*~~On and after July 1, 2018, servicers will no longer have access to~~The BE&C Portal was retired on July 2, 2018, ~~and~~ Servicers no longer must comply with those requirements described under Section 2.8 that require access to the portal as of this date. Any Alerts for which a final status was not reported before July 2, 2018 will be considered to have a final status of "Not Cleared."*

**H. Section 6 of Chapter I is amended as follows:**

*~~The~~A federal government shutdown, such as the one that occurred on October 1, 2013 and ended on October 17, 2013, may have impacted a borrower's ability to make scheduled TPP*

~~payments, or payments under a permanent modification. Borrowers who are not able~~ *In the event a borrower is unable to make monthly mortgage payments as a result of the a federal government shutdown and who are (1) in the process of being evaluated for a TPP under either HAMP or 2MP; (2) in a TPP under either HAMP or 2MP; or (3) is in a permanent modification under either HAMP or 2MP should be considered, the servicer must consider such borrower for a forbearance plan in accordance with industry practice and investor guidelines.*

~~In such cases, Servicers~~ *servicers should, in accordance with investor guidelines, offer a minimum of three months of forbearance to, provided that a the borrower with a loan that is eligible for HAMP who (1) requests forbearance as a result of the government shutdown, and who (2) has suffered a financial hardship, such as interruption of regularly scheduled pay, loss of employment, reduction in income or increase in expenses, and (3) cannot make monthly mortgage payments as a result of the shutdown.*

*A servicer may alternatively consider a borrower for forbearance under its own proprietary program following a federal government shutdown in order to meet the requirements described in this Section. If a servicer's proprietary program requires that a reduced monthly mortgage payment be made during the forbearance period, or allows a forbearance plan that is less than three months in duration to be offered, the servicer may offer a borrower who requests forbearance as a result of a federal government shutdown a forbearance plan with such terms. Under no circumstance, however, may a reduced monthly payment, if required by the servicer, exceed the modified monthly mortgage payment that a borrower was making prior to entering the forbearance plan. In addition, the reduced monthly payment, if required, must be no more than 31 percent of the borrower's monthly gross income (as defined in Section 6.1.1 of Chapter II). Servicers are expected to have written policies and procedures that describe the circumstances under which a reduced monthly payment will be required, or a forbearance plan of less than three months will be offered under the servicer's proprietary forbearance program, and must apply those procedures consistently across all similarly situated borrowers.*

~~A servicer's obligation to offer forbearance under this Section expires November 30, 2013~~ *45 days after the federal government shutdown ends, unless a subsequent federal government shutdown occurs, in which case the servicer must again offer forbearance to borrowers who are eligible for such assistance for a period of 45 days, as described above. When forbearance is offered, Servicers* ~~servicers~~ *should follow the guidance relating to federally declared disasters provided in Sections 5.3.1, 5.3.1.1, 5.3.1.2, 5.3.2, 5.4 and 5.5 of the Handbook, as applicable, including the guidance on late charges and exiting the forbearance plan and prohibitions on foreclosure, when offering forbearance under this Section to borrowers adversely impacted by the government shutdown. Notwithstanding the foregoing, a servicer is not required to offer the forbearance described in this Section in the event a federal government shutdown occurs on or after the Program End Date.*

*Servicers should exercise good business judgment in order to validate that borrowers seeking forbearance as a result of a federal government shutdown meet all eligibility criteria, which may, or may not, include servicers establishing their own documentation requirements.*

The requirement throughout this Handbook to report a “full-file” status report to the credit reporting agencies for each loan under HAMP, 2MP and in forbearance is suspended during the forbearance period for loans in a forbearance plan as a result of the federal government shutdown.

**I. A footnote is inserted in the second bullet of Section 2.3.1 of Chapter II as follows:**

- The Homeowners HOPE™ Hotline Number (888-995-HOPE), with an explanation that the borrower can seek assistance at no charge from HUD-approved housing counselors and can request assistance in understanding the Borrower Notice by asking for MHA Help<sup>4</sup>; and

**J. The footnote in Section 6.6.2 of Chapter II is renumbered as follows:**

- (i) The trustee or securities administrator must allocate any such reported forborne principal as a realized loss to the trust<sup>45</sup>; and

**K. Section 6.7 of Chapter II is amended to insert the following as the last paragraph:**

*Effective December 10, 2018, a servicer may also utilize its own proprietary counseling program to offer the financial counseling described in this section, provided that such counseling includes the four components described above and that the financial counseling services offered are provided at no cost to the borrower. Each servicer that offers financial counseling services under its own proprietary program is responsible for monitoring both the counseling services provided under such program, and the performance of any counseling agencies with which the servicer has engaged, to ensure that they remain consistent with the requirements of this section, as well as any policies and procedures established by the servicer.*

**L. Section 6.7.1.1 of Chapter II is amended to insert the following as the last paragraph:**

*After September 1, 2017, servicers are no longer required to provide notice of financial counseling to this population of borrowers, nor is a servicer required to make a “reasonable effort” to contact such borrowers directly to offer financial counseling as of this date.*

**M. The first paragraph of Section 6.7.1.2 of Chapter II is amended as follows:**

Each servicer must establish and maintain written guidelines and policies identifying the characteristics of borrowers in the servicer’s portfolio of HAMP permanent modifications in

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<sup>4</sup> As of April 18, 2017, Borrower Notices are no longer required to include references to the Homeowners HOPE™ Hotline number, as noted in Section 2.2. As of December 10, 2018, Borrower Notices are also no longer required to include a statement that a borrower can seek assistances by asking for MHA Help.

<sup>45</sup> The reported forborne principal should be allocated as a realized loss such that, for purposes of calculating distributions to security holders, such forborne amount is no longer outstanding under the amortization schedule applicable to the related mortgage loan.

good standing that the servicer considers to be at a high risk of re-default. Servicers must provide copies of all such guidelines and policies to Treasury and its agents upon request. At a minimum, such guidelines and policies must require a monthly review and determination, commencing on March 1, 2014, for each borrower in the servicer's portfolio of HAMP permanent modifications in good standing, of whether the borrower is a "Risk of Default Borrower" which is defined as a borrower (i) who is delinquent on the date of determination, and (ii) who was delinquent on his or her HAMP permanent modification payment at any other time during the 12-month period preceding the determination. Servicers are encouraged to define additional borrower characteristics in their written guidelines and policies that may indicate a high risk of re-default for inclusion in the monthly determination process. *Servicers that opt to offer counseling services under a proprietary counseling program must continue to make a monthly determination as to whether a borrower is a "Risk of Default Borrower," as defined in this section along with any additional criteria specified in the servicer's written policies and procedures, and such standard should be applied consistently among all similarly situated borrowers.*

**N. The second paragraph of Section 6.7.1.2 of Chapter II is amended as follows:**

Commencing on March 1, 2014, and each month thereafter, each servicer must identify the Risk of Default Borrowers in its portfolio and each Risk of Default Borrower must be offered financial counseling, as set forth in Section 6.7. ~~until the later of (i) the sixth anniversary of the month in which the borrower's HAMP TPP Effective Date occurred, and (ii) the final interest rate step-up (for a modification under HAMP Tier 1).~~ *A servicer must continue to offer financial counseling to a "Risk of Default Borrower" in a HAMP Tier 2 or Streamline HAMP modification until the payment status is reported as of the sixth anniversary of the TPP Effective Date, unless the solicitation requirement has been satisfied. With regard to a "Risk of Default Borrower" in a HAMP Tier 1 modification, a servicer must continue to offer such counseling until the final interest rate step-up occurs in cases in which such step-up is later the sixth anniversary of the TPP Effective Date, unless the solicitation requirement has been satisfied.* Servicers also must offer the financial counseling described above to any borrower whose mortgage loan is in a HAMP permanent modification in good standing who contacts the servicer with concerns about their ability to make the modified mortgage payment, *or, as provided in Section 6.7.1.3, if the borrower, borrower's counsel or bankruptcy trustee requests counseling. Financial counseling must continue to be offered in such instances, even when such counseling is being offered under a servicer's proprietary counseling program.*

**O. Section 6.7.2 of Chapter II is amended to insert the following as the last paragraph:**

*A servicer must continue to maintain the reports described above until data with respect to the last borrower for which the servicer is required to provide financial counseling is reported to Treasury. Notwithstanding the foregoing, a servicer must continue to maintain the reports required under this Section until the last borrower for whom the servicer must provide financial counseling, and who is still actively receiving such counseling, has either completed a full counseling engagement or discontinues such counseling after attending one or more sessions.*

*Servicers may but are no longer required to maintain information beyond the Program End Date regarding a borrower's performance after receiving counseling.*

**P. Section 9.5.1 of Chapter II is amended to insert the following as the last paragraph:**

*Regardless of the circumstance, a servicer's ability to utilize the guidance in this Section did not supersede or extend beyond those program cut-off dates set forth in Section 1.1.1 and Section 13, respectively — namely, that the Modification Effective Date be on or before December 1, 2017 and that the modification be reported in the HAMP Reporting Tool before May 1, 2018.*

**Q. A footnote is inserted in the fifth bullet of Section 9.7 of Chapter II as follows:**

- A telephone number at the servicer for the borrower to call if they have questions or concerns about their new payments, and the telephone number for the HOPE™ Hotline, in accordance with Section 2.3.1. ~~(Servicers that are subject to Section 6.7 of Chapter II may provide the contact information of the servicer's chosen HUD-approved housing counseling agency in the notice, instead of the telephone number for the HOPE™ Hotline.)<sup>6</sup>~~

**R. The second and third paragraphs of Section 11 of Chapter II are deleted:**

~~Updated reporting and payment processes implementing Streamline HAMP are currently under development. Subsequent guidance on such processes will be provided on [www.HMPAdmin.com](http://www.HMPAdmin.com). Until updated functionality capable of processing Streamline HAMP transactions is implemented, servicers should not report Streamline HAMP TPPs or permanent modifications in the HAMP Reporting Tool.~~

~~During the interim period, servicers must enter into Streamline HAMP TPPs and permanent modifications in accordance with the guidance set forth herein, and collect and store information regarding such TPPs and permanent modifications so that they can be reported once the updated processes become available.~~

**S. Section 11 of Chapter II is further amended to insert the following as the last paragraph:**

*All reporting activity, including corrections, must be completed in the HAMP Reporting Tool at least 30 days prior to the Program End Date.*

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<sup>6</sup> Servicers that are subject to Section 6.7 of this Chapter may provide the contact information of the servicer's chosen HUD-approved housing counseling agency in the notice, instead of the telephone number for the HOPE™ Hotline. As of April 18, 2017, Borrower Notices are also no longer required to include references to the HOPE™ Hotline number, as noted in Section 2.2.

**T. The first paragraph of Section 11.3 of Chapter II is amended as follows:**

Once a permanent modification has been set up, servicers must begin reporting activity on a monthly basis in the HAMP Reporting Tool until the earliest of the following occurs: (i) the loan loses good standing; (ii) the loan is paid off; (iii) the loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines; ~~and~~ (iv) the loan is re-modified outside of MHA. *If one of these events does not occur, a servicer must wait until the sixth anniversary of the HAMP Trial Period Plan Effective Date to discontinue monthly reporting unless the modification's interest rate steps up and the final rate step-up is later than such anniversary, in which case the servicer must wait until the final rate step-up to discontinue monthly reporting.* For example, if the Modification Effective Date is July, the first loan activity report is due by the fourth business day of August for July activity. The monthly reporting attributes are posted on [www.HMPAdmin.com](http://www.HMPAdmin.com).

**U. Section 11.3 of Chapter II is further amended to insert the following at the end of the second paragraph:**

*Notwithstanding the foregoing, a servicer is not required to report an OMR after the Program End Date.*

**V. Section 11.7 of Chapter II is amended to insert the following as the last paragraph:**

*A servicer need not take any action in the HAMP Reporting Tool in the event a HAMP Modified Loan is repurchased from a GSE after the Program End Date. All reporting actions associated with a repurchase that has occurred before the Program End Date, however, must be completed in the HAMP Reporting Tool at least 30 days prior to such date.*

**W. Section 13 of Chapter II is amended to insert the following after the first paragraph:**

*In the event that a modification was not reported timely due to extenuating circumstances, such as a pending bankruptcy court approval, the servicer is encouraged to provide the affected borrower with a proprietary modification with HAMP-like terms. The servicer is advised to make its own determination as to whether it should honor the original terms of the HAMP modification and/or pay any incentives due, as represented to the borrower in the TPP offer. The servicer should also disclose to the borrower that he or she is not eligible for a permanent HAMP modification and the reason for the denial, along with the servicer's determinations going forward with respect to the terms of any proprietary modification offered, as well as payment of incentives.*

**X. A footnote is inserted in the last bullet of Section 7.6 of Chapter V as follows:**

- A telephone number at the servicer for the borrower to call with questions or concerns about their new payment, and telephone number for the HOPE™ Hotline<sup>7</sup>.

**Y. The second paragraph of Section 9.2.2 of Chapter V is amended as follows:**

2MP servicers are required to report activity in the HAMP Reporting Tool until the earliest of the following occurs: (i) the 2MP loan loses good standing and the associated first lien either loses good-standing or is paid off; (ii) the 2MP loan is paid off; (iii) the 2MP loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines; and (iv) the 2MP is re-modified outside of MHA. *If one of these events does not occur, a 2MP servicer must wait until the fifth anniversary of the Modification Effective Date, or, if applicable, the final interest rate step-up occurs, whichever is later, to discontinue monthly reporting.*

2MP servicers must not cease reporting for the 2MP if the first lien loan loses good standing or is paid in full. However, with respect to (i) *above*, if more than five years have passed since the effective date of the 2MP modification, the servicer is not required to continue reporting on a 2MP loan that loses good-standing, even if the associated first lien is still in good standing. The Official Monthly Report (OMR) is due by the fourth business day each month for any 2MP modification with a Modification Effective Date at least one month prior. For example, if the Modification Effective Date is July, the first loan activity report is due by the fourth business day of August for July activity. The monthly reporting attributes are posted on [www.HMPAdmin.com](http://www.HMPAdmin.com).

**Z. Section 9.2.2 of Chapter V is further amended to insert the following at the end of the last paragraph:**

*A servicer is not required to report an OMR for a 2MP modification after the Program End Date.*

**AA. The footnote in Section 2.1 of Chapter VI is renumbered as follows:**

In July 2009, FHA launched FHA-HAMP through Mortgagee Letter 2009-23. The effective date of FHA-HAMP was August 15, 2009. The guidance in Mortgagee Letter 2009-23, including any attachments and Questions and Answers, and Mortgagee Letters 2009-35, 2009-39, 2010-04, 2010-11 and 2012-22 are incorporated by reference into this Handbook. Servicers should consult only these Mortgagee Letters and other existing or future guidance issued by FHA for requirements related to eligibility, underwriting and administration of FHA-HAMP (hereafter referred to as FHA-HAMP Mortgagee Letters), with the exception of the specific requirements of Treasury FHA-HAMP set forth in this Handbook. In addition to any guidance provided by

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<sup>7</sup> As of April 18, 2017, borrower notices are no longer required to include references to the HOPE™ Hotline number.



FHA, to be eligible for incentive compensation under Treasury FHA-HAMP, the first lien mortgage loan must have been originated on or before January 1, 2009, and a written request for modification assistance must be made by the borrower on or before December 30, 2016<sup>58</sup>, and the effective date of the permanent modification must be on or before December 1, 2017.

**BB. The footnote in Section 2.2 of Chapter VI is renumbered as follows:**

In August 2010, RHS published its Final Rule providing guidance for Special Loan Servicing modifications to RHS-guaranteed loans. The guidance in the Final Rule is incorporated by reference into this Handbook. Servicers should consult the Final Rule and other existing or future guidance issued by RHS for requirements related to eligibility, underwriting and administration of Special Loan Servicing, with the exception of the specific requirements of RD-HAMP. In addition to any guidance provided by RHS, to be eligible for incentive compensation under RD-HAMP, all borrowers must execute a Hardship Affidavit (as described in Section 4.1.1 of Chapter II), the first lien mortgage loan must have been originated on or before January 1, 2009, and a written request for modification assistance must be made on or before December 30, 2016<sup>69</sup>, and the effective date of the permanent modification must be on or before December 1, 2017.

**CC. The footnote in Section 3.2 of Chapter VI is renumbered as follows:**

With respect to payment of any incentive that is predicated on a six percent reduction in the borrower's monthly mortgage payment, the reduction will be calculated by comparing the monthly mortgage payment used to determine eligibility (as defined in Section 6.1.2 of Chapter II)<sup>710</sup> and the borrower's payment under FHA-HAMP and Special Loan Servicing.

**DD. The first sentence of Section 3.3 of Chapter VI is amended as follows:**

Servicers are required to provide Treasury FHA-HAMP or RD-HAMP loan level data reporting to the Program Administrator at the start of the modification trial period, during the modification trial period, at loan set up of the permanent modification and monthly after the modification is set up until the earliest of the following occurs: (i) the loan loses good-standing; (ii) the loan is paid off; (iii) the loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines; ~~or~~ (iv) the loan is re-modified outside of MHA; and (v) *the loan's payment status is reported as of the sixth anniversary of the trial payment due date under FHA-HAMP or Special Loan Servicing.*

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<sup>58</sup> Evidence of borrower submission must be provided by postmark or other independent indicator such as a date and time stamp (electronic or otherwise) evidencing submission by the borrower on or before December 30, 2016.

<sup>69</sup> See Footnote 58

<sup>710</sup> For Treasury FHA-HAMP, this will also include mortgage insurance.

**EE. Section 3.3 of Chapter VI is further amended to insert the following at the end of the third paragraph:**

*A servicer is not required to report an OMR under either of these programs after the Program End Date.*