Supplemental Directive 11-11 *December 15, 2011*

Making Home Affordable Program – Handbook for Servicers Version 3.4 and Administrative Clarifications

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program, a plan to stabilize the housing market and help struggling homeowners get relief and avoid foreclosure. In March 2009, the U.S. Department of the Treasury Department (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance in a series of Supplemental Directives, frequently asked questions (FAQs) and waivers.

In this Supplemental Directive, Treasury is issuing Version 3.4 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 or guaranteed by Fannie Mae or Freddie Mac (Non-GSE Mortgages). Servicers of mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac should refer to any relevant guidance issued by the applicable GSE. In addition to the applicable guidance in the *Handbook*, servicers of mortgage loans insured or guaranteed by a federal agency, such as the Federal Housing Administration or Rural Housing Service, should refer to any relevant guidance issued by the applicable agency.

<u>Issuance of Version 3.4 of *Handbook*</u>

In general, Version 3.4 of the *Handbook* includes revisions to existing sections of Version 3.3 of the *Handbook* that have been issued in Supplemental Directives with effective dates after the publication of Version 3.3 of the *Handbook* and before the date of this Supplemental Directive.

Version 3.4 of the *Handbook* incorporates and supersedes in their entirety Supplemental Directives 11-06, 11-07 and 11-10. Version 3.4 of the *Handbook* also incorporates and supersedes those portions of Supplemental Directive 11-08 that were effective on October 15, 2011 and had not been incorporated into Version 3.3 of the *Handbook.* The following sections of the *Handbook* are removed from Version 3.4 in their entirety: Section 6.2, Chapter II, Coordination with Hope for Homeowners and Sections 6.4.1 and 6.4.2 of Chapter II, describing retroactive PRA policies. If a servicer identifies a discrepancy between the *Handbook* and a previously issued Supplemental Directive, FAQ or waiver, the servicer should rely on the guidance in the *Handbook.*

The *Handbook* will be updated periodically with new policy or procedural changes as they are announced. To the extent that any Supplemental Directive, FAQ or waiver has not been incorporated into and superseded by the *Handbook*, it continues to apply, and any references in such documents to guidance that has been incorporated into the *Handbook* are deemed to refer to the applicable Chapter and Section of the *Handbook* containing such guidance.

The *Handbook* is available on www.HMPadmin.com.

Clarifications Incorporated into Version 3.4 of the *Handbook*

In addition, Version 3.4 of the *Handbook* also includes clarifications to several sections of Version 3.3 of the *Handbook*. These clarifications include the following:

Clarification of ARM Loan Guidance

The guidance found in Supplemental Directive 11-10 and Section 6.1.2.1 of Chapter II of Version 3.3 of the *Handbook* regarding the monthly payment to use in determining eligibility for adjustable rate mortgage (ARM) loans is clarified by this Supplemental Directive and incorporated into version 3.4 of the *Handbook*. Specifically, for all ARM loans, including pay option ARM loans (i.e., loans where the borrower has an option to pay a fully amortizing monthly payment, a negative amortizing monthly payment or an interest only payment) and interest only ARM loans, that are scheduled for an interest rate reset within 120 days of the evaluation date, the servicer must use the borrower's fully amortizing payment which should be determined by using the remaining term of the mortgage, the current unpaid principal balance (before capitalization) and the reset rate. The reset rate is to be calculated by applying the index or formula as if it were in effect at the time of evaluation, even if the reset rate would not take effect until a future date and/or be calculated using a future index.

For all ARM loans, including pay option ARM loans and interest only ARM loans that are scheduled for an interest rate reset more than 120 days from the evaluation date, the servicer must use the borrower's current scheduled payment (which, in the case of pay option ARM loans, means the minimum payment required under the loan documents regardless of which payment the borrower elected to pay in the prior period) and the note interest rate in effect at the time of evaluation when determining borrower eligibility.

The changes to the *Handbook* relating to the foregoing are attached hereto as Exhibit A.

Clarification on Timing of Response to Initial Packages

Sections 2.2.2, 2.3.2, 4.6 and 6 of Chapter II of the *Handbook* are reconciled to make clear that a servicer must, within 30 calendar days of receipt of the Initial Package, determine whether it will respond to a borrower with a notice of incomplete information, a trial period plan notice or a non-approval notice and, within 10 business days of such determination, send the applicable notice.

Clarification on Escalated Cases and Pending Litigation

The guidance in Supplemental Directive 11-10 and Section 3.3 of Chapter I of the *Handbook* regarding Escalated Cases and pending litigation is clarified to provide that where the only litigation is a judicial foreclosure where claims disputing issues of fact have not been raised, the servicer must respond fully to a Requestor.

EXHIBIT A

MHA HANDBOOK MAPPING

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

6.1.2.1 Pending ARM Resets

~~For all~~ With respect to borrowers with adjustable rate mortgage (ARM) loans, *including ARM loans that provide for a monthly payment option (e.g., specified minimum payment, interest only payment, 40, 30 and/or 15 year fully amortizing payment) (Pay Option Loans) and interest only ARM loans,* that have a*n interest* rate reset scheduled within 120 days after the date of the evaluation (Reset ARM), the monthly mortgage payment used to determine eligibility will be the fully amortizing ~~monthly mortgage~~ payment ~~based on the note reset rate using~~. *The borrower's fully amortizing payment is to be determined by using the remaining term of the mortgage, the current unpaid principal balance (before capitalization) and the reset rate. The reset rate is to be calculated by applying* the index *or formula* ~~value~~ *that is in effect* as of the date of the evaluation, *even if the reset rate would not take effect until a future date and/or be calculated using a future index* (Reset Interest Rate).

For ARM loans, including Pay Option Loans that are ARM loans and interest only ARM loans, that have an interest rate reset scheduled more than 120 days after the date of the evaluation, ~~T~~the *monthly mortgage payment and interest rate used to determine eligibility will be the* borrower's current scheduled monthly mortgage payment *(which, in the case of Pay Option Loans that are ARM loans, means the minimum payment required under the loan documents regardless of which payment the borrower elected to pay in the prior period) and the note interest rate in effect at the time of evaluation* ~~is used to determine eligibility for adjustable rate loans that reset more than 120 days after the date of evaluation~~.

If a borrower has an ARM or interest-only mortgage loan, the mortgage loan will convert to a fixed interest rate, fully amortizing mortgage loan. ~~For ARM loans that provide for a monthly payment option (e.g., specified minimum payment, interest only payment, 30-year fully amortizing payment or 15-year fully amortizing payment), and a rate reset is scheduled within 120 days of the date of HAMP evaluation, the payment used to calculate the 31 percent monthly mortgage payment ratio should be the fully amortizing monthly mortgage payment based on the note reset rate using the index value as of the date of the evaluation.~~ ~~For pay option loans (i.e., loans where the borrower has an option to pay a fully amortizing monthly payment, a negative amortizing monthly payment or an interest only monthly payment), the servicer in evaluating the borrower for HAMP must use the fully amortizing monthly payment amount.~~ For loans where servicemembers are protected by the Servicemembers Civil Relief Act and temporary interest rate caps are imposed, the servicer in evaluating the borrower for HAMP must use the full contractual rate (regardless of the interest rate cap)..