Supplemental Directive 12-08 *November 20, 2012*

Making Home Affordable® Program –Federally Declared Disasters

In February 2009, the Obama Administration introduced the Making Home Affordable Program (MHA) to stabilize the housing market and help struggling homeowners get 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. In August 2012, Treasury issued version 4.0 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 and Freddie Mac (Non-GSE Mortgages).

Treasury is deeply concerned for those affected by the devastating impact of Hurricane Sandy and is issuing the guidance in this Supplemental Directive to revise and supplement its existing Federally Declared Disaster (FDD) guidance as set forth in the *Handbook* to enable and encourage servicers to provide as much relief as possible for borrowers adversely impacted by an FDD.

This Supplemental Directive amends and supersedes the notated portions of the *Handbook*. It is effective immediately.

This guidance does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac, insured or guaranteed by the Veterans Administration, insured or guaranteed by the Department of Agriculture's Rural Housing Service or the Federal Housing Administration.

This Supplemental Directive covers the follow topics:

- Flexibility with Borrowers in Federal Emergency Management Agency (FEMA) Designated FDD Areas
- Forbearance Plans
- Borrowers in a Home Affordable Modification Program® (HAMP) or the Second Lien Modification Program℠ (2MP) Trial Period Plan
- Borrowers in a HAMP or 2MP Permanent Modification
- Handbook Mapping

Flexibility with Borrowers in FEMA Designated FDD Areas

With respect to loans secured by properties in an area designated by FEMA as being covered by an FDD or borrowers whose principal place of business or employment is located in such an area, Treasury encourages servicers to extend MHA time periods so borrowers are not disadvantaged due to additional FDD related hardships. Such time periods include, but are not limited to,

- Time periods during which servicers solicit borrowers, attempt to establish "Right Party Contact", require delivery of documents from a borrower (e.g., including, but not limited to, documentation required for an initial evaluation or underwriting or the borrower's delivery of an executed permanent modification agreement, or deed-in-lieu agreement or require initiation of case escalations);
- Forbearance time periods scheduled to expire under the Home Affordable Unemployment Program℠ (UP); and
- Dates for closing a short sale or deed-in-lieu transaction under the Home Affordable Foreclosure Alternatives Program® (HAFA) or termination of pre-approved HAFA® marketing periods.

Treasury also encourages servicers to be accommodating to borrowers and to exercise good business judgment when considering the validity of existing property valuations for use in evaluating a borrower for HAMP, 2MP or HAFA. If it is clear to a servicer that the continued validity of a property valuation is questionable, servicers should consider obtaining a new valuation once the servicer has a better understanding of the property's situation. During this period of evaluation, servicers are strongly encouraged to grant the borrower forbearance for a period beyond 90 days following the date of the FDD disaster declaration, as necessary.

Forbearance Plans

As provided in Section 1.2 of Chapter II and Section 3.2 of Chapter V of the *Handbook*, subject to investor guidelines, with respect to borrower in the process of being evaluated for a trial period, in a trial period or in a permanent modification, servicers should offer a minimum of three months of forbearance to a borrower who requests forbearance as a result of an FDD and meets the eligibility criteria specified for an FDD forbearance. This Supplemental Directive clarifies this guidance by providing that for a borrower (i) who has requested or is being considered for, or has received, assistance under MHA, (ii) whose loan is secured by a property located in an area designated by FEMA as being covered by an FDD and (iii) who misses one or more mortgage payments after the occurrence of the FDD, the servicer cannot, for 90 days following the FDD designation, take any action that would adversely affect the borrower's eligibility for, or good standing under, MHA until and unless there is contact with the borrower to establish whether the borrower requires FDD forbearance.

Borrowers in a HAMP or 2MP Trial Period Plan

As set forth in the *Handbook*, any borrower in a trial period under either HAMP or 2MP who suffers an FDD-related hardship and meets the eligibility criteria for an FDD forbearance plan should be offered an FDD forbearance plan. Servicers placing a borrower in a forbearance plan must cancel the trial period plan when the borrower enters into the forbearance period in accordance with the guidance currently set forth in Section 8.8.1 of Chapter II and Section 6.6.1 of Chapter V of the *Handbook*.

This Supplemental Directive revises this guidance to provide the following with respect to a borrower who was in a trial period and is coming out of a forbearance plan:

- If, at the conclusion of the forbearance plan, the borrower (i) has not sustained a change in financial circumstance and (ii) has the ability to pay trial period payments that were not paid during the forbearance period, the servicer should start a new trial period with the same monthly trial period payment as the cancelled trial without collecting updated documents or re-evaluating. To assist the borrower in paying the trial period payments that were not paid during the forbearance period, the servicer may use any combination of borrower contributions, forbearance, forgiveness or term extension. However, in no event may the servicer advance funds for the borrower and establish and require payments on a separate repayment plan for the trial period payments unpaid during the FDD forbearance period.

- If, at the conclusion of the forbearance plan, the borrower (i) has not sustained a change in financial circumstance, (ii) does not have ability to pay trial period payments that were not paid during the forbearance period or investor guidelines prohibit the forbearance, forgiveness or term extension for such amounts and (iii) the FDD forbearance period was 90 days or less, the servicer may, subject to investor guidance, re-evaluate borrower eligibility without obtaining updated documents. The servicer must, however, re-run the waterfall evaluation to establish the terms for the new trial period, including the monthly trial period payment, conduct a net present value assessment and start a new trial if the borrower qualifies.

- If, at the conclusion of the forbearance plan, the borrower (i) has not sustained a change in financial circumstance, (ii) does not have ability to pay trial period payments that were not paid during the forbearance period (or investor guidelines prohibit the forbearance, forgiveness or term extension for such amounts) and (iii) the FDD forbearance period was more than 90 days, the servicer should re-evaluate the borrower’s eligibility using updated documents and start a new trial if he or she qualifies.

- If, at the conclusion of the forbearance plan, the borrower has had a change in financial circumstance, servicers should re-evaluate the borrower using updated documents and start a new trial if the borrower qualifies.

In all instances, any trial period commenced after the forbearance plan will be considered a new trial period wherein the borrower will be expected to make three monthly trial period payments prior to converting to a permanent modification. Borrowers that were previously in a trial period plan under HAMP and, after the forbearance plan, do not qualify for HAMP Tier 1 or HAMP Tier 2, must be evaluated for other available options in accordance with current guidance.

Servicers must provide notice in writing (which may include email or other electronic communication) to the borrower that if the borrower accepts an FDD forbearance plan, his or her trial period will be cancelled and any new trial period will require receipt of three trial period payments under the new trial period. As servicers may not know at the time of the offer of the FDD forbearance plan whether a borrower will be re-evaluated, servicers must advise borrowers that they may be required to submit a updated documentation and that the borrower may not qualify for HAMP or 2MP, as applicable, at the time of reconsideration due to changed borrower financial circumstances.

Borrowers in a HAMP or 2MP Permanent Modification

As set forth in the *Handbook*, a borrower in a permanent modification who suffers an FDD-related hardship and meets the eligibility criteria for an FDD forbearance plan should be offered an FDD forbearance plan. This Supplemental Directive revises *Handbook* guidance to provide that during the FDD forbearance plan period, if possible, servicers should not submit Official Monthly Reporting (OMR) transactions to the HAMP Reporting Tool. As a result, no borrower, servicer or investor incentives dependent upon the receipt of an OMR will be disbursed during the FDD forbearance plan period. At the end of the FDD forbearance plan, servicers should resume reporting OMR transactions to the HAMP Reporting Tool to reflect the status of the permanent modification at that point in time. At such time, in accordance with existing protocol, the HAMP Reporting Tool will disburse incentives as appropriate, depending on the status of the permanent modification which would include incentives earned during the forbearance plan period.

If it is not possible for a servicer to hold OMRs for modified loans in FDD forbearance plans, the servicer should report the OMR accurately to reflect the borrower's payment activity. If the borrower loses good standing in the HAMP Reporting Tool prior to being able to resume payments, but the borrower has not had a change of financial circumstance and is able to pay the unpaid mortgage payments that accrued during the forbearance period (through borrower contributions, forbearance, forgiveness or term extension), the servicer should reinstate the permanent modification in the HAMP Reporting Tool as active. In this instance, the servicer should resume reporting OMRs on such modifications.

In order for the borrower to continue in the permanent modification and for resumption of distribution of incentives at the end of the FDD forbearance plan, the loan cannot have lost good standing. Accordingly, any mortgage payments that were not paid during the forbearance period must be paid by the borrower or forborne, forgiven or added to the end of the loan's term as a term extension, such that the borrower retains good standing. Servicers may establish a separate repayment plan for the unpaid mortgage payments from the FDD forbearance period. The repayment plan must be based on the borrower's income and ability to pay both the modified mortgage payment and the unpaid mortgage payments from the FDD forbearance period.

If the borrower is unable to continue to pay or reinstate the modified mortgage, the borrower should be evaluated for other available options upon the loss of good standing in accordance with current guidance (e.g., Tier 2 modification if the loss of good standing was on a Tier 1 modification, or a proprietary program if the loss of good standing was on a Tier 2 modification).

Handbook Mapping

Attached hereto as Exhibit A is the mapping of the changes to the *Handbook* as a result of the guidance in this Supplemental Directive. Treasury will consolidate the FDD guidance into a new Section 5 in Chapter I of the Handbook and has removed, for the most part, the FDD guidance as scattered through the *Handbook.* As such, the attached mapping shows the new Section 5 and the deletions of the Sections in the other areas of the *Handbook.*

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

A new Section 5 of Chapter I is inserted in its entirety as follows:

5 Federally Declared Disasters

When Federal Emergency Management Agency (FEMA) declares an area to be impacted by a federally declared disaster (FDD) either as set forth at http://www.fema.gov/disasters or as confirmed by the local FEMA office, servicers should consider the impact of the FDD on borrowers that are being evaluated for or participating in the MHA Program.

5.1 Flexibility with Borrowers in FEMA Designated FDD Areas

With respect to loans secured by properties in an area designated by FEMA as being covered by an FDD or borrowers whose principal place of business or employment is located in such an area, Treasury encourages servicers to extend MHA time periods so borrowers are not disadvantaged due to additional FDD related hardships. Such time periods include, but are not limited to,

- Time periods during which servicers solicit borrowers, attempt to establish "Right Party Contact", require delivery of documents from a borrower (e.g., including, but not limited to, documentation required for an initial evaluation or underwriting or the borrower's delivery of an executed permanent modification agreement, or deed-in-lieu agreement or require initiation of case escalations);

- Forbearance time periods scheduled to expire under UP; and

- Dates for closing a short sale or deed-in-lieu transaction under the HAFA or termination of pre-approved HAFA marketing periods.

Treasury also encourages servicers to be accommodating to borrowers and to exercise good business judgment when considering the validity of existing property valuations for use in evaluating a borrower for HAMP, 2MP or HAFA. If it is clear to a servicer that the continued validity of a property valuation is questionable, servicers should consider obtaining a new valuation once the servicer has a better understanding of the property's situation. During this period of evaluation, servicers are strongly encouraged to grant the borrower forbearance for a period beyond 90 days following the date of the FDD disaster declaration, as necessary.

5.2 Forbearance until Servicer makes Contact with Borrower in an FDD Area

Notwithstanding the forgoing, for a borrower (i) who has requested or is being considered for, or has received, assistance under MHA, (ii) whose loan is secured by a property located in an area designated by FEMA as being covered by an FDD and (iii) who misses one or more mortgage payments (after the occurrence of the FDD), the servicer cannot, for 90 days following the FDD designation, take any action that would adversely affect the borrower's eligibility for, or good standing under, MHA until and unless there is contact with the borrower to establish whether the borrower requires FDD forbearance.

5.2 Forbearance Plans under HAMP and 2MP

Borrowers not able to make monthly mortgage payments due to a FDD who are (1) in the process of being evaluated for a TPP under HAMP or a trial period under 2MP; (2) in a TPP under HAMP or a trial period under 2MP; or (3) in a permanent modification under either HAMP or 2MP should be considered for an FDD forbearance plan in accordance with industry practice and investor guidelines.

Servicers should, in accordance with investor guidelines, offer a minimum of three months of forbearance to a borrower with a loan that is eligible for HAMP who requests forbearance as a result of an FDD and meets the following minimum eligibility criteria:

- The borrower suffered a hardship, such as a loss of employment, reduction in income or increase in expenses, or has been displaced from his or her home and cannot make the monthly mortgage payments as a result of an FDD.
- The location of either (i) the property securing the loan; or (ii) the borrower's principal place of business or employment is located in an area designated by FEMA as being covered by the FDD as set forth at http://www.fema.gov/disasters or as confirmed by the local FEMA office.

Servicers should follow their standard practices with respect to the evaluation of borrowers and documentation of FDD forbearance plans.

5.2.1 FDD Forbearance Plan during a HAMP Trial Period Plan or 2MP Trial Period

In accordance with investor guidelines, any borrower in a HAMP TPP or 2MP trial period who suffers an FDD-related hardship, meets the eligibility criteria set forth in Section 5.2 for FDD and requests a forbearance should be offered an FDD forbearance plan. Likewise, servicers should offer an FDD forbearance plan to borrowers who are in the process of being evaluated for a HAMP TPP or 2MP trial period at the time they are impacted by an FDD if they request an FDD forbearance plan and meet the eligibility criteria, even if their HAMP TPP or 2MP trial period has not started. A borrower is not obligated to accept an FDD forbearance plan, and a servicer may not require that a borrower in a HAMP TPP or 2MP trial period convert to an FDD forbearance plan.

5.2.1.1 Cancellation of HAMP Trial Period Plan or 2MP Trial Period

If a borrower who is currently in a HAMP TPP or 2MP trial period accepts the FDD forbearance plan, the HAMP TPP or 2MP trial period must be cancelled and, for HAMP, the servicer must submit a Trial Fallout reason code indicating that the borrower is entering an FDD forbearance plan. For a cancelled 2MP trial period, no action is required in the HAMP Reporting Tool when cancelling a 2MP trial period.

5.2.1.2 Exiting the Forbearance Plan after Cancellation of TPP or 2MP Trial Period

- If, at the conclusion of the FDD forbearance plan, the borrower (i) has not sustained a change in financial circumstance and (ii) has the ability to pay trial period payments that were not paid during the forbearance period, the servicer should start a new HAMP TPP or 2MP trial period, as applicable, with the same monthly trial period payments as the cancelled HAMP TPP or 2MP trial period without collecting updated documents or re-evaluating. To assist the borrower in paying the trial period payments that were not paid during the forbearance period, the servicer may use any combination of borrower contributions, forbearance, forgiveness or term extension. However, in no event may the servicer advance funds for the borrower and establish and require payments on a separate repayment plan for the trial period payments unpaid during the FDD forbearance period. For a 2MP trial period, servicers must confirm prior to placing the borrower into a new 2MP trial period that the borrower has a corresponding permanent HAMP-modified first lien, or a HAMP TPP, if applicable, and that the HAMP-modified first lien is in good standing.

- If, at the conclusion of the FDD forbearance plan, the borrower (i) has not sustained a change in financial circumstance, (ii) does not have ability to pay trial period payments that were not paid during the forbearance period or investor guidelines prohibit the forbearance, forgiveness or term extension for such amounts and (iii) the FDD forbearance period was 90 days or less, the servicer may, subject to investor guidance, re-evaluate borrower eligibility without obtaining updated documents. The servicer must re-run the waterfall evaluation to establish the terms for the new HAMP TPP or 2MP trial period, including the monthly trial period payment, and conduct a net present value assessment and start a new HAMP TPP or 2MP trial period if the borrower qualifies. For a 2MP trial period, servicers must confirm at the time of re-evaluation for a new 2MP trial period that the borrower has a corresponding permanent HAMP-modified first lien, or a HAMP TPP, if applicable, and that the HAMP-modified first lien is in good standing.

- If, at the conclusion of the FDD forbearance plan, the borrower (i) has not sustained a change in financial circumstance, (ii) does not have ability to pay trial period payments that were not paid during the forbearance period (or investor guidelines prohibit the forbearance, forgiveness or term extension for such amounts) and (iii) the FDD forbearance period was more than 90 days, the servicer should re-evaluate the borrower's eligibility using updated documents and start a new HAMP TPP or 2MP trial period if he or she qualifies. For a 2MP trial period, servicers must confirm at the time of re-evaluation for a new 2MP trial period that the borrower has a corresponding permanent HAMP-modified first lien, or a HAMP TPP, if applicable, and that the HAMP-modified first lien is in good standing.

- If, at the conclusion of the forbearance plan, the borrower has had a change in financial circumstance, servicers should re-evaluate the borrower using updated documents and start a new HAMP TPP or 2MP trial period if the borrower qualifies. For a 2MP trial period, servicers must confirm at the time of re-evaluation for a new 2MP trial period that the borrower has a corresponding permanent HAMP-modified first lien, or a HAMP TPP, if applicable, and that the HAMP-modified first lien is in good standing.

In all instances, any HAMP TPP or 2MP trial period commenced after the forbearance plan will be considered a new HAMP TPP or 2MP trial period wherein the borrower will be expected to make three monthly trial period payments prior to converting to a permanent modification. Borrowers that were previously in a HAMP TPP and, after the forbearance plan, do not qualify for HAMP Tier 1 or HAMP Tier 2, must be evaluated for other available options in accordance with current guidance.

The servicer must provide notice to the borrower in writing that, if the FDD forbearance plan is accepted, his or her HAMP TPP or 2MP trial period will be cancelled and any new HAMP TPP or 2MP trial period (whether on the terms of the cancelled HAMP TPP or 2MP trial period or on terms determined in connection with a new re-evaluation) will require receipt of three trial period payments under the new HAMP TPP or 2MP trial period. As servicers may not know at the time of the offer of the FDD forbearance plan whether a borrower will be re-evaluated, servicers should advise borrowers that they may be required to submit updated documentation to be re-evaluated and the borrower may not qualify for HAMP or 2MP, as applicable, at the time of reconsideration if the borrower's financial circumstances have changed.

5.2.2 FDD Forbearance Plan Following Modification

As described above, a borrower in a permanent modification under either HAMP or 2MP who suffers an FDD-related hardship and meets the eligibility criteria for an FDD forbearance plan should be offered an FDD forbearance plan. During the FDD forbearance plan period, if possible, servicers should not submit Official Monthly Reporting (OMR) transactions to the HAMP Reporting Tool. As a result, no borrower, servicer or investor incentives dependent upon the receipt of an OMR will be disbursed during the FDD forbearance plan period. At the end of the FDD forbearance plan, servicers should resume reporting OMR transactions to the HAMP Reporting Tool to reflect the status of the permanent modification at that point in time. At such time, in accordance with existing protocol, the HAMP Reporting Tool will disburse incentives as appropriate, depending on the status of the permanent modification which would include incentives earned during the forbearance plan period.

If it is not possible for a servicer to hold OMRs for modified loans in FDD forbearance plans, the servicer should report the OMR accurately to reflect the borrower's payment activity. If the borrower loses good standing in the HAMP Reporting Tool prior to being able to resume payments, but the borrower has not had a change of financial circumstance and is able to pay the mortgage payments that were not paid during the forbearance period (through borrower contributions, forbearance, forgiveness or term extension), the servicer should reinstate the permanent modification in the HAMP Reporting Tool as active. In this instance, the servicer should resume reporting OMRs on such modifications.

In order for the borrower to continue in any permanent modification and for resumption of distribution of incentives at the end of the FDD forbearance plan, the loan cannot have lost good standing. Accordingly, any mortgage payments that were not paid during the forbearance period must be paid by the borrower or forborne, forgiven or added to the end of the loan's term as a term extension, such that the borrower retains good standing. Servicers may establish a separate repayment plan for the unpaid mortgage payments from the FDD forbearance period. The repayment plan must be based on the borrower's income and ability to pay both the modified mortgage payment and the unpaid mortgage payments from the FDD forbearance period.

If paying in accordance with the FDD forbearance plan would result in the borrower becoming three full monthly payments past due, the servicer must inform the borrower in writing at the time the FDD forbearance plan is offered that by paying in accordance with the plan, the borrower may lose good standing under HAMP or 2MP unless the borrower is able to pay all mortgage payment amounts that were unpaid during the forbearance period. If this is not possible, the servicer should evaluate the borrower for any other loss mitigation alternative, including for a HAMP loan, HAMP Tier 2 (if the loss of good standing was on a permanent modification under HAMP Tier 1) prior to commencing foreclosure proceedings.

5.3 Foreclosure and a FDD Forbearance Plan

A servicer may not refer a loan to foreclosure or conduct a scheduled foreclosure sale in the following circumstances:

- If the borrower requested consideration and is being evaluated for an FDD forbearance plan; or

- During an initial FDD forbearance plan or any extension thereof.

5.4 Late Fees

Late charges may accrue while the servicer is determining borrower eligibility for an FDD forbearance plan and during the forbearance period. However, a servicer must not collect late charges from the borrower during the forbearance period.

II. CONFORMING CHANGES TO EXISTING 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. Section 1.2 of Chapter II is amended as follows:

~~Federally Declared Disaster (FDD) Relief~~	~~Borrowers not able to make monthly mortgage payments due to a FDD who are (1) in the process of being evaluated for a TPP; (2) in a TPP; or (3) in a permanent modification should be considered for an FDD forbearance plan in accordance with industry practice and investor guidelines.~~ ~~Servicers should, in accordance with investor guidelines, offer a minimum of three months of forbearance to a borrower with a loan that is eligible for HAMP who requests forbearance as a result of an FDD and meets the following minimum eligibility criteria:~~ • ~~The borrower suffered a hardship, such as a loss of employment, reduction in income or increase in expenses, or has been displaced from his or her home and cannot make the monthly mortgage payments as a result of an FDD.~~ • ~~The location of either (i) the property securing the loan; or (ii) the borrower's principal place of business or employment is located in an area designated by the Federal Emergency Management Agency (FEMA) as being covered by the FDD as set forth at www.fema.gov/news/disasters.fema or as confirmed by the local FEMA office.~~ ~~Servicers should follow their standard practices with respect to the evaluation of borrowers and documentation of FDD forbearance plans.~~

B. Section 3.1.2 of Chapter II is amended as follows:

~~3.1.2 FDD Forbearance Plan~~

~~A servicer may not refer a loan to foreclosure or conduct a scheduled foreclosure sale in the following circumstances:~~

- ~~If the borrower requested consideration and is being evaluated for an FDD forbearance plan; or~~
- ~~During an initial FDD forbearance plan or any extension thereof.~~

C. Sections 8.8 and 8.8.1 of Chapter II are amended as follows:

8.8 ~~FDD Forbearance Plan During Trial Period Plan~~ *Reserved*

~~In accordance with investor guidelines, any borrower in a TPP who suffers an FDD-related hardship, meets the eligibility criteria set forth in Section 1.2 for FDD and requests a forbearance should be offered an FDD forbearance plan. Likewise, servicers should offer an FDD forbearance plan to borrowers who are in the process of being evaluated for a TPP at the time~~

~~they are impacted by an FDD if they request an FDD forbearance plan and meet the eligibility criteria, even if their TPP has not started.~~

~~8.8.1 Cancellation of Trial Period Plan~~

~~If a borrower who is currently in a TPP accepts the FDD forbearance plan, the TPP must be cancelled and the servicer must submit a Trial Fallout reason code indicating that the borrower is entering an FDD forbearance plan. If the borrower made timely payments during the trial period prior to the FDD forbearance plan, the borrower will be eligible for reconsideration for HAMP after the FDD forbearance plan ends. In order to be reconsidered for HAMP, the borrower must submit a new Initial Package with updated documentation. If the borrower is eligible for HAMP based on the updated documentation he or she must enter a new TPP.~~

~~If the borrower did not make timely payments during a HAMP Tier 2 TPP prior to the FDD forbearance plan, the borrower will not be eligible for reconsideration for HAMP after the FDD forbearance plan ends. If the borrower did not make timely payments during a HAMP Tier 1 TPP prior to the FDD forbearance plan, subject to legal and regulatory requirements, the borrower may be considered for a HAMP Tier 2 modification.~~

~~The servicer must provide notice to the borrower in writing that, if the FDD forbearance plan is accepted, their TPP will be cancelled and in order to be reconsidered for HAMP in the future the borrower will have to submit a new Initial Package and be re-evaluated. The notice should advise that the borrower may not qualify for HAMP at the time of reconsideration if the borrower's financial circumstances have changed.~~

~~A borrower is not obligated to accept an FDD forbearance plan, and a servicer may not require that a borrower in a TPP convert to an FDD forbearance plan.~~

D. Section 9.3.2 of Chapter II is amended as follows:

9.3.2 Late Fees

All late charges, penalties, stop-payment fees, or similar fees must be waived upon the borrower receiving a permanent modification.

~~Late charges may accrue while the servicer is determining borrower eligibility for an FDD forbearance plan and during the forbearance period. However, a servicer must not collect late charges from the borrower during the forbearance period.~~

E. Section 9.7 of Chapter II is amended as follows:

~~9.7 FDD Forbearance Plan Following Modification~~

~~If a borrower in a permanent modification is eligible for an FDD forbearance plan and has the capacity to make partial payments, the servicer should make every effort to structure the forbearance plan such that the borrower retains good standing during the FDD forbearance period. For example, the servicer may require the borrower to make partial payments during the forbearance period such that the loan at no time becomes delinquent by three full monthly payments during the forbearance plan. If a borrower loses good standing, even as a result of an FDD forbearance plan, the loan is not eligible to receive or accrue borrower, servicer or investor incentives in connection with the loan. In addition, the borrower is not eligible for another HAMP modification; provided, however, if it was a HAMP Tier 1 permanent modification, the borrower may be eligible for a HAMP Tier 2 permanent modification. If paying in accordance with the FDD forbearance plan would result in the borrower becoming three full monthly payments past due, then the servicer must inform the borrower in writing at the time the FDD forbearance plan is offered that by paying in accordance with the plan, the borrower may lose good standing under HAMP. In the event a borrower loses good standing, the servicer must work with the borrower to cure the delinquency regardless of the fact that the borrower is unable to regain good standing. If this is not possible, the servicer should evaluate the borrower for any other loss mitigation alternative, including, HAMP Tier 2 (if the loss of good standing was on a permanent modification under HAMP Tier 1) prior to commencing foreclosure proceedings.~~

F. Section 3.2 of Chapter V is amended as follows:

~~Federally Declared Disaster Relief~~	~~Borrowers not able to make monthly mortgage payments due to an FDD who are (1) in the process of being evaluated for a 2MP trial period; (2) in a 2MP trial period; or (3) in a permanent 2MP modification should be considered for an FDD forbearance plan in accordance with industry practice and investor guidelines.~~ ~~Servicers should, in accordance with investor guidelines, offer a minimum of three months of forbearance to a borrower with a loan that is eligible for 2MP who requests forbearance as a result of an FDD and meets the following minimum eligibility criteria:~~ • ~~The borrower suffered a hardship, such as a loss of employment, reduction in income or increase in expenses, or has been displaced from his or her home and cannot make the monthly mortgage payments as a result of an FDD.~~ • ~~The location of either (i) the property securing the loan; or (ii) the borrower's principal place of business or employment is located in an area designated by FEMA as being covered by the FDD as set forth at www.fema.gov/news/disasters.fema or as confirmed by the local FEMA office.~~ ~~Servicers should follow their standard practices with respect to the evaluation of borrowers and documentation of FDD forbearance plans.~~

G. Sections 6.6 and 6.6.1 of Chapter V are amended as follows:

6.6 ~~FDD Forbearance Plan During 2MP Trial Period~~

~~In accordance with investor guidelines, any borrower in a 2MP trial period who suffers an FDD-related hardship, meets the eligibility criteria set forth in Section 3.2 for FDD and requests a forbearance should be offered an FDD forbearance plan. Likewise, servicers should offer an FDD forbearance plan to borrowers who are in the process of being evaluated for a 2MP trial period at the time they are impacted by an FDD if they request an FDD forbearance plan and meet the eligibility criteria, even if their 2MP trial period has not started.~~

~~6.6.1 Cancellation of 2MP Trial Period~~

~~If a borrower who is currently in a 2MP trial period accepts the FDD forbearance plan, the 2MP trial period must be cancelled. No action is required in the HAMP Reporting Tool when cancelling a 2MP trial period. If the borrower made timely payments during the 2MP trial period prior to the FDD forbearance plan, the borrower will be eligible for reconsideration for 2MP after the FDD forbearance plan ends. At the time of reconsideration, servicers must confirm that the borrower has a corresponding permanent HAMP-modified first lien, or a HAMP TPP, if applicable, and that the HAMP-modified first lien is in good standing. If the borrower is eligible for 2MP upon reconsideration, he or she must enter a new 2MP trial period.~~

~~The servicer must provide notice to the borrower in writing that, if the FDD forbearance plan is accepted, their 2MP trial period will be cancelled and they will be reconsidered for 2MP in the future. The notice should advise that the borrower may not qualify for 2MP at the time of reconsideration if the borrower's first lien loses good standing under HAMP.~~

A borrower is not obligated to accept an FDD forbearance plan, and a servicer may not require that a borrower in a 2MP trial period convert to an FDD forbearance plan.

H. Section 7.7 of Chapter V is amended as follows:

~~7.7 FDD Forbearance Plan Following 2MP Modification~~

~~If a borrower in a permanent 2MP modification is eligible for an FDD forbearance plan and has the capacity to make partial payments, the servicer should make every effort to structure the forbearance plan such that the borrower retains good standing during the FDD forbearance period. For example, the 2MP servicer may require the borrower to make partial payments during the forbearance period such that the 2MP loan at no time becomes delinquent by three full monthly payments during the forbearance plan. If a 2MP borrower loses good standing, even as a result of an FDD forbearance plan, the loan is not eligible to receive or accrue borrower, servicer or investor incentives in connection with the loan. In addition, the borrower would not be eligible for another 2MP modification. If paying in accordance with the FDD forbearance plan would result in the borrower becoming three full monthly payments past due, then the 2MP servicer must inform the borrower in writing at the time the FDD forbearance plan is offered that by paying in accordance with the plan, the borrower may lose good standing under 2MP. In the event a borrower loses good standing, the 2MP servicer must work with the borrower to cure the delinquency regardless of the fact that the borrower is unable to regain good standing. If this is not possible, the 2MP servicer should evaluate the borrower for any other loss mitigation alternative prior to commencing foreclosure proceedings.~~