Supplemental Directive 13-10 ***October 22, 2013***

Making Home Affordable® Program – Guidance for the Effects of the Federal Government Shutdown

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program to stabilize the housing market, and to 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. On September 16, 2013, Treasury issued version 4.3 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).

This Supplemental Directive provides guidance to enable and encourage servicers to provide assistance to borrowers adversely impacted by the federal government shutdown (government shutdown) that occurred on October 1, 2013 and ended on October 17, 2013. The forbearance treatment under this Supplemental Directive is consistent with the guidance in Chapter I, Section 5 of the *Handbook* relating to borrowers impacted by federally declared disasters (FDD).

This Supplemental Directive is effective immediately and expires November 30, 2013.

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

This Supplemental Directive covers the following topics:

- Forbearance Plans Due to the Government Shutdown
- Borrowers in a Home Affordable Modification Program® (HAMP) or the Second Lien Modification Program℠ (2MP) Trial Period
- Borrowers in a HAMP or 2MP Permanent Modification

Forbearance Plans Due to the Government Shutdown

The government shutdown may have impacted a borrower's ability to make scheduled trial period plan payments, or payments under a permanent modification. Borrowers who suffer a financial hardship and are not able to make monthly mortgage payments as a result of the government shutdown who are (1) in the process of being evaluated for a trial period under either HAMP or 2MP; (2) in a trial period under either HAMP or 2MP; or (3) in a permanent modification under either HAMP or 2MP should be considered for a 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 the government shutdown. Servicers should follow the guidance below and provided in Chapter I, Sections 5.3.1, 5.3.1.1, 5.3.1.2, 5.3.2, 5.4 and 5.5 of the *Handbook*, including the guidance on late charges, exiting the forbearance plan and prohibitions on foreclosure.

Borrowers in a HAMP or 2MP Trial Period

Subject to investor guidelines, any borrower in a trial period under either HAMP or 2MP who suffers a financial hardship as a result of the government shutdown and cannot make their monthly mortgage payment should be offered a forbearance plan. Likewise, servicers should offer a forbearance plan to borrowers who are in the process of being evaluated for a trial period under either HAMP or 2MP at the time they are impacted by the government shutdown if they request it, even if their trial period under either HAMP or 2MP has not started. A borrower is not obligated to accept a forbearance plan, and a servicer may not require that a borrower in a trial period under HAMP or 2MP convert to a forbearance plan.

If a borrower who is currently in a trial period under either HAMP or 2MP accepts the forbearance plan, the trial period under HAMP or 2MP must be cancelled. For HAMP reporting purposes, the servicer must submit a Trial Fallout Reason Code of "Federally Declared Disaster". For 2MP trials, no action is required in the HAMP Reporting Tool when cancelling a 2MP trial period.

As a reminder, in accordance with the requirements of Chapter I, Section 5.3.1.2 of the *Handbook*, the servicer must provide notice to the borrower in writing that, if the forbearance plan is accepted, his or her trial period under HAMP or 2MP will be cancelled and any new trial period under HAMP or 2MP (whether based on the terms of the cancelled HAMP trial period plan or 2MP trial period or on terms determined in connection with a re-evaluation) will require receipt of three trial period payments under a new HAMP or 2MP trial period. As servicers may not know at the time of the offer of the 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.

Borrowers in a HAMP or 2MP Permanent Modification

As noted earlier, the servicer should follow the requirements of Chapter I, Section 5.3.2 of the *Handbook*, which are highlighted in part herein. Subject to investor guidelines, any borrower in a permanent HAMP or 2MP modification who suffers a financial hardship as a result of the government shutdown and cannot make their monthly mortgage payment should be offered a forbearance plan. If a borrower who is currently in a permanent HAMP or 2MP modification accepts the forbearance plan, during the 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 forbearance plan period. At the end of the 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.

If it is not possible for a servicer to hold OMRs for modified loans in these 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 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 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 forbearance period.

If paying in accordance with the 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 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.

Credit Bureau Reporting

MHA program guidelines require servicers to report a "full-file" status report to the credit reporting agencies for each loan under HAMP, 2MP and in forbearance. This Supplemental Directive suspends that requirement during the forbearance period for loans in a forbearance plan as a result of the government shutdown.