

Supplemental Directive 14-03

September 30, 2014

Making Home Affordable[®] Program – Administrative Clarifications

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program 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. On March 3, 2014, Treasury issued version 4.4 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).

This Supplemental Directive provides administrative updates and clarifications to the Home Affordable Modification Program[®] (HAMP). Servicers that are subject to the terms of a servicer participation agreement and related documents (SPA) must follow the guidance set forth in this Supplemental Directive. This Supplemental Directive amends and supersedes the notated portions of the *Handbook* and, except as stated herein, the guidance set forth in this Supplemental Directive is effective immediately.

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

This Supplemental Directive covers the following topics:

- Consideration of HAMP Loans Prior to Loss of Good Standing
- Evaluation of Borrowers with Interest Rate Step-Ups
- Borrower Solicitation
- Re-coding of Base NPV Model
- MHA Outreach and Borrower Intake Project

Consideration of HAMP Loans Prior to Loss of Good Standing

The following guidance is effective January 1, 2015.

Section 9.4 of Chapter II of the *Handbook* states that a servicer may not re-modify a loan that has received a HAMP permanent modification until either (i) the loan has lost good standing or (ii) more than five years has passed since the effective date of the permanent modification. In addition, Supplemental Directive 14-02 further clarified that a loan permanently modified under HAMP Tier 1 may be eligible to receive a HAMP Tier 2 modification prior to the loss of good standing if more than five years have passed since the HAMP Tier 1 Modification Effective Date.

This Supplemental Directive amends Section 9.4 to state that a loan permanently modified under HAMP may be re-modified, without regard to the loss of good standing, provided that either the borrower has experienced a change in circumstance, or at least 12 months have passed since the HAMP Modification Effective Date. The servicer must notify the borrower of the impact of a re-modification, including the change in terms from the existing modification, subject to applicable law. Servicers must maintain evidence of this notification in the mortgage file and/or servicing system. In all instances, a loan permanently modified under HAMP Tier 1 must be considered for HAMP Tier 2 prior to consideration for other loss mitigation alternatives.

Notwithstanding the foregoing, if a loan in a permanent modification under HAMP enters a trial period for another modification, it is no longer eligible to receive borrower, servicer or investor incentives under the existing permanent HAMP modification, even if it is not ultimately re-modified and remains subject to the terms of the existing HAMP modification.

Updated HAMP payment processes implementing the terms of this Supplemental Directive are currently under development by the Program Administrator. Subsequent guidance on such processes will be provided on HMPadmin.com.

Evaluation of Borrowers with Interest Rate Step-Ups

The following guidance is effective for HAMP evaluations conducted on or after January 1, 2015, however servicers are encouraged to implement the changes herein immediately.

When evaluating borrowers that have an interest rate step-up scheduled within 120 days after the date of the evaluation (e.g., a HAMP Tier 1 modification approaching the five year anniversary), the monthly mortgage payment used to determine eligibility for HAMP will be the new monthly mortgage payment after the interest rate step-up, rather than the monthly mortgage payment in effect at the time of the evaluation. In addition, the interest rate used to determine eligibility will be the stepped-up interest rate, rather than the interest rate in effect at the time of evaluation.

When evaluating borrowers that have an interest rate step-up scheduled more than 120 days after the date of the evaluation, the monthly mortgage payment and interest rate used to determine

eligibility for HAMP will be the borrower's current scheduled monthly mortgage payment and the interest rate in effect at the time of evaluation.

Servicers should refer to the Base NPV Model Documentation, available on HMPadmin.com, for further information and user guidance on the correct way to evaluate these loans using the net present value (NPV) model.

Borrower Solicitation

Section 2.2 of Chapter II of the *Handbook* states that servicers may, but are not required to, proactively solicit a borrower for HAMP Tier 2 if the borrower has lost good standing under a HAMP Tier 1 permanent modification. This Supplemental Directive amends the current guidance to require servicers to proactively solicit a borrower for HAMP Tier 2 if that borrower loses good standing on their HAMP Tier 1 modification, or at such earlier time as required by applicable law. When a borrower has lost good standing under a HAMP Tier 1 permanent modification, the servicer must satisfy the Reasonable Effort solicitation requirement under Section 2.2.1.

Re-coding of Base NPV Model

The following guidance is effective January 1, 2015.

Section 7.3 of Chapter II of the *Handbook* states that re-coded versions of the NPV model must utilize the Base NPV Model values for variables such as home price projections, foreclosure and REO timelines and costs. With this Supplemental Directive, re-coded versions of the NPV model must employ functionality that allows for a HAMP Tier 2 interest rate below the weekly Freddie Mac Primary Mortgage Market Survey Rate in accordance with the Base NPV Model.

MHA Outreach and Borrower Intake Project

Section 4.7 of Chapter II of the *Handbook* provides guidance to servicers subscribed to Hope LoanPort[®] (HLP) regarding the acceptance or rejection of an Initial Package that has been submitted by a participating housing counseling agency on behalf of a borrower via HLP. This Supplemental Directive provides that Initial Packages can be submitted to servicers via HLP until September 30, 2014. After this date, counseling agencies will no longer be able to submit new Initial Packages via HLP under this project. Counseling agencies will be eligible to receive compensation through the project with respect to Initial Packages that are submitted on or before September 30, 2014 and are accepted as complete by servicers by November 14, 2014. Servicers must complete the underwriting determination and enter the appropriate termination code into HLP by December 15, 2014.

**EXHIBIT A
MHA HANDBOOK MAPPING**

I. NEW HANDBOOK SECTIONS

A. A replacement Section 6.1.2.2 of Chapter II is inserted in its entirety as follows:

6.1.2.2 Evaluation of Borrowers with Interest Rate Step-Ups

When evaluating borrowers that have an interest rate step-up scheduled within 120 days after the date of the evaluation (e.g., a HAMP Tier 1 modification approaching the five year anniversary), the monthly mortgage payment used to determine eligibility for HAMP will be the new monthly mortgage payment after the interest rate step-up, rather than the monthly mortgage payment in effect at the time of the evaluation. In addition, the interest rate used to determine eligibility will be the stepped-up interest rate, rather than the interest rate in effect at the time of evaluation.

When evaluating borrowers that have an interest rate step-up scheduled more than 120 days after the date of the evaluation, the monthly mortgage payment and interest rate used to determine eligibility for HAMP will be the borrower's current scheduled monthly mortgage payment and the interest rate in effect at the time of evaluation.

Servicers should refer to the Base NPV Model Documentation, available on HMPAdmin.com, for further information and user guidance on the correct way to evaluate these loans using the NPV model.

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.

B. The fourth row of Section 1.1.3 of Section I is amended as follows:

Previous HAMP Tier 1 permanent modification	A mortgage loan that has received on which the borrower lost good standing under a HAMP Tier 1 permanent modification, and, at the time of evaluation for HAMP Tier 2, the borrower has experienced a change in circumstance or at least 12 months have passed since the HAMP Tier 1 Modification Effective Date or the borrower has experienced a change in circumstances.
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C. The last paragraph of Section 2.2 of Chapter II is amended as follows:

~~Servicers may, but are not required to, proactively solicit a borrower for HAMP Tier 2 if the borrower has lost good standing under a HAMP Tier 1 permanent modification. Servicers must proactively solicit a borrower for HAMP Tier 2 if that borrower loses good standing on their HAMP Tier 1 modification, or at such earlier time as required by applicable law. Borrowers who have lost good standing are eligible for reconsideration for HAMP Tier 2 on the earlier of~~

~~(i) 12 months after the HAMP Tier 1 modification effective date or (ii) when the borrower has experienced a change of circumstance.~~

D. The second paragraph of Section 2.2.1 of Chapter II is amended as follows:

When a borrower who has never had a TPP or permanent modification cures a delinquency but later re-defaults by missing two or more payments, this is considered a new delinquency and the servicer must re-screen the borrower for HAMP eligibility and satisfy the Reasonable Effort requirement again. *In addition, when a borrower has lost good standing under a HAMP Tier 1 permanent modification, the servicer must proactively solicit the borrower for HAMP Tier 2 and satisfy the Reasonable Effort requirement.* The Reasonable Effort requirement may be waived for borrowers who exhibit a pattern of repetitive delinquency and reinstatement if the servicer has established a written policy to identify such borrowers and applies that policy consistently for all similarly situated borrowers. Evidence of such pattern must be documented in the mortgage file and/or servicing system.

E. A third paragraph is appended to Section 4.7 of Chapter II as follows:

Initial Packages can be submitted to servicers via HLP until September 30, 2014. After this date, counseling agencies will no longer be able to submit new Initial Packages via HLP under this project. Counseling agencies will be eligible to receive compensation through the project with respect to Initial Packages that are submitted on or before September 30, 2014 and are accepted as complete by servicers by November 14, 2014. Servicers must complete the underwriting determination and enter the appropriate termination code into HLP by December 15, 2014.

F. The headings of Section 6.1.2.2 and 6.1.2.3 of Chapter II have been renumbered as follows:

~~6.1.2.2~~ 6.1.2.3 Reasonable Efforts to Obtain Association Fee Information

~~6.1.2.3~~ 6.1.2.4 Loan Secured by Property in a Leasehold Jurisdiction

G. Section 7.3 of Chapter II is amended as follows:

Subject to the requirements described in this Handbook, any servicer, regardless of the size of their servicing book, has the option to re-code the Base NPV Model for implementation in their own systems. Re-coded versions of the NPV model must utilize the Base NPV Model values for variables such as home price projections and foreclosure and REO timelines and costs. These values are posted on www.HMPadmin.com, and will be periodically updated. *Re-coded versions of the NPV model must also employ functionality that allows for a HAMP Tier 2 interest rate adjustment below the PMMS Rate (as defined in Section 9.3.6) in accordance with the Base NPV Model.*

H. Section 9.4 of Chapter II (as provided in Supplemental Directive 14-02) is amended as follows:

If a borrower defaults on a loan modification executed under HAMP (delinquent by the equivalent of three full monthly payments at the end of the month in which the last of the three delinquent payments was due), the loan is no longer considered to be in “good standing.” Once lost, good standing cannot be restored even if the borrower subsequently cures the default. A loan that is not in good standing is not eligible to receive borrower, servicer or investor incentives and reimbursements and these payments will no longer accrue for that ~~loan modification~~. *In addition, if a loan in a permanent modification under HAMP enters a trial period for another modification, it is no longer eligible to receive borrower, servicer or investor incentives under the existing HAMP modification, even if it is not ultimately re-modified and remains subject to the terms of the existing HAMP modification.* A loan permanently modified under HAMP Tier 2 that loses good standing is not eligible for another HAMP modification of that loan. A loan permanently modified under HAMP Tier 1 ~~that loses good standing may be eligible to receive a HAMP Tier 2 modification~~ *may be re-modified, without regard to the loss of good standing, provided that either the date Tier 1 the borrower has experienced a change in circumstance, or at least 12 months have passed since the HAMP Modification Effective Date. The servicer must notify the borrower of the impact of a re-modification, including the change in terms from the existing modification, subject to applicable law. Servicers must maintain evidence of this notification in the mortgage file and/or servicing system. A loan permanently modified under HAMP Tier 1 may also be eligible to receive a HAMP Tier 2 modification prior to the loss of good standing if more than five years have passed since the HAMP Tier 1 Modification Effective Date.* Updated HAMP payment processes implementing this guidance are currently under development by the Program Administrator. Servicers will be advised of how to board a HAMP Tier 2 modification prior to the loss of good standing when the updated processes become available.

Absent a change in circumstance, a servicer is not required to re-evaluate a loan for HAMP Tier 1 if the loan was evaluated for HAMP Tier 1 prior to June 1, 2012 and determined to be ineligible. However, upon receipt of a request from the borrower whose loan was evaluated for HAMP Tier 1 prior to June 1, 2012 and determined to be ineligible, the servicer is required to evaluate that loan for HAMP Tier 2 without requiring the borrower to demonstrate a change in circumstance. Servicers must have an internal written policy which defines what they consider a change in circumstance, which policy must be consistently applied for all similarly situated borrowers.

~~A servicer may not re-modify a loan that has received a HAMP permanent modification until either (i) the loan has lost good standing or (ii) more than five years has passed since the effective date of the permanent modification. In both instances, a loan permanently modified under HAMP Tier 1 must be considered for HAMP Tier 2 prior to consideration for other loss mitigation alternatives.~~

A servicer may apply a principal curtailment at any time following a HAMP modification. Additionally, servicers may not refer a loan with a HAMP permanent modification to foreclosure

until the loan has lost good standing. In the event a borrower defaults on the modified loan, the servicer must work with the borrower to cure the modified loan. *In all instances, a loan permanently modified under HAMP Tier 1 must be considered for HAMP Tier 2 prior to consideration for other loss mitigation alternatives.* If this is not possible the servicer must evaluate the borrower for any other loss mitigation alternatives, e.g., HAFA, prior to commencing foreclosure proceedings. In any event, a servicer cannot refer a HAMP-modified first lien to foreclosure until the loan loses good standing under HAMP.