Supplemental Directive 14-05 ***November 26, 2014***

Making Home Affordable® Program – MHA Program Updates

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 program updates to the Home Affordable Modification Program® (HAMP), Treasury Federal Housing Administration HAMP (Treasury FHA-HAMP) and Rural Development HAMP (RD-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 April 1, 2015.

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

This Supplemental Directive covers the following topics:

- Enhancement of Borrower "Pay for Performance" Incentives under HAMP, Treasury FHA-HAMP and RD-HAMP
- Recast of Loans Modified Under HAMP

Enhancement of Borrower "Pay for Performance" Incentives under HAMP, Treasury FHA-HAMP and RD-HAMP

Section 13.2 of Chapter II of the *Handbook* states that an eligible borrower in a HAMP Tier 1 permanent modification will earn a "pay for performance" principal balance reduction payment, payable annually for each of the first five years after the anniversary of the month in which the HAMP Tier 1 trial period plan effective date occurred, as long as the loan is in good standing and has not been paid in full at the time the incentive is paid. Effective immediately, this Supplemental Directive provides that the HAMP Tier 1 "pay for performance" principal balance reduction payment is extended for one year and increased to $5,000 in year six. In addition, borrowers in HAMP Tier 2 permanent modifications will earn a one-time "pay for performance" principal balance reduction payment of $5,000 in year six.

The $5,000 principal balance reduction payment will be payable the month after the sixth anniversary of the month in which the HAMP trial period plan effective date occurred, as long as the loan is in good standing and has not been paid in full, without regard to the number of current payments or whether the monthly mortgage payment was reduced through HAMP by six percent or more.

Section 3.2.2 of Chapter VI of the *Handbook* has also been updated to provide that the "pay for performance" principal balance reduction payment for permanent modifications under Treasury FHA-HAMP and RD-HAMP has also been extended for one year and increased to $5,000 in year six, in the same manner as above.

Effective April 1, 2015, servicers must provide written notice of the enhancement of "pay for performance" incentives to all HAMP borrowers in good standing on or before the fifth anniversary of their permanent modification effective date. HAMP borrowers in good standing who have passed the fifth anniversary of their modification effective date prior to April 1, 2015 must be provided with this notice no later than April 1, 2015. This notice need not be a separate notice and may be included with or incorporated into another notice sent to the borrower. Evidence of such written notice must be documented in the mortgage file and/or servicing system.

Updated HAMP payment processes implementing the terms of this Supplemental Directive are currently under development by the Program Administrator. Upon implementation of the new payment processes, a true-up of incentives will be paid as appropriate for modifications that have passed the sixth anniversary. Subsequent guidance on such processes will be provided on HMPadmin.com.

Recast of Loans Modified Under HAMP

This Supplemental Directive provides that, subject to investor guidelines, servicers must offer to re-amortize or "recast" an eligible HAMP Tier 1 borrower's unpaid principal balance (excluding deferred principal) over the remaining term of the loan. Such offer must be made in writing, to all borrowers in good standing at the time of the offer, and may be conditioned on the loan being current at the time of recast. Servicers may, but are not required to, offer to recast the loan if the loan was recast within the previous 12 months. The recast offer must be provided to the borrower at least 60 calendar days, but no more than 90 calendar days, prior to the sixth anniversary of the HAMP Tier 1 permanent modification effective date. Servicers must provide the recast at no additional charge or expense to the borrower. Servicers must notify borrowers of the recast and any changes to their monthly principal and interest payments subject to applicable law.

In addition, servicers may, but are not required to, offer to recast the unpaid principal balance for HAMP Tier 2 borrowers in good standing after the application of borrower incentives in year six in accordance with the guidance in this Supplemental Directive.

Each servicer must develop and implement a policy that specifies the action a borrower must take to be eligible for and to accept the recast offer, and this policy must be consistently applied across all similarly situated borrowers. In addition, servicers must provide sufficient time for the borrower to take such action, which must be no fewer than 30 calendar days from the date of the notice. The recast offer must specify the monthly principal and interest payment, as well as the total interest to be paid over the life of the loan as of the month following the sixth anniversary of the HAMP permanent modification, both with and without the effect of the recast. Upon a borrower's request, servicers must also provide amortization schedules. Servicers must maintain evidence of the recast offer provided to each borrower in the mortgage file and/or servicing system, as well as evidence of the borrower's acceptance or other response, if any.

Servicers are required to maintain reports of the recast offer acceptance and updated payment information with the effect of the recast, which must be provided to Treasury upon request. Servicers must also maintain such information as is necessary to monitor the borrower's performance under the modified loan after having received the recast. Updated 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.

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

A. A new Section 9.8 of Chapter II is inserted in its entirety as follows:

9.8 Borrower Notice of "Pay for Performance" Incentive Enhancement

Effective April 1, 2015, servicers must provide written notice of the enhancement of "pay for performance" incentives to all HAMP borrowers in good standing on or before the fifth anniversary of their permanent modification effective date. HAMP borrowers in good standing who have passed the fifth anniversary of their modification effective date before April 1, 2015 must be provided with this notice no later than April 1, 2015. This notice need not be a separate notice and may be included with or incorporated into another notice sent to the borrower. Evidence of such written notice must be documented in the mortgage file and/or servicing system.

B. A new Section 13.2.3 of Chapter II is inserted in its entirety as follows:

13.2.3 Recast of Loans Modified Under HAMP

Subject to investor guidelines, servicers must offer to re-amortize or "recast" an eligible HAMP Tier 1 borrower's unpaid principal balance (excluding deferred principal) over the remaining term of the loan. Such offer must be made in writing to all borrowers in good standing at the time of the offer, and may be conditioned on the loan being current at the time of recast. Servicers may, but are not required to offer to recast the loan if the loan was recast within the previous 12 months. The recast offer must be provided to the borrower at least 60 calendar days, but no more than 90 calendar days, prior to the sixth anniversary of the HAMP Tier 1 permanent modification effective date. Servicers must provide the recast at no additional charge or expense to the borrower. Servicers must notify borrowers of the recast and any changes to their monthly principal and interest payments subject to applicable law.

In addition, servicers may, but are not required to, offer to recast the unpaid principal balance for HAMP Tier 2 borrowers in good standing after the application of borrower incentives in year six in accordance with the guidance in this Section.

Each servicer must develop and implement a policy that specifies the action a borrower must take to be eligible for and to accept the recast offer, and this policy must be consistently applied across all similarly situated borrowers. In addition, servicers must provide sufficient time for the borrower to take such action, which must be no fewer than 30 calendar days from the date of the notice. The recast offer must specify the monthly principal and interest payment, as well as the total interest to be paid over the life of the loan as of the month following the sixth anniversary of the HAMP permanent modification, both with and without the effect of the recast. Upon a borrower's request, servicers must also provide amortization schedules. Servicers must maintain evidence of the recast offer provided to each borrower in the mortgage file and/or servicing system, as well as evidence of the borrower's acceptance or other response, if any.

Servicers are required to maintain reports of the recast offer acceptance and the updated payment information with the effect of the recast, which must be provided to Treasury upon request. Servicers must also maintain such information as is necessary to monitor the borrower's performance under the modified loan after having received the recast. Updated processes are currently under development by the Program Administrator. Subsequent guidance on such processes will be provided on HMPadmin.com.

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 13.2 of Chapter II is amended as follows:

13.2 Borrower Incentive Compensation ~~under Tier 1~~

~~Borrowers whose monthly mortgage payment is reduced through HAMP Tier 1 by six percent or more and who make timely monthly payments will earn an annual "pay for performance" principal balance reduction payment equal to the lesser of:~~

- ~~$1,000 ($83.33/month); or~~
- ~~One-half of the reduction in the borrower's annualized monthly payment for each month a timely payment is made.~~

~~The "pay for performance" principal balance reduction payment will accrue for each month in which the borrower makes current payments. The payment will be payable annually for each of the first five years after the anniversary of the month in which the HAMP Tier 1 TPP Effective Date occurred as long as the loan is in good standing and has not been paid in full at the time the incentive is paid.~~

~~For example, if the borrower is current and makes 10 out of 12 payments on time, he or she will be credited for 10/12 of the annual incentive payment as long as the loan is in good standing at the time the annual incentive is paid. A borrower whose loan is delinquent on a rolling 30- or 60-day basis will not accrue annual incentive payments.~~

~~This~~*Borrower incentive* payment*s* will be paid to the mortgage servicer to be applied first towards reducing the interest bearing UPB on the mortgage loan and then to any principal forbearance amount (if applicable). Any applicable prepayment penalties on partial principal prepayments made by the government must be waived. In the event the borrower is delinquent, but still in good standing, the borrower's incentive should continue to be applied as a curtailment to the interest-bearing UPB.

If the loan ceases to be in good standing or is paid in full, the borrower will forfeit any incentive payments that have accrued but are unpaid and will cease to be eligible for any further incentive payments after that time, even if the borrower subsequently cures his or her delinquency. With respect to PRA, if a borrower loses good standing before the entire PRA Forbearance Amount has been applied as principal reduction to the UPB, the unapplied PRA Forbearance Amount shall remain as non-interest bearing principal forbearance for the remaining life of the loan.

"Pay for performance" principal balance reduction payments are excluded from gross income for tax reporting purposes.

~~A borrower that received a HAMP Tier 2 permanent modification is not eligible for pay for performance principal balance reduction payments.~~

Updated HAMP payment processes implementing the borrower "pay for performance" principal balance reduction payment in year six are currently under development by the Program Administrator. Upon implementation of the new payment processes, a true-up of incentives will be paid as appropriate for modifications that have passed the sixth anniversary. Subsequent guidance on such processes will be provided on HMPadmin.com.

13.2.1 "Pay for Performance" Incentive under Tier 1

Borrowers whose monthly mortgage payment is reduced through HAMP Tier 1 by six percent or more and who make timely monthly payments will earn an annual "pay for performance" principal balance reduction payment equal to the lesser of:

- *$1,000 ($83.33/month); or*
- *One-half of the reduction in the borrower's annualized monthly payment for each month a timely payment is made.*

The "pay for performance" principal balance reduction payment will accrue for each month in which the borrower makes current payments. The payment will be payable annually for each of the first five years after the anniversary of the month in which the HAMP Tier 1 TPP Effective Date occurred as long as the loan is in good standing and has not been paid in full at the time the incentive is paid.

For example, if the borrower is current and makes 10 out of 12 payments on time, he or she will be credited for 10/12 of the annual incentive payment as long as the loan is in good standing at the time the annual incentive is paid. A borrower whose loan is delinquent on a rolling 30- or 60-day basis will not accrue annual incentive payments.

In addition, borrowers will earn a "pay for performance" principal balance reduction payment of $5,000 in year six, as long as the loan is in good standing and has not been paid in full as of the date the incentive is payable, without regard to the number of current payments or whether *the monthly mortgage payment was reduced through HAMP by six percent or more. The incentive will be payable after the sixth anniversary of the month in which the HAMP TPP effective date occurred.*

13.2.2 "Pay for Performance" Incentive under Tier 2

Borrowers will earn a "pay for performance" principal balance reduction payment of $5,000 in year six, as long as the loan is in good standing and has not been paid in full as of the date the incentive is payable, without regard to the number of current payments or whether the monthly mortgage payment was reduced through HAMP by six percent or more. The incentive will be payable after the sixth anniversary of the month in which the HAMP TPP effective date occurred.

B. Section 3.2.2 of Chapter VI is amended as follows:

3.2.2 Borrower Incentive Compensation

Borrowers whose monthly mortgage payment is reduced through FHA-HAMP or Special Loan Servicing by six percent or more and who make timely monthly payments will earn an annual pay for- performance principal balance reduction payment equal to the lesser of:

- $1,000 ($83.33/month); or
- One-half of the reduction in the borrower's annualized monthly payment for each month a timely payment is made.

The pay-for-performance principal balance reduction payment will accrue for each month in which the borrower makes current payments. The payment will be payable annually for each of the first five years after the anniversary of the first trial payment due date under FHA-HAMP or Special Loan Servicing occurred as long as the loan is in good standing and has not been paid in full at the time the incentive is paid.

For example, if the borrower is current and makes 10 out of 12 payments on time, he or she will be credited for 10/12 of the annual incentive payment as long as the loan is in good standing and has not been paid in full at the time the annual incentive is paid. A borrower whose loan is delinquent on a rolling 30- or 60-day basis will not accrue annual incentive payments.

In addition, borrowers will earn a "pay for performance" principal balance reduction payment of $5,000 in year six, as long as the loan is in good standing and has not been paid in full as of the date the incentive is payable, without regard to the number of current payments or whether the monthly mortgage payment was reduced by six percent or more. The incentive will be payable after the sixth anniversary of the month in which the effective date of the modification trial period occurred.

~~This~~*These* payment*s* will be paid to the mortgage servicer to be applied first towards reducing the interest-bearing UPB on the mortgage loan and then to any principal forbearance amount (if applicable). In the event the borrower is delinquent, but still in good standing, the borrower's incentive payment should continue to be applied as a curtailment to the interest-bearing UPB.

If the loan ceases to be in good standing or is paid in full, the borrower will forfeit any incentive payments that have accrued but are unpaid and will cease to be eligible for any further incentive payments after that time, even if the borrower subsequently cures his or her delinquency.

Pay for-performance principal balance reduction payments are excluded from gross income for tax reporting purposes.

Updated HAMP payment processes implementing the borrower "pay for performance" principal balance reduction payment in year six are currently under development by the Program Administrator. Upon implementation of the new payment processes, a true-up of incentives will be paid as appropriate for modifications that have passed the sixth anniversary. Subsequent guidance on such processes will be provided on HMPadmin.com.