Supplemental Directive 15-02 *March 12, 2015*

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, securitized 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), the Home Affordable Foreclosure Alternatives® (HAFA®) Program, 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, is effective immediately.

This guidance does not apply to mortgage loans that are owned, securitized 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 Federal Housing Administration or by the Department of Agriculture's Rural Housing Service.

This Supplemental Directive covers the following topics:

- Right Party Contact
- Non-Approval Notices
- Suspension of a Referral to Foreclosure
- Post-Modification Credit Reporting
- Servicer Incentive for Completed Modifications
- Borrower Incentives for Non-GSE Mortgages
- Consideration of Borrowers for HAFA
- Treasury FHA-HAMP and RD-HAMP Reporting
- *Handbook* Mapping Clean-Up and Clarifications

Right Party Contact

Section 2.2.2 of Chapter II of the *Handbook* states that, in the event that Right Party Contact is established but the borrower does not submit any documents in response to the Initial Package communication, the servicer must resend the Initial Package communication. This Supplemental Directive provides that, in lieu of resending the Initial Package communication, a servicer may instead send a written notice to the borrower which references the first Initial Package communication and provides instructions for obtaining a replacement set of Initial Package documentation, if necessary. In all instances, the servicer must specify a date by which the Initial Package must be returned, which must be no less than 15 calendar days from the date of such notice or second Initial Package communication.

Non-Approval Notices

Section 2.3.2 of Chapter II of the *Handbook* provides that a Non-Approval Notice must be mailed no later than 10 business days following the date of the servicer's determination that a trial period plan or a permanent HAMP modification will not be offered. Notwithstanding the foregoing, this Supplemental Directive clarifies that, to the extent a servicer is required by applicable law to consider a borrower for HAMP contemporaneously with all other loss mitigation options available to the borrower and such consideration occurs after the servicer's determination for HAMP, the Non-Approval Notice must be sent no later than 10 business days following the servicer's determination that any other loss mitigation option will be offered, or that no loss mitigation option will be offered. Any such delay in sending a Non-Approval Notice for HAMP due to a contemporaneous evaluation must be documented in the mortgage file and/or servicing system.

Suspension of a Referral to Foreclosure

Under Section 3.1.1 of Chapter II of the *Handbook*, if a borrower submits an incomplete Loss Mitigation Application, a servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice as required under Section 4.5, and provided the borrower's Loss Mitigation Application remains incomplete on the date of referral. This Supplemental Directive amends this guidance such that a servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice (or any subsequent request for additional information required to complete a Loss Mitigation Application), and provided the borrower's application remains incomplete on the date of referral.

Post-Modification Credit Reporting

Section 12.2.2 of Chapter II of the *Handbook* instructs servicers to use Special Comment Code 'CN' (Loan modified under a federal government plan) when reporting the modification of a loan under HAMP to identify those loans being paid under a modified payment agreement, and specifies that the Original Loan Amount should be increased in the event the principal balance increases due to capitalization of delinquent amounts due. With this Supplemental Directive, servicers are no longer directed to increase the Original Loan Amount in the event the principal balance increases due to capitalization of delinquent amounts due.

Servicer Incentive for Completed Modifications

The following guidance is effective April 1, 2015.

As provided in Section 13.1.1 of Chapter II of the *Handbook*, servicers receive a completed modification incentive for each completed modification under HAMP, based on the number of days the mortgage loan is delinquent as of the effective date of the trial period plan. This Supplemental Directive provides that for all HAMP permanent modifications with a trial period plan effective date on or after April 1, 2015, the servicer incentive is increased from $800 to $1200 for all loans greater than 210 days delinquent at the trial period plan effective date.

All other servicer incentives remain unchanged.

Updated HAMP payment processes implementing the terms of this Supplemental Directive are currently under development. Subsequent guidance on such processes will be provided on www.HMPadmin.com. Servicers with completed permanent HAMP modifications having trial period plan effective dates on or after April 1, 2015 should continue to report their HAMP modified loans. Until the payment processes implementing the terms of this Supplemental Directive are in place, servicers will receive compensation under the existing compensation matrix. Upon implementation of the new payment processes, the Program Administrator will make a one-time adjustment payment to the servicers to "true-up" the completed modification incentive payment for completed modifications with trial period plan effective dates on or after April 1, 2015.

In the event the servicing of a loan subject to this incentive change is transferred prior to implementation of the updated HAMP payment processes implementing the terms of this Supplemental Directive, any adjustment to incentives will be paid to the servicer of record as of the date of such implementation.

Borrower Incentives for Non-GSE Mortgages

Section 13.2 of Chapter II of the *Handbook* (as amended by Supplemental Directives 14-05 and 15-01) provides that borrower incentive payments paid to the mortgage servicer are to be applied first towards reducing the interest-bearing unpaid principal balance on the mortgage loan and then to any principal forbearance amount (if applicable). This Supplemental Directive provides that in addition to Section 13.2, servicers should follow the guidance in Section 9.6 related to principal curtailments following modification when applying the borrower pay for performance incentive. In addition, in the event that application of such an incentive payment satisfies the outstanding debt on the mortgage loan, the servicer must remit any remaining funds directly to the borrower.

Consideration of Borrowers for HAFA

Section 3.3 of Chapter IV of the *Handbook* requires servicers to consider, upon certain circumstances, possible HAMP-eligible borrowers for HAFA within 30 calendar days. This Supplemental Directive provides two additional circumstances upon which a servicer must consider a borrower for HAFA within 30 calendar days:

- upon a borrower's request for a short sale or deed-in-lieu (DIL) and, if applicable, provision of any documentation required by the servicer; or

- upon a borrower's submission of a complete Loss Mitigation Application.

Treasury FHA-HAMP and RD-HAMP Reporting

Section 3.2 of Chapter VI of the *Handbook* provides that borrowers and servicers are eligible for financial incentives under Treasury FHA-HAMP and RD-HAMP. Both of these programs previously required that the borrower's monthly mortgage payment be reduced by six percent or more through FHA-HAMP or Special Loan Servicing, respectively, to be eligible for financial incentives. Section 3.2.2 (as amended by Supplemental Directive 14-05) provides that 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. This Supplemental Directive provides that servicers are required to report all historical and future Treasury FHA-HAMP and RD-HAMP modifications that are eligible to receive incentives, including those in which the monthly mortgage payment was not reduced by at least six percent. Reporting of such modifications must occur prior to the date on which the first incentive payment is payable.

***Handbook* Mapping Clean-Up and Clarifications**

The mapping attached hereto as Exhibit A includes the following clean-up and clarification items to the *Handbook*.

- Section 6.7 of Chapter II of the *Handbook* requires certain servicers to engage a financial counseling vendor(s) to provide the financial counseling services required under that Section. This Supplemental Directive amends the guidance in Sections 6.7.1 and 6.7.1.1 to replace all instances of the term "vendor" with "agency".

- Section 6.7.1.1 of Chapter II of the *Handbook* requires certain servicers to either use the "warm transfer" or the "vendor outreach" method to contact borrowers entering new HAMP trial period plans to offer financial counseling. The last two sentences of that Section, which state that the use of the warm transfer is preferred and only servicers that are not capable of conducting warm transfers should use vendor outreach, is deleted. Servicers may use the warm transfer and/or vendor outreach method to meet the reasonable effort standard for contacting borrowers entering a HAMP trial period plan.

- Supplemental Directive 14-04 increased the amount of relocation assistance to $10,000 for a HAFA short sale or DIL that closes on or after February 1, 2015. This Supplemental Directive amends the tenth bullet in Section 7.4 of Chapter IV of the *Handbook* to reflect this increase.

EXHIBIT A
MHA HANDBOOK MAPPING

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. The fourth paragraph of Section 2.2.2 of Chapter II is amended as follows:

If Right Party Contact is established but the borrower does not submit any documents in response to the Initial Package communication, the servicer must resend the Initial Package communication. *In lieu of resending such communication*, *a servicer may instead send a written notice to the borrower which references the Initial Package communication and provides instructions for obtaining a replacement set of Initial Package documentation, if necessary.* ~~Again~~*In all cases*, the servicer must include a specific date by which the Initial Package should be returned, which must be no less than 15 calendar days from the date of *such notice or* ~~the~~ second Initial Package communication. If the borrower does not respond by providing any component of an Initial Package within the required time period set forth in the second communication, the servicer may determine the borrower to be currently ineligible for HAMP.

B. The last paragraph of Section 2.3.2 of Chapter II is amended as follows:

A Non-Approval Notice must be mailed no later than 10 business days following the date of the servicer's determination that a TPP or a permanent HAMP modification will not be offered. *To the extent a servicer is required by applicable law to consider a borrower for HAMP contemporaneously with all other loss mitigation options available to the borrower and such consideration occurs after the servicer's determination for HAMP, the Non-Approval Notice must be sent no later than 10 business days following the servicer's determination that any other loss mitigation option will be offered, or that no loss mitigation option will be offered.* Such determination must be made in accordance with the guidance provided under Section 4.6. This need not be a separate notice, and may be included with or incorporated into another notice sent to the borrower *and any such delay in sending a Non-Approval Notice for HAMP due to a contemporaneous evaluation must be documented in the mortgage file and/or servicing system.*

C. The last paragraph of Section 3.1.1 of Chapter II is amended as follows:

In addition, if the borrower submits an incomplete Loss Mitigation Application, the servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice as required under Section 4.5 *(or any subsequent request for additional information required to complete a Loss Mitigation Application)*, and provided the borrower's Loss Mitigation Application remains incomplete on the date of referral.

D. The second paragraph of Section 6.7 of Chapter II is amended as follows:

Each such servicer must select and engage a financial counseling ~~vendor~~*agency*(s) to provide the financial counseling services required under this Section. The ~~vendor~~*agency* must be a HUD-approved housing counseling agency with demonstrated expertise in providing the type of financial counseling described above, and must have sufficient capacity to manage the anticipated volume of referred borrowers. Servicers must engage additional HUD-approved housing counseling agencies as necessary or appropriate to meet the demand. Servicers may leverage their existing relationships with HUD-approved housing counseling agencies, or create new relationships, if and as needed. Servicers are responsible for the cost of financial counseling and all related expenses. Furthermore, each servicer is responsible for monitoring its selected HUD-approved housing counseling agency's performance under its agreements and ensuring that such performance is consistent with the requirements of, and any policies and procedures established by the servicer in connection with this Section. The financial counseling services required under this Section must be provided at no cost to the borrower.

E. The second bullet in Section 6.7.1.1 of Chapter II is amended as follows:

- A*n* "~~vendor~~*agency* outreach": Within 30 days of sending the TPP Notice, the servicer must send its designated HUD-approved housing counseling agency a file with basic contact i*n*fo~~rmatio~~*n for* the borrower entering the TPP, including borrower name, address and phone number ("inclusion file"), and require its HUD-approved housing counseling agency to commence within 30 days of receipt of an inclusion file to use reasonable efforts to contact the borrower. Servicers may consolidate multiple borrowers who enter into TPPs contemporaneously into a single inclusion file.

F. The third paragraph of Section 6.7.1.1 of Chapter II is deleted:

~~The use of the warm transfer is preferable to vendor outreach. Only servicers that are not capable of conducting warm transfers should use vendor outreach.~~

G. The third bullet in Section 12.2.2 of Chapter II is amended as follows:

- Original Loan Amount = the original amount of the loan, including the Balloon Payment Amount, if applicable. ~~If the principal balance increases due to capitalization of delinquent amounts due under the loan, the Original Loan Amount should be increased to reflect the modified principal balance~~

H. The last row of the table in Section 13.1.1 of Chapter II is amended as follows:

Greater than 210 days delinquent (greater than 240 days from LPI)	$ ~~800~~*1200*

I. The first paragraph of Section 13.2 of Chapter II of the Handbook (as amended by Supplemental Directives 14-05 and 15-01) is amended as follows:

Borrower incentive payment 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 accordance with Section 9.6.* 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. Notwithstanding the foregoing, servicers must apply the $5,000 pay for performance incentive for loans modified under GSE HAMP in accordance with the applicable GSE requirements. *In addition, in the event that application of such an incentive payment satisfies the outstanding debt on the mortgage loan, the servicer must remit any remaining funds directly to the borrower.*

J. Section 3.3 of Chapter IV is amended to insert the following before the first bullet:

- *Requests a short sale or DIL and, if applicable, provides any documentation required by the servicer*;

- *Submits a complete Loss Mitigation Application;*

K. The tenth bullet in Section 7.4 of Chapter IV is amended as follows:

- When applicable in accordance with Section 6.2.5, an agreement that upon successful closing of a short sale acceptable to the servicer, the borrower, tenant or other non-borrower occupant, as applicable, will be entitled to relocation assistance of $~~3,000~~*10,000*, which will be deducted from the gross sale proceeds at closing; the borrower will need to provide evidence of occupancy and, for any non-borrower occupant, a Non-Borrower Occupant Certification and, for the borrower, a Dodd-Frank Certification, regardless of whether the borrower or some other party is receiving the relocation assistance.

L. Section 3.3 of Chapter VI is amended to insert the following as the second paragraph:

Servicers are required to report all historical and future Treasury FHA-HAMP and RD-HAMP modifications that are eligible to receive incentives, including those in which the monthly mortgage payment was not reduced by at least six percent. Reporting of such modifications must occur prior to the date on which the first incentive payment is payable.