



# Making Home Affordable

## MHA and Impacts from the Consumer Financial Protection Bureaus New Mortgage Servicing Regulations





# Overview

## MHA Updates effective January 10, 2014

- MHA updated guidance for HAMP, UP, and HAFA programs as a result of certain mortgage servicing rules as implemented by the Bureau of Consumer Financial Protection (CFPB).
- Guidance is effective January 10, 2014 in conjunction with the final CFPB Mortgage Servicing Regulations effective date.
- Applicable CFPB Regulations apply only to:
  - 1) Owner occupied properties
  - 2) Borrowers evaluated after January 10, 2014 on a ***complete Loss Mitigation Application***.

**Note:** Unless noted in Supplemental Directive 13-09, existing program guidance will remain in effect.



# Updates to Important MHA Timelines

## Timelines – New Guidance

### Acknowledgment

- 1) The servicer acknowledgement window for receipt of any component of a Loss Mitigation Application has been changed from **10 business** days to **5 business** days.
- 2) If the Loss Mitigation Application is incomplete, the acknowledgment must include an Incomplete Information Notice (IIN) with a date of no later than 30 calendar days for which the documentation *should* be received. The servicer may suggest a shorter period consistent with applicable law IF in the best interest of the borrower. The servicer must document in the mortgage file the reason(s) for any shorter time frame and the facts and circumstances supporting such determination.
- 3) The 2<sup>nd</sup> IIN requirement has been eliminated.
- 4) The minimum requirement of the RMA is no longer sufficient for HAMP Consideration; borrower must submit an Initial Package.



# Introduction of a *Loss Mitigation Application*

## Loss Mitigation Application – New Guidance

- A Loss Mitigation Application consists of the Initial Package and, to the extent a servicer may be required under CFPB Regulations to consider a borrower for HAMP contemporaneously with all other loss mitigation options available to the borrower, all other documentation necessary to evaluate the borrower for HAMP and other loss mitigation options.
- Servicers must make a judgment regarding whether or not CFPB Regulations apply to a loan being evaluated for MHA and all other options, and document their decision in the mortgage servicing file.

**Note:** CFPB Regulations require a borrower to be considered for HAMP contemporaneously with all other loss mitigation options; however, HAMP remains at the top of the waterfall for loss mitigation consideration.



# Right Party Contact

## Right Party Contact – Amended Guidance

- If a borrower submits *any* component of a Loss Mitigation Application, the servicer must send an acknowledgment and, to the extent applicable, an “Incomplete Information Notice.”
- If the servicer has not received any documents from the borrower in response to the Initial Package communication, the servicer must resend the Initial Package communication.

**Note:** *The changes to MHA guidance are made to make it feasible for services to comply w/CFPB. MHA guidance in regards to Right Part Contact will be outlined in the HAMP Training for Servicers.*



# Review of a Loss Mitigation Application

## “Complete” Loss Mitigation Application

Within 30 calendar days from the date the complete Loss Mitigation Application is received, the servicer must evaluate the borrower for HAMP, and send:

- A TPP Notice if the borrower is determined eligible; or
- A Non-Approval Notice, if the borrower is determined ineligible.



# Review of Loss Mitigation Application

## Complete Loss Mitigation Application – Third Party Documentation

When CFPB regulations apply:

- The servicer may be required to determine a borrower's eligibility in absence of documentation required from third parties.
- Servicers should exercise reasonable diligence to obtain any missing documentation within the 30 day evaluation period.



# Review of Loss Mitigation Application

## Incomplete Loss Mitigation Application

Only when the servicer has exercised reasonable diligence in obtaining documents and information to complete a Loss Mitigation Application, but is unsuccessful after a significant period of time, without further progress from the borrower to complete the Loss Mitigation Application, can they decision the borrower and must either:

- Evaluate the borrower for HAMP and send a TPP Notice or Non-Approval notice to the borrower if he or she has provided the necessary documentation and information; or
- Determine the borrower to be currently ineligible for HAMP if the borrower has not provided the necessary documentation for evaluation, and send a Non-Approval Notice.

**Note:** Even if the borrower cannot be evaluated for HAMP due to lack of information, he or she may still be considered for HAMP in the future.





# Protections Against Unnecessary Foreclosure

## Incomplete Loss Mitigation Application – New Guidance

In conjunction with existing guidance as outlined in Section 3.1.1 of Chapter II of the Handbook:

If the borrower submits an incomplete Loss Mitigation Application, and as long as the borrower's Loss Mitigation Application remains incomplete on the date of referral, the servicer may not refer a loan to foreclosure unless and until the later of:

- 1) The 120th day of delinquency; or
- 2) At least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice.



# Unemployment Program (UP)

## UP – New Guidance

- Under CFPB servicers have the option to offer short-term forbearance based on an ***incomplete*** Loss Mitigation Application.
- If CFPB Regulations apply, servicers may limit the forbearance period to 6 months; otherwise the forbearance policy of 12 months remains the same.
- Submission of a Complete Loss Mitigation Application near the end of the short-term forbearance period initiates the evaluation period.

**Note:** Any forbearance period under CFPB regulations will expire before the end of the forbearance period upon re-employment.



# Unemployment Program (UP)

## UP – New Guidance

If the borrower's Loss Mitigation Application remains incomplete at the end of the initial short-term forbearance period, and the servicer reassessment indicates that extending the forbearance period is the best option for the borrower, and the borrower continues to meet the eligibility requirements under UP; the servicer must extend the forbearance period an additional 6 months, with an increase in additional increments upon the servicer's discretion.

**Note:** The servicer is not required to offer forbearance for a term that would cause the amount of the borrower's delinquency to exceed 12 months of the borrower's scheduled monthly mortgage payment.



# Home Affordable Foreclosure Alternative (HAFA)

## HAFA – New Guidance

- Under CFPB Regulations, a servicer may be required to consider a borrower for HAFA while considering a borrower for HAMP or other home retention options.
- Unless the borrower has requested a non-home retention option, servicers must determine that the borrower does not qualify for HAMP or any other home-retention options prior to offering the borrower HAFA.
- Any determination made by the servicer must be communicated to the borrower in accordance with the timelines for evaluating a Loss Mitigation Application.

# Discussion/Questions



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