

## Supplemental Documentation—Frequently Asked Questions Home Affordable Modification Program 2009-2010 Conversion Campaign

These frequently asked questions clarify the Supplemental Directives issued in connection with the Home Affordable Modification Program (HAMP). The questions and answers below should be reviewed by each servicer that has entered into a Servicer Participation Agreement (SPA) to participate in HAMP. These frequently asked questions constitute supplemental documentation that is included in, and shall be deemed part of, the HAMP Program Documentation described in Section 1 of the SPA.

**January 8, 2010**

**Q0108-01** Is a borrower who has received a HAMP offer eligible for a subsequent HAMP offer? When is a servicer's SPA obligation to offer a borrower a HAMP modification considered satisfied?

Servicers should refer to the guidance provided in Supplemental Directive 10-02 with respect to a borrower's eligibility for a subsequent HAMP offer and a servicer's obligation to offer a borrower a HAMP modification.

**January 6, 2010**

**Q0106-01** If a borrower did not make all required trial period payments by the end of the original trial period, but was nevertheless granted a Trial Period Extension under HAMP Waiver #20090803, as amended, may the borrower be offered a permanent HAMP modification if the borrower is otherwise eligible and makes all required trial period payments by the end of the Trial Period Extension?

Yes. HAMP Waiver #20090803 required that a borrower make all original trial period payments by the end of the original trial period to qualify for a Trial Period Extension. Notwithstanding this requirement, a borrower who received a Trial Period Extension without making all of the original trial period payments by the end of the original trial period may be offered a permanent HAMP modification as long as: (i) the borrower makes all required trial period payments by the end of the Trial Period Extension; and (ii) the borrower is otherwise eligible under HAMP.

## December 30, 2009

**Q1230-01 During the temporary review period required under Supplemental Directive 09-10, are the borrower notification requirements of Supplemental Directive 09-08 suspended for borrowers who have been evaluated and determined to be ineligible for HAMP for reasons other than property ineligibility?**

During the temporary review period required under Supplemental Directive 09-10, servicers must send a non-approval notice that complies with the requirements of Supplemental Directive 09-08 to a borrower who has submitted all required documents and trial payments and who has been determined to be ineligible because the property is (a) not the borrower's principal residence, (b) vacant or condemned, or (c) more than four dwelling units. In addition, servicers should cancel these trial modifications from the Treasury system of record.

During the temporary review period required under Supplemental Directive 09-10, borrowers who have submitted all required documents and trial payments and who have been determined to be ineligible for any reason other than property ineligibility must be sent a notice similar to the following:

Based on our preliminary review, you may not be eligible for HAMP because [insert reason for non-approval as per Supplemental Directive 09-08]. However, at the direction of the Treasury Department, your mortgage loan has been placed in a review period until January 31, 2010. During this time you should continue to make your trial period payments. If you believe the information used in our preliminary review is incorrect or you have additional information that we may not have considered, please contact us immediately at [XXX-XXX-XXXX] but no later than [insert date that is 30 days from the date of this notice].

The notice should clearly state that the borrower will continue to be considered for HAMP through the later of January 31, 2010 or 30 days from the date of the notice provided to the borrower and will receive an additional written communication of the final eligibility decision. Borrowers who receive this notice should not be canceled in Treasury's system of record (IR2) and should not be considered for, or offered alternative modification options during the extended review period.

**Q1230-02 During the temporary review period required under Supplemental Directive 09-10, if a borrower in an active HAMP trial modification refuses to accept a HAMP offer or withdraws a request to be considered for HAMP, may the servicer send the borrower a notice under Supplemental Directive 09-08 and cancel the trial modification from the Treasury system of record?**

Yes. However, servicers should not solicit borrowers to opt out of consideration for HAMP during the temporary review period.

**REVISED**

## December 22, 2009

**Q1222-01 How should servicers handle situations where an eligible borrower successfully completed the HAMP trial period but has not been converted by the servicer to a permanent modification in a timely fashion?**

In situations where an eligible borrower successfully completed the trial period (including providing the required documentation and making the required payments) and should have been converted to a permanent modification, but for reasons beyond their control were not timely evaluated for a permanent

modification, the servicer must promptly make a determination as to whether the borrower is eligible for a permanent HAMP modification. If the borrower is eligible, then the servicer must offer the borrower a permanent HAMP modification as soon as possible, but in no event later than sixty days after discovering the error, including, but not limited to, discovery through notification from MHA Compliance, the servicer's own procedures, or notice provided by the borrower. In addition, servicers must make permanent HAMP modification offers to eligible borrowers that are identified as currently being in this situation by February 28, 2010. The permanent HAMP modification offered must put the borrower in the same position as he or she would have been had the servicer converted the borrower to a permanent modification in accordance with the program requirements. A borrower in this situation remains eligible for a permanent HAMP modification regardless of whether the borrower failed to make trial period payments following the successful completion of the trial period.

In order to achieve this result, the servicer should take the following steps:

- the modification should be made effective as of the date the modification would have become effective if the servicer had converted the borrower in a timely fashion (the "Modification Effective Date") and the applicable Interest Rate Cap shall be the first Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) Rate for 30-year fixed rate conforming loans, rounded to the nearest 0.125 percent, issued in the month prior to the Modification Effective Date. For example, for a loan with a Modification Effective Date of July 1, 2009, the Interest Rate Cap should be 5.29% which is the PMMS Rate issued in June 2009 (the PMMS archives are available at [http://www.freddiemac.com/pmms/docs/30-yr\\_historics.xls](http://www.freddiemac.com/pmms/docs/30-yr_historics.xls));
- the initial unpaid principal balance of the modification should be the unpaid principal balance of the loan as of the Modification Effective Date, plus all accrued but unpaid amounts allowed to be capitalized under HAMP as of the Modification Effective Date;
- any payments made by the borrower after the Modification Effective Date until the time of conversion should be applied retroactively in accordance with the modified terms; however, any shortfalls between the actual payments made by the borrower after the Modification Effective Date (including any missed payments) and payments that are due under the modified terms until the time of conversion must be advanced by the servicer, capitalized and deferred as a non-interest bearing amount that is due and payable by the borrower at the time of payoff, maturity or transfer. The servicer may collect this amount subject to such restrictions as the investor may establish including, but not limited to, restrictions on collecting this amount in the event of a short payoff or other disposition of the loan;
- if, due to a shortfall in payments, amounts are deferred, the servicer must amend the Home Affordable Modification Agreement in accordance with the Document Summary for the modification agreement; and
- the servicer must take the necessary steps to correct any credit reporting for the borrower since the Modification Effective Date.

As part of its regular compliance activities, MHA Compliance will test for compliance with this guidance. In addition, MHA Compliance has been conducting, and intends to continue to conduct, focused file reviews on populations of aged trial modifications.

Servicers should note that this guidance does not apply to situations where a borrower has been granted a Trial Period Extension under HAMP Waiver #20090803 because the borrower made all required trial period payments during the original trial period but did not submit all necessary documentation. In that situation, the borrower must make an additional trial period payment for each extension month by the end of the Trial Period Extension to receive a permanent HAMP modification.

## December 15, 2009

### **Q1215-01 What are some examples of appropriate methods of reconciling inconsistent income information in accordance with Supplemental Directive 09-07?**

Some examples where servicers may use their business judgment in reconciling inconsistent income information include, but are not limited to, the following:

- use the current income documentation when there is a discrepancy between tax returns and current income documentation if the borrower has changed jobs or has had a substantial pay cut;
- use the information from the tax transcript obtained via form 4506-T when differences exist between the transcript and the tax return provided by the borrower;
- when Schedule E is not available to document rental income because property was not previously rented, accept a current lease agreement and bank statements or cancelled rent checks; and
- when two paystubs indicate different periodic income, use year-to-date earnings to determine the average periodic income.

Notwithstanding the foregoing examples, servicers should not modify a mortgage loan if there is reasonable evidence indicating the borrower submitted income information that is false or misleading or if the borrower otherwise engaged in fraud in connection with the modification.

## December 11, 2009

### **Q1211-01 During December 2009, for borrowers currently in active trial periods that have made their first trial period payments, may a servicer consider a borrower's trial period plan offer to have expired if the borrower has not returned all required documentation within 60 days of the offer?**

No. Notwithstanding the guidance provided in Supplemental Directive 09-01 regarding the servicer's ability, in its discretion, to consider the offer of a trial period plan to have expired at the end of 60 days if the borrower has not submitted all documentation required under HAMP, during December 2009 servicers may not exercise this right and must give borrowers the full length of the trial period, including any available trial period extension, to submit all required documentation prior to considering the trial period plan to have expired and cancelling the trial period from the Treasury system of record. In addition, to the extent that servicers have already cancelled trial period plans scheduled to end in December 2009 as a result of incomplete documentation where the borrower did not have the entire trial period to submit income documentation, Treasury strongly encourages servicers to reverse this action in order to give the borrower

the full length of the trial period to satisfy the HAMP documentation requirements. The guidance provided Q71 of the November 12, 2009 version of the HAMP frequently asked questions does not apply to any such reversals.

**Q1211-02 Once a borrower has made the first trial period payment, may a servicer cancel a borrower's trial period for non-payment prior to the end of the trial period?**

No. As provided in Supplemental Directive 09-01, the borrower must make all required trial period payments by the last day of the final trial period month. To the extent that a servicer has cancelled a trial period plan for a borrower that has made the first trial period payment as a result of non-payment prior to the end of the trial period, the servicer must reverse this action in order to give the borrower the full length of the trial period to satisfy the HAMP trial period payment requirements.

Servicers are reminded that, as provided in Supplemental Directive 09-03, the servicer must receive the borrower's first trial period payment on or before the last day of the month in which the Trial Period Plan Effective Date occurs ("Trial Period Offer Deadline"). The servicer must consider the trial period plan offer to have expired if the servicer does not receive the borrower's first trial period payment by the Trial Period Offer Deadline.

**Q1211-03 If a borrower voluntarily provides alimony, separation maintenance or child support income and, as a result of that income, the borrower is ineligible for a HAMP offer, may the servicer remove that income from consideration and re-evaluate the borrower for HAMP eligibility?**

Yes. Pursuant to Supplemental Directive 09-01 and Supplemental Directive 09-07, the borrower is not required to provide alimony, separation maintenance or child support income to qualify for HAMP. If the borrower voluntarily provides such income, and that income renders the borrower ineligible for a HAMP offer, the servicer is allowed to remove that income from consideration and re-evaluate the borrower for HAMP eligibility.

## **December 10, 2009**

**Q1210-01 If the borrower has submitted all required documentation except a signed and completed IRS Form 4506-T or 4506T-EZ, may the servicer use the remaining income documentation to verify the borrower's income and waive the requirement for a signed and completed IRS Form 4506-T or 4506T-EZ?**

No, the servicer must always collect a signed and completed IRS Form 4506-T or 4506T-EZ, as applicable. However, if the borrower has not submitted a signed and completed Form 4506-T or 4506T-EZ but has submitted the most recent tax return (including all applicable schedules), has made all required trial period payments and is otherwise eligible for a HAMP modification, the servicer should send the Home Affordable Modification Agreement and the Form 4506-T or 4506T-EZ, as applicable, to the borrower in the same package and instruct the borrower to execute and return both documents in order to receive a permanent HAMP modification. If the borrower has not submitted the most recent tax return (including all applicable schedules), the servicer must obtain the signed and completed Form 4506-T or 4506T-EZ from the borrower and determine the borrower's eligibility for a HAMP modification prior to sending the Home Affordable Modification Agreement to the borrower.

**Q1210-02 How do servicers comply with the timing requirements for notices set forth in Supplemental Directive 09-07 and Supplemental Directive 09-08?**

Currently, servicers are required to comply only with the response times set forth in Supplemental Directive 09-07. Effective January 1, 2010, servicers must comply with both the response times set forth in Supplemental Directive 09-07 and the response times set forth in Supplemental Directive 09-08. Accordingly:

- If a servicer determines that a borrower is not eligible for a trial period plan based solely upon review of a borrower's verbal information and/or a completed RMA, the servicer must either:
  - (i) send a non-approval notice that satisfies the requirements of Supplemental Directive 09-08 to the borrower by the tenth business day after receipt of the verbal information or completed RMA, or
  - (ii) send a notice to the borrower by the tenth business day after receipt of the verbal information or completed RMA acknowledging the borrower's request for consideration under HAMP, and send a non-approval notice that satisfies the requirements of Supplemental Directive 09-08 to the borrower by the tenth business day following the date of the servicer's decision that a trial period plan will not be offered.
- If a servicer determines that a borrower is not eligible for a trial period plan based upon review of a full verified documentation package (including the Form 4506-T or Form 4506T-EZ, completed RMA, and income documentation), the servicer must send a non-approval notice that satisfies the requirements of Supplemental Directive 09-08 to the borrower by the earlier of (a) the tenth business day following the date of the servicer's decision that a trial period plan will not be offered, or (b) the 30th day after the borrower's documentation package is complete.

**December 9, 2009**

**Q1209-01 If the borrower has submitted all required documentation except a signed Hardship Affidavit, may the servicer use alternative methods to verify the borrower's hardship and waive the requirement for a signed Hardship Affidavit?**

No. However, if the borrower has not submitted or signed the Hardship Affidavit but has made all required trial period payments and is otherwise eligible for a HAMP modification, the servicer should send the Home Affordable Modification Agreement and the Hardship Affidavit to the borrower in the same package and instruct the borrower to execute and return both documents in order to receive a permanent HAMP modification.

**December 8, 2009**

**Q1208-01 Does HAMP distinguish between short-term and long-term hardship for eligibility purposes?**

No. HAMP does not distinguish between short-term and long-term hardships for eligibility purposes. As stated in Supplemental Directive 09-01 and Supplemental Directive 09-07, the borrower must attest to and describe one or more allowable hardships and that he or she is having difficulty making the current mortgage payment by signing the Hardship Affidavit or the MHA Request for Modification and Affidavit form.

In addition, servicers are reminded to follow investor guidelines for determining eligibility for borrowers in imminent default.

**Q1208-02 If a servicer sends an unsolicited HAMP offer to a borrower, but the borrower never responds to the offer or makes any trial period payments, is the borrower eligible for subsequent HAMP offer?**

Yes. If the servicer sends an unsolicited HAMP offer to a borrower, but the borrower never responds to the servicer or makes a trial period payment, the borrower is eligible for a subsequent HAMP offer. In this instance, the servicer's obligation under the Servicer Participation Agreement to offer a borrower a HAMP modification is not considered satisfied.

**Q1208-03 Should an existing escrow shortage be included in calculating a borrower's monthly mortgage payment?**

Yes. An existing escrow shortage currently being paid by the borrower should be included in the borrower's monthly mortgage payment. In addition, as provided in Supplemental Directive 09-01, if the servicer identifies any other escrow shortage as part of the servicer's escrow analysis, the servicer must take steps to eliminate the shortage in compliance with applicable laws, rules and regulations, including, but not limited to, RESPA and TILA.

**Q1208-04 When should a servicer use a "cancel" versus a "decline" when reporting to the Treasury system of record?**

There is not a "decline" field in the Treasury system of record. If a loan is being cancelled and it is already a permanent modification, then the servicer should perform an "official cancellation transaction" and then a "trial cancellation transaction."

**Q1208-05 If the servicer has multiple reasons for a borrower not receiving a HAMP offer or falling out of a HAMP trial period or permanent modification, how should the servicer report those reasons to the Treasury system of record as required by Supplemental Directive 09-06?**

When more than one reason code under Schedule IV of Supplemental Directive 09-06 is applicable, the servicer must report the prevalent reason for the non-approval, non-acceptance or fallout. Pursuant to Supplemental Directive 09-08, the non-approval notices must comply with all applicable laws and regulations, including Regulation B when applicable to the transaction.

**December 7, 2009**

**Q1207-01 May a servicer apply the interim month guidance set forth in Supplemental Directive 09-03 with respect to payments to situations in which the borrower's documentation needed to verify HAMP eligibility is received after the servicer's cutoff date?**

Yes. The interim month guidance set forth in Supplemental Directive 09-03 with respect to payments may also be applied to the receipt of documentation that is required to verify the borrower's eligibility for a HAMP modification. If the servicer receives the borrower's documentation after the servicer's cutoff date in the final trial period month but before the end of the final trial period month, the servicer may delay the modification effective date by one month in order to give the servicer time to finalize the modification, send

the Home Affordable Modification Agreement to the borrower for signature, and receive the signed Home Affordable Modification Agreement from the borrower.

**Q1207-02 Does the servicer have to receive the signed Home Affordable Modification Agreement from the borrower prior to the effective date of the modification?**

No. The loan may be modified and the effective date of the modification does not need to be changed if the executed Home Affordable Modification Agreement is received from the borrower by the last day of the month in which the modification becomes effective. However, a servicer may not submit an official loan set up record to the HAMP Program Administrator to report the permanent modification until the servicer has obtained a fully executed Home Affordable Modification Agreement.

**Q1207-03 Are consecutive paystubs required to confirm a borrower's income?**

No. Although Supplemental Directive 09-01 and Supplemental Directive 09-07 require servicers to obtain a borrower's two most recent paystubs indicating year-to-date earnings, if the servicer can determine that the employment and year-to-date income is accurate by reviewing the paystubs provided, two non-consecutive paystubs are sufficient to meet HAMP requirements.