

Supplemental Directive 11-02

March 30, 2011

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 get relief and avoid foreclosure. In March 2009, the Treasury Department (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance. In December 2010, Treasury issued version 3.0 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 and Freddie Mac (Non-GSE Mortgages).

This Supplemental Directive provides administrative clarifications to the Home Affordable Modification Program (HAMP), the Home Affordable Unemployment Program (UP), the Second Lien Modification Program (2MP), the Home Affordable Foreclosure Alternatives Program (HAFA), Treasury Federal Housing Administration - HAMP (Treasury FHA-HAMP) and the Treasury/FHA Second Lien Program (FHA2LP), and amends and supersedes the notated portions of the *Handbook*.

Except as stated herein, this Supplemental Directive is effective June 1, 2011; provided, however, servicers may begin to implement the changes outlined herein immediately.

Servicers that have executed a servicer participation agreement and related documents (SPA) must follow the guidance set forth in this Supplemental Directive. This guidance does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac, insured or guaranteed by the Veterans Administration or the Department of Agriculture's Rural Housing Service or, except as specifically noted herein, insured by the Federal Housing Administration (FHA).

This Supplemental Directive covers the following topics:

- Timing for Receipt of Dodd-Frank Certification under 2MP
- Case Escalation
- Net Present Value (NPV) Clarifications
- HAMP Policy Clarifications
- UP Policy Clarifications
- HAFA Policy Clarifications
- 2MP Policy Clarifications
- Treasury FHA-HAMP Incentives
- Subordination Fees and FHA2LP

Timing for Receipt of Dodd-Frank Certification under 2MP

As set forth in Section 1.7 of Chapter I of the *Handbook*, as of January 1, 2011, 2MP servicers cannot offer a 2MP trial period, permanent modification or extinguishment until the certification (Dodd-Frank Certification) required by Treasury under Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (Dodd-Frank Act) is received. If a 2MP servicer cannot verify that a completed Dodd-Frank Certification was received in connection with the related HAMP-modified first lien, the 2MP servicer is required to obtain a completed Dodd-Frank Certification.

This Supplemental Directive clarifies that when the 2MP servicer sends the Dodd-Frank Certification to the borrower and informs the borrower that it must be executed and returned to the servicer in order to receive a 2MP trial period, permanent modification or extinguishment, the servicer must also include a specific date by which the Dodd-Frank Certification must be received. This date shall be no less than 30 calendar days from the date of the communication in which the servicer sends the Dodd-Frank Certification and requests its execution. If the borrower has not completed and returned the Dodd-Frank Certification by the specified date, the servicer must make an additional attempt to contact the borrower in writing and again provide a specific date by which the completed Dodd-Frank Certification must be received, which shall be no less than 15 calendar days from the date of the second notice. If the completed Dodd-Frank Certification is not received by the specified date, the servicer is no longer required to offer the borrower a 2MP trial period, permanent modification or extinguishment. Servicers should keep copies of the communications with the borrowers regarding the Dodd-Frank Certification in the servicing system and/or mortgage file.

Case Escalation

Definition of Escalated Case

Section 3.2 of Chapter I of the *Handbook* includes the definition of “Escalated Case”. The reference therein to inquiries regarding “the content of a Non-Approval Notice” is hereby deleted to clarify that general inquiries about the content of a Non-Approval Notice are not Escalated Cases, nor are inquiries about the status of an evaluation of a borrower where the servicer is in compliance with required program timelines.

Accessibility

As provided in Section 3.2.2 of Chapter I of the *Handbook*, a servicer’s staff handling Escalated Cases must be accessible directly by phone and e-mail. This Supplemental Directive clarifies that the e-mail address provided to borrowers may be a group e-mail address and servicers must ensure they follow applicable laws to protect the privacy of borrowers.

Timing

As required by Section 3.3.1 of Chapter I of the *Handbook*, a servicer must acknowledge receipt of an Escalated Case and inform the Requestor and, as applicable, the borrower of the date by

which the servicer will resolve the Escalated Case, which may not exceed 30 calendar days from the date the servicer received the Escalated Case. The guidance is clarified to state that the 30-day period does not commence until after the servicer receives any necessary third-party authorizations.

Section 3.3.1 of Chapter I of the *Handbook* states that if the servicer has not resolved the Escalated Case by the date set forth in the acknowledgement sent by the servicer to the Requestor and, as applicable, the borrower (Resolution Date), the servicer must send an updated status to the Requestor and, as applicable, the borrower, on the Resolution Date and every 15 calendar days thereafter until the Escalated Case is resolved. This Supplemental Directive clarifies that these status updates must be in writing via e-mail, fax or mail.

Case Resolution

Section 3.3.3 of Chapter I of the *Handbook* currently includes “No Change in Original Determination” as a Resolution Category for resolved Escalated Cases. Effective immediately, with respect to any Escalated Case, servicers are required to determine and document in the servicing file whether there is a change in the original determination and to identify a proposed or pending resolution that corresponds to one of the Resolution Categories set forth in Section 3.3.3 of Chapter I of the *Handbook*. “No Change in Original Determination” is eliminated as a Resolution Category. Servicers participating in the HAMP Weekly Servicer Survey will report, for each case, whether or not the Escalated Case resulted in a change in the original determination and the appropriate Resolution Category.

Section 3.3.3 of Chapter I of the *Handbook* also provides that if a case was referred to a servicer by the HAMP Solution Center (HSC) or MHA Help, the servicer must not consider the case resolved unless HSC or MHA Help concurs with the servicer’s proposed resolution or determination that the case is a substantially similar case in accordance with Section 3.3.4 of Chapter I of the *Handbook*. This Supplemental Directive informs servicers that current HSC and MHA Help procedures target a response within two business days, which two-day period shall begin on the first full business day after receipt by HSC or MHA Help, as applicable, from the servicer of the proposed resolution or determination that the case is a substantially similar case and supporting documentation sufficient to explain how the proposed resolution or determination was made by the servicer. Servicers should note that the period for case resolution, which may not exceed 30 days, set forth in Section 3.3.1 of Chapter I of the *Handbook* is inclusive of the required concurrence by HSC or MHA Help.

Suspension of Scheduled Foreclosure Sale

Section 3.1 of Chapter II of the *Handbook* provides that a servicer may not refer a loan to foreclosure or conduct a scheduled foreclosure sale until an Escalated Case is resolved in accordance with Section 3.3 of Chapter I of the *Handbook*. This Supplemental Directive implements with respect to Escalated Cases the exception to the prohibition on conducting a foreclosure sale set forth in Section 3.3 of Chapter II of the *Handbook* by providing that a servicer is not required to suspend a foreclosure sale when an Escalated Case is received by the servicer after midnight of the seventh business day prior to the foreclosure sale date (Deadline).

In addition, a servicer may foreclose even if the Escalated Case is received before the Deadline to the extent that a court with jurisdiction over the foreclosure proceeding (if any), or the bankruptcy court in a bankruptcy case, or the public official charged with carrying out the activity of event, fails or refuses to halt the sale after the servicer has made reasonable efforts to move the court or request the public official for a cessation of the sale. The servicer must document in the servicing system and/or mortgage file if the foregoing exception to the requirement to suspend any existing foreclosure sales are applicable.

If an Escalated Case is pending at the time of a foreclosure sale, the servicer must still resolve the Escalated Case in accordance with Section 3.3 of Chapter I of the *Handbook* and when appropriate, the servicer will be required to take corrective action, even if the foreclosure sale has taken place.

Net Present Value (NPV) Clarifications

Use of Proxy Credit Scores

In performing an NPV evaluation, in the case of two borrowers where a co-borrower has an available credit score and the other co-borrower does not have an available credit score, the servicer must use the credit score that is available. In the case of a single borrower who does not have an available credit score or where both co-borrowers do not have available credit scores, the servicer must use 557 as the proxy credit score. Documentation of an unavailable credit score must be retained in the servicing file and provided to MHA-C upon request. If a borrower has a credit score, but it is below 250, the servicer should input 250 as the credit score since that is the minimum allowable credit score input in the Base NPV Model.

Suggested Order of Steps for Threshold Eligibility and NPV Evaluation

Pursuant to the Dodd-Frank Act, servicers are required to disclose certain NPV inputs to a borrower declined for HAMP whenever the servicer has performed an NPV evaluation, regardless of whether a negative NPV result was the reason for the non-approval. Servicers are therefore encouraged to assess all other borrower eligibility criteria before performing an NPV evaluation in order to reduce instances in which NPV inputs must be disclosed when a negative NPV result is not the reason for non-approval.

Additionally, this Supplemental Directive amends the guidance in Section 2.3.2.1 of Chapter II of the *Handbook* to state that servicers are not required to perform an NPV re-evaluation when a negative NPV result was not the reason for the non-approval, even if NPV inputs were included in the Non-Approval Notice. Further, when a negative NPV result was not the reason for the non-approval servicers must include in the Non-Approval Notice a statement that the borrower is not entitled to dispute the NPV inputs.

Disputes Relating to NPV Inputs

If a borrower disputes one or more NPV inputs within 30 calendar days of the date of a Non-Approval Notice as provided in Section 2.3.2 of Chapter II of the *Handbook*, the servicer is not

required to perform an NPV re-evaluation if the servicer, in conjunction with its review of the corrected NPV values, determines that the borrower does not qualify for a trial period plan on a basis other than a negative NPV result, (e.g., if corrected income documentation submitted by the borrower shows that the borrower's current monthly mortgage payment is less than 31 percent of the borrower's monthly gross income). In such a case, the servicer must send a written communication to the borrower explaining that, after a review of the corrected NPV inputs submitted by the borrower, the borrower continues to be ineligible for HAMP and the reason for the non-approval. Following receipt of the communication, the borrower is not entitled to an additional 30 calendar day dispute period.

If a borrower submits written evidence for some but not all, of the NPV inputs that the borrower is disputing, this Supplemental Directive amends the guidance in Section 2.3.2.1 of Chapter II of the *Handbook* to require the servicer to notify the borrower promptly that all of the necessary written evidence has not been received and that it must be received within the 30 calendar day period provided for borrower disputes of a Non-Approval Notice. This notification need not be in writing, but must be documented in the servicing system and/or mortgage file and be provided promptly and in sufficient time for the borrower to comply with the 30 calendar day requirement. If in accordance with the servicer's business judgment, the borrower is actively attempting to locate the missing evidence, the servicer may extend the 30 calendar day dispute period to allow the borrower time to send the missing evidence to the servicer. If the borrower fails to provide the remaining items within the original 30 calendar day period (as extended pursuant to the foregoing sentence, as applicable), the servicer may perform the NPV evaluation with the corrected input values that are supported by the borrower's submitted evidence.

Disputes Related to Property Value

Section 2.3.4 of Chapter II of the *Handbook*, describes the process by which a borrower who is not approved for a trial period plan or permanent modification because a transaction is NPV negative may dispute the NPV property value input. This Supplemental Directive clarifies that when a borrower disputes the property value input, the servicer when performing the NPV re-evaluation must utilize any publicly available evidence provided by the borrower that supports the borrower's estimate of property value (e.g., sales prices from the newspaper for sales of comparable homes, estimates from internet valuation sources, etc.) Furthermore, as set forth in Section 2.3.4 of Chapter II of the *Handbook*, if the re-evaluation produces a positive NPV result, the servicer must offer the borrower the opportunity to request an appraisal of the property. This Supplemental Directive amends that guidance to provide that a servicer, subject to investor guidelines, is not required to offer the borrower an opportunity to obtain an appraisal if the servicer is willing to accept as accurate the borrower's estimate of the property value.

In the event a borrower disputes one or more NPV inputs in addition to the property value input, servicers may elect to validate the other disputed inputs and perform the NPV re-evaluation changing any other validated inputs while holding the original property value constant. If this re-evaluation renders a positive NPV result, the servicer may approve the borrower for a trial period plan without performing an NPV re-evaluation with new property value input or obtaining a new appraisal. If this re-evaluation renders a negative NPV result, the servicer must perform the preliminary NPV re-evaluation with the borrower's estimate of property value.

If a borrower receives a trial period plan or permanent modification after the final NPV re-evaluation based on an appraisal and the capitalization of the remaining costs of obtaining the appraisal is prohibited by investor guidelines or by applicable law, the servicer is permitted to collect this amount from the borrower in equal installments over a period of no less than 24 months and no greater than 60 months in addition to the borrower's modified monthly mortgage payment. Servicers must maintain evidence of the prohibition in the servicing system and/or mortgage file and provide it to HSC or MHA Help as necessary to resolve any Escalated Case.

HAMP Policy Clarifications

Pay Option Loans and Loans with Temporary Interest Rate Caps

For pay option loans (i.e., loans where the borrower has an option to pay a fully amortizing monthly payment, a negative amortizing monthly payment or an interest-only monthly payment), the servicer in evaluating the borrower for HAMP must use the fully amortizing monthly payment amount. For loans where servicemembers are protected by the Servicemembers Civil Relief Act and temporary interest rate caps are imposed, the servicer in evaluating the borrower for HAMP must use the full contractual rate (regardless of the interest rate cap).

Foreclosure upon Loss of Good Standing

Under Section 9.4 of Chapter II of the *Handbook*, a HAMP-modified first lien loses good standing if the borrower is 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. Section 9.4 states that the servicer should work with the borrower to cure the loan and should evaluate the borrower for any other loss mitigation alternatives prior to commencing foreclosure proceedings. This Supplemental Directive clarifies that, effective immediately, a servicer cannot refer a HAMP-modified first lien to foreclosure until the loan loses good standing under HAMP.

UP Policy Enhancements

Evaluation of Unemployed Borrower in Bankruptcy

This Supplemental Directive clarifies that if an unemployed borrower is in an active Chapter 7 or Chapter 13 bankruptcy and the borrower, borrower's counsel or a bankruptcy trustee requests consideration of a borrower for HAMP, the servicer must first evaluate the borrower for UP, subject to any required bankruptcy court approvals.

Offering HAMP to Borrower Eligible for UP

As set forth in Section 2.5 of Chapter III of the *Handbook*, if a borrower who is eligible for UP declines an offer for an UP forbearance plan, the servicer is not required to offer the borrower a modification under HAMP. This Supplemental Directive clarifies that, the servicer may (but is not required to), in accordance with investor guidelines, offer to evaluate the borrower for HAMP. Servicers are reminded that in evaluating a borrower for HAMP, unemployment income

and any other temporary sources of income related to unemployment, such as severance payments may not be included as part of the evaluation.

HAFAs Policy Clarifications

Validation of Residency

Supplemental Directive 10-18 states that a property that has been vacant or rented to a non-borrower for not more than 12 months prior to the date of the Short Sale Agreement (SSA), Alternative Request for Approval of Short Sale (Alternative RASS) or deed-in-lieu agreement (DIL Agreement) is eligible for incentives under HAFAs. This Supplemental Directive clarifies that servicers are required to obtain third-party verification that the property was the borrower's primary residence at some point within the prior 12 months and that servicers may not rely exclusively on an affidavit provided by the borrower. Each servicer must include in its written policy under which it will offer HAFAs to borrowers (HAFAs Policy) the evidentiary materials that it will accept to validate the residency requirement.

Acknowledgement of Requests for HAFAs

This Supplemental Directive imposes a new acknowledgment requirement. Within 10 business days following receipt of a request for a short sale or deed-in-lieu (DIL) (whether the request is in response to the servicer's notification under the first paragraph of Section 4 of Chapter IV of the *Handbook* or is initiated by a borrower) or receipt of an Alternative RASS, the servicer must send written confirmation to the borrower acknowledging the request. The acknowledgment must include a description of the servicer's HAFAs evaluation process and a timeline for decision, which must be no later than 45 calendar days from the date of the request.

Extension of Response Time

This Supplemental Directive clarifies the time for considering a borrower's request for a short sale or DIL as currently set forth in Section 3 of Chapter IV of the *Handbook* and extends the timelines established in Supplemental Directive 10-18 for the time a servicer has to respond to a borrower's request for a short sale or DIL and provide an SSA or a DIL Agreement or to respond to an Alternative RASS. Within 45 calendar days of the date a borrower requests a short sale or DIL (whether the request is in response to the servicer's notification under the first paragraph of Section 4 of Chapter IV of the *Handbook* or is initiated by a borrower) or submits an Alternative RASS, the servicer must complete and send to the borrower an SSA or a DIL Agreement, as applicable, a written notification that the borrower will not be offered a short sale or DIL or a written response to the Alternative RASS.

If the servicer is unable to respond within 45 calendar days, the servicer must send a written status notice to the borrower on or before the 45th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide an SSA or a DIL Agreement, a written notification that the borrower will not be offered a short sale or DIL or a written response to the Alternative RASS.

Sales to Non-Profit Housing Organizations

Section 7.3 of Chapter IV of the *Handbook* requires that a short sale be an arm's length transaction. This Supplemental Directive amends this restriction to allow servicers the discretion to approve sales to non-profit organizations with the stated purpose that the property will be rented or resold to the borrower, so long as all other HAFA program requirements are met. Servicers offering programs of this type must include program descriptions and conditions in their HAFA Policy. Servicers must retain in the servicing system and/or mortgage file the evidence provided during the HAFA evaluation demonstrating that the organization was a non-profit organization.

Under these circumstances, servicers must remove certain of the applicable "arm's length transaction" requirements from the SSA, the Request for Approval of Short Sale and the Alternative RASS. These forms will be updated to reference these changes and will be available on www.HMPadmin.com.

2MP Policy Clarifications

Minimum Balance or Payment Amounts for 2MP Eligibility

Section 3.1 of Chapter V of the *Handbook* provides that a second lien mortgage loan may be eligible for a 2MP modification or partial extinguishment if the second lien has an unpaid principal balance (UPB) at initial consideration of \$5,000 or more and a pre-modification scheduled monthly payment equal to or greater than \$100. Effective immediately, this Supplemental Directive clarifies that these thresholds will be determined as of the date of the initial 2MP evaluation and payments and interest rate fluctuations during the evaluation period or trial period do not affect the initial eligibility determination. The 2MP Data Dictionary will be updated to include this guidance. Additionally, the data system maintained by Lender Processing Services' Applied Analytics Division (LPS) will be updated to conform to this guidance.

Notices to Borrowers

Section 3.3 of Chapter V of the *Handbook* provides for the mailing of a notice to a borrower within 10 business days following the date of the 2MP servicer's determination that a 2MP modification will not be offered. Effective immediately, this Supplemental Directive clarifies that this notice is required only if the servicer had contact with the borrower in connection with a potential 2MP modification.

Questions Regarding First Lien Data

Section 4.3 of Chapter V of the *Handbook* states that 2MP servicers are not required to verify any financial information provided by the borrower to the first lien servicer in connection with the HAMP modification. Effective immediately, this Supplemental Directive clarifies that if the 2MP servicer has questions or concerns regarding attributes of a HAMP-modified first lien that are material to the terms of an individual 2MP modification (e.g., forbearance percentage,

forgiveness percentage, term after modification), the 2MP servicer should notify the Program Administrator via secure e-mail at support@HMPadmin.com so the Program Administrator can be involved in the resolution of the question or concern. If the 2MP servicer has general questions or concerns regarding the match file maintained by LPS, the 2MP servicer should contact LPS. As currently provided in Section 4.3 of Chapter V of the *Handbook*, the 2MP servicer should not proceed with the 2MP modification until the question or concern is resolved.

Additionally, if the 2MP servicer has evidence that the related HAMP-modified first lien does not meet the basic eligibility requirements of HAMP, the 2MP servicer should not proceed with the 2MP modification and must notify the Program Administrator at support@HMPadmin.com.

Enhancements to LPS Data Matching

LPS has developed the following enhancements to its matching process:

- **Multiple Subordinate Lien Match** – A “multiple subordinate lien match” will be deemed to exist when there are multiple second lien matches for a single HAMP-modified first lien. LPS will identify multiple matches that are discovered during the regular lien match process and will provide certain limited information to the 2MP servicer.
- **Probable Lien Match** – A “probable lien match” will be deemed to exist for a HAMP-modified first lien and second lien where the property addresses for both liens are not an exact match but the social security numbers of the borrowers and the property zip codes are the same for both liens. LPS will identify probable matches and will provide certain limited information to the 2MP servicers. Effective immediately, 2MP servicers must review the probable match data to determine whether a true match exists, and if so, confirm the match to LPS via the “confirmed lien match” process.
- **Confirmed Lien Match Process** – Through the “confirmed lien match” process, a 2MP servicer can direct LPS to match a second lien with a HAMP-modified first lien that the 2MP servicer identifies from (1) the probable lien matches that LPS provided as described above or (2) sources independent of LPS (e.g., the 2MP servicer itself, if the servicer services both the first and second liens, reliable borrower communications or direct communications with the HAMP first lien servicer).

Amount of 2MP Forbearance or Forgiveness

Section 5.1.4 of Chapter V of the *Handbook* states that if there was forbearance or forgiveness on the HAMP-modified first lien, a 2MP servicer must forbear or forgive principal on the second lien in the same proportion and that a 2MP servicer may, in its discretion, and as permitted under applicable investor guidelines, choose to forgive amounts that are required to be forborne. Effective immediately, this Supplemental Directive clarifies that, 2MP servicers may, in their discretion and in accordance with investor guidelines, forbear or forgive more than the required proportional amount. An updated 2MP reporting process implementing this flexibility is currently under development and, when available, guidance will be provided on

www.HMPadmin.com. Until the updated reporting process is in place, servicers must collect and store information on these 2MP transactions so that the necessary data can be reported when the updated reporting process becomes available.

Borrower in Bankruptcy

Under Section 6.4 of Chapter V of the *Handbook*, if a borrower is in an active Chapter 7 or Chapter 13 bankruptcy, the 2MP servicer is not required to solicit the borrower for a 2MP modification unless the borrower, borrower's counsel or the bankruptcy trustee requests consideration for a 2MP modification. Effective immediately, this Supplemental Directive clarifies that the servicer must offer a 2MP trial period or modification within 60 calendar days of the later of (1) the date of the request by the borrower, borrower's counsel or bankruptcy trustee and (2) the date the 2MP servicer receives the notification of a match from LPS of the related HAMP-modified first lien. In any event, the servicer must work with the borrower or borrower's counsel to obtain any court and/or trustee approvals required in accordance with local court rules and procedures and should extend time frames as necessary to accommodate delays in obtaining the approvals.

Incentive Payments for 2MP

Section 11 of Chapter V of the *Handbook* states that no 2MP incentives of any kind will be paid if, on the date that a 2MP modification or extinguishment is entered into the HAMP Reporting Tool, either the first lien or second lien is not in good standing or has been paid in full. Effective immediately, this Supplemental Directive amends that guidance as described below.

As long as the HAMP-modified first lien was in good standing and was not paid off as of the effective date of the 2MP modification or partial extinguishment (Modification or Extinguishment Effective Date), 2MP servicers will be allowed to submit a 2MP modification or partial extinguishment to the HAMP Reporting Tool and 2MP incentive compensation will be paid for the applicable period between the 2MP Modification or Extinguishment Effective Date and the date the HAMP-modified first lien loses good standing or is paid off, even if the 2MP modification or partial extinguishment is entered in the HAMP Reporting Tool after the HAMP-modified first lien lost good standing or was paid off.

In addition, 2MP servicers will be allowed to submit 2MP full extinguishments to the HAMP Reporting Tool, regardless of the status of the HAMP-modified first lien. Servicers and investors are entitled to incentive compensation on submitted 2MP full extinguishments when the servicer does not also service the HAMP-modified first lien and the servicer relied on the most recent LPS match file provided to the servicer before the effective date of the full extinguishment that indicated that the HAMP-modified first lien was in good standing and not paid off, even if the HAMP-modified first lien information is subsequently updated or corrected. Each servicer should retain in the servicing system and/or mortgage file the most recent LPS match file on which the servicer relied to determine that the HAMP-modified first lien was reported as in good standing and was not paid off as of the effective date of the full extinguishment.

Updated 2MP reporting and payment processes implementing the terms described in this section are currently under development by the Program Administrator. Until such processes are in place, the current reporting and payment processes remain in effect and servicers must collect and store information on these 2MP transactions so that the necessary data can be reported when the updated processes become available. Servicers will be advised of how to obtain incentive compensation due under this section at that time. Subsequent guidance on the updated processes will be provided on www.HMPadmin.com.

Treasury FHA-HAMP Incentives

FHA-HAMP modifications with an effective date on or after the effective date of this Supplemental Directive that have a modified monthly mortgage payment that does not achieve the target monthly mortgage payment ratio of 31 percent are not eligible for Treasury FHA-HAMP borrower or servicer incentives. In accordance with FHA guidance, if a servicer cannot achieve the target monthly mortgage payment ratio of 31 percent, it should contact the FHA National Servicing Center for assistance.

Subordination Fees under FHA2LP

Servicers and investors will not be eligible for incentive compensation under FHA2LP if the second lien servicer or investor charges a subordination fee or other administrative fee to the borrower or the first lien servicer or investor in conjunction with the full or partial extinguishment of a second lien to facilitate an FHA refinancing transaction.

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

Changed or new text is indicated in italics.

A. A new Section 3.4 of Chapter I is inserted in its entirety with the following text:

3.4 Protections Against Unnecessary Foreclosure

3.4.1 Suspension of Referral to Foreclosure

A servicer may not refer any loan to foreclosure or conduct a scheduled foreclosure sale (except as provided under Section 3.4.2) unless and until the servicer has resolved the Escalated Case in accordance with Section 3.3.

3.4.2 Suspension of Scheduled Foreclosure Sale

When a servicer receives an Escalated Case from a Requestor after a foreclosure sale date has been scheduled and the Escalated Case is received no later than midnight of the seventh business day prior to the foreclosure sale date (Deadline), the servicer must suspend the sale as necessary to resolve the Escalated Case. Servicers are not required to suspend a foreclosure sale when an Escalated Case is received after the Deadline.

The servicer will not be in violation of this Section to the extent that a court with jurisdiction over the foreclosure proceeding (if any), or the bankruptcy court in a bankruptcy case, or the public official charged with carrying out the activity or event, fails or refuses to halt the sale after the servicer has made reasonable efforts to move the court or request the public official for a cessation of the sale. The servicer must document in the servicing system and/or mortgage file if the foregoing exception to the requirement to suspend an existing foreclosure sale is applicable.

If an Escalated Case is pending at the time of a foreclosure sale, the servicer must still resolve the Escalated Case in accordance with Section 3.3 and, when appropriate, the servicer will be required to take corrective action even if the foreclosure sale has taken place.

B. A new Section 7.8 of Chapter II is inserted in its entirety as follows:

7.8 NPV Inputs for Unavailable or Low Credit Scores

In performing an NPV evaluation, in the case of two borrowers where a co-borrower has an available credit score and the other co-borrower does not have an available credit score, the servicer must use the credit score that is available. In the case of a single borrower who does not have an available credit score or where both co-borrowers do not have available credit scores, the servicer must use 557 as the proxy credit score. If a borrower has a credit score, but it is below

250, the servicer should input 250 as the proxy credit score when performing the NPV evaluation.

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 1.7 of Chapter I is amended to add the following text as the final paragraph after the table in the Section:

As described above, if a 2MP servicer cannot verify that a completed Dodd-Frank Certification was obtained in connection with the related HAMP-modified first lien, the 2MP servicer is required to obtain a completed Dodd-Frank Certification. When the 2MP servicer sends a communication to the borrower including the Dodd-Frank Certification and informs the borrower that its execution and return is a prerequisite to obtaining a 2MP trial period, permanent modification or extinguishment, the servicer must include a specific date by which the Dodd-Frank Certification must be received. This date shall be no less than 30 calendar days from the date of the communication in which the servicer sends the Dodd-Frank Certification and requests its execution. If the borrower has not completed and returned the Dodd-Frank Certification by the specified date, the servicer must make an additional attempt in writing to contact the borrower and again provide a specific date by which the completed Dodd-Frank Certification must be received, which shall be no less than 15 calendar days from the date of the second notice. If the completed Dodd-Frank Certification is not received by the specified date, the servicer is no longer required to offer the borrower a 2MP trial period, permanent modification or extinguishment. Servicers should keep copies of the communications with the borrowers regarding the Dodd-Frank Certification in the servicing file.

B. Section 2.2 of Chapter I is amended to include the following text as a new eighth bullet in the Section:

- *Evidence that a credit score was unavailable for any borrower on the note and the proxy credit score that was used when performing the NPV evaluation.*

C. Section 2.2.3 of Chapter I is amended to include the following text as a new final bullet in the Section:

- *If a borrower will be renting or re-purchasing the property sold to a non-profit organization, evidence that such organization is a non-profit.*

D. Section 2.2.4 of Chapter I is amended to include the following text as a new second bullet in the Section:

- *In the case of a full extinguishment, copies of the most recent LPS match file on which the servicer relied to determine that the HAMP-modified first lien was reported as in good standing and was not paid off as of the effective date of the full extinguishment.*

E. The first paragraph of Section 3.2 of Chapter I is replaced in its entirety with the text below:

All servicers are required to have written procedures and personnel in place to provide timely and appropriate responses to borrower inquiries and disputes that rise to the level of an “Escalated Case,” which includes, ~~but is not limited to:~~

- Allegations that the servicer did not assess the borrower for the applicable MHA Program(s) according to program guidelines;
- Inquiries regarding inappropriate program denials ~~or the content of a Non-Approval Notice;~~
- Initiation or continuance of foreclosure actions in violation of Section 3 of Chapter II; or
- Cases referred to the servicer by HSC and MHA Help.

F. The first sentence of Section 3.2.2 of Chapter I is replaced in its entirety with the text below:

The staff handling Escalated Cases must be accessible directly by phone and e-mail (*may be a group e-mail address*). *Servicers are reminded that they must follow applicable laws to protect the privacy of borrowers.*

G. The second bullet of Section 3.3.1 of Chapter I is replaced in its entirety with the text below:

- A date by which the servicer will resolve the Escalated Case and provide a response (Resolution Date), which may not exceed 30 calendar days from *the later of (i) the date the inquiry was received or (ii) if authorizations (including any necessary third party authorizations) are required, the date on which the authorizations are received by the servicer.*

H. The last sentence of Section 3.3.1 of Chapter I is replaced in its entirety with the text below:

If the servicer fails to comply with the requirement to resolve the Escalated Case by the Resolution Date, the servicer must ~~provide~~ *send* an updated status *in writing* to the Requestor and, as applicable, the borrower, on the Resolution Date and every 15 calendar days thereafter until the Escalated Case is resolved. *The updates must be sent via e-mail, fax or mail.*

I. Section 3.3.3 of Chapter I is replaced in its entirety with the text below:

An Escalated Case is considered to be resolved when the inquiry has been reviewed in accordance with the applicable MHA program guidelines and the servicer:

- Determines ~~that there is no~~ *whether there should be any change in the original determination* ~~or~~ and identifies a proposed resolution that corresponds to one of the Resolution Categories listed below;
- Documents ~~the~~ *whether any change in the original determination is required and the proposed resolution in the servicing system and/or mortgage file, including a the date the servicer reached the proposed resolution and the basis for the resolution* ~~was reached~~;
- Within 10 business days of identifying the proposed resolution, communicates in writing to the Requestor and, as applicable, the borrower, the *determination of whether any change in the original determination is appropriate and the proposed resolution and next steps* (if applicable, this communication may be a TPP Notice, Modification Agreement or short sale or deed-in-lieu agreement); and
- Takes the first action to implement the resolution.

The Resolution Categories are as follows:

- HAMP/2MP Trial
- HAMP/2MP Permanent Modification
- Alternative Modification
- Payment/Forbearance Plan
- Borrower Current
- Loan Payoff
- Short Sale/Deed in Lieu
- Foreclosure Initiated/Pending
- Foreclosure Completed
- Action Not Allowed – Bankruptcy in Process
- Non-MHA Issue(s)
- ~~No Change in Original Determination~~

If the case was referred by HSC or MHA Help, the servicer may not consider the case resolved unless HSC or MHA Help concurs with the proposed resolution, with evidence of this concurrence retained in the servicing file. *When seeking the concurrence of HSC or MHA Help, servicers must provide documentation supporting the basis for the proposed resolution.*

J. Section 3.3.4 of Chapter I is amended to add the following text as the penultimate sentence in such Section:

When seeking the concurrence of HSC or MHA Help, servicers must provide documentation supporting the basis for the determination.

- K. The twelfth row labeled “Unemployed Borrower” in the table in Section 1.2 of Chapter II is amended to add the following text at the end of the second sentence in the second column of the row:**

If a borrower who is eligible for UP declines an offer for an UP forbearance plan, the servicer is not required to offer the borrower a modification under HAMP; *provided, however, the servicer may (but is not required to), in accordance with investor guidelines, offer to evaluate the borrower for HAMP.*

- L. The thirteenth row labeled “Borrowers in Bankruptcy” in the table in Section 1.2 of Chapter II is amended to add the following text at the end of the paragraph in the second column in the row:**

However, if the borrower is also unemployed, the servicer must evaluate the borrower for UP, subject to any required bankruptcy court approvals, before evaluating the borrower for HAMP.

- M. The final paragraph of Section 2.3.2 of Chapter II is replaced in its entirety with the following text:**

In addition, effective February 1, 2011, if the servicer has performed an NPV evaluation, regardless of whether a negative NPV result was the actual reason for the non-approval of the borrower, the Non-Approval Notice must list the NPV Data Input Fields and Values used in the NPV evaluation as listed in Exhibit A. The purpose of providing this information is to allow a borrower who is ineligible because the transaction is NPV negative the opportunity to correct values that may impact the analysis of the borrower’s eligibility. All Non-Approval Notices must include an e-mail address and mailing address for communicating with the servicer if the borrower wishes to dispute the reasons for a non-approval determination and to submit written evidence. *Because the NPV Data Input Fields and Values must be disclosed to a borrower declined for HAMP whenever an NPV evaluation is performed, regardless of whether a negative NPV result was the reason for non-approval, servicers are encouraged to assess all other borrower eligibility criteria before performing an NPV evaluation in order to reduce instances in which NPV Data Input Fields and Values must be disclosed when a negative NPV result is not the reason for non-approval. In fact, if NPV Data Input Fields and Values are included in a Non-Approval Notice but the reason for the non-approval was not a negative NPV result, the Non-Approval Notice must include a statement that the borrower is not entitled to dispute the NPV Data Input Fields and Values.*

- N. Section 2.3.2.1 of Chapter II is replaced in its entirety with the following text:**

2.3.2.1 Non-Approval Notice - Negative NPV Result

[The guidance below is effective through January 31, 2011.]

~~When the borrower is not approved for a HAMP modification because the transaction is NPV negative, the Non-Approval Notice must include an explanation of the NPV analysis and a list of those input fields noted below with a notice that the borrower may, within 30 calendar days of~~

the date of the notice, request the date the NPV calculation was completed and the values used to populate the following NPV input fields:

- ~~Unpaid balance on the original loan as of [the data collection date]~~
- ~~Interest rate before modification as of [the data collection date]~~
- ~~Months delinquent as of [the data collection date]~~
- ~~Next ARM reset date (if applicable)~~
- ~~Next ARM reset rate (if applicable)~~
- ~~Principal and interest payment before modification~~
- ~~Monthly insurance payment~~
- ~~Monthly real estate taxes~~
- ~~Monthly HOA fees (if applicable)~~
- ~~Monthly gross income~~
- ~~Borrower's Total Monthly Obligations~~
- ~~Borrower credit score~~
- ~~Co-borrower credit score (if applicable)~~
- ~~Zip Code~~
- ~~State~~

~~The purpose of providing this information is to allow the borrower the opportunity to correct values that may impact the analysis of the borrower's eligibility. Servicers are not required to provide the numeric NPV results or NPV input values not enumerated above.~~

~~If the borrower or the borrower's authorized representative requests the specific NPV values verbally or in writing within 30 calendar days from the date of the Non Approval Notice, the servicer must provide the requested details to the borrower within 10 calendar days of the request.~~

~~If the loan is scheduled for foreclosure sale when the borrower requests the NPV values, the servicer may not complete the foreclosure sale until 30 calendar days after the servicer delivers the NPV values to the borrower. This will allow the borrower time to make a request to correct any values that may have been inaccurate.~~

~~Upon written receipt from the borrower of evidence that one or more of the NPV values is inaccurate, the servicer must verify the evidence. If the evidence is accurate, material and likely to change the NPV outcome, the servicer must re-run the NPV calculation and respond accordingly. Other values not affected by the correction do not need to be changed from the first NPV calculation.~~

~~If the borrower identifies inaccuracies in the NPV values, the servicer must suspend the foreclosure sale until the inaccuracies are reconciled.~~

~~[The guidance below is effective beginning February 1, 2011.]~~

When the borrower is not approved for a ~~permanent modification~~ *TPP* because the transaction is NPV negative, the borrower will have 30 calendar days from the date of the Non-Approval Notice to submit written evidence to the servicer that one or more of the NPV input values is inaccurate. If the borrower wishes to dispute more than one NPV input, the written evidence for each input being disputed must be provided to the servicer at the same time. If the borrower identifies material inaccuracies in the NPV input values, the servicer may not conduct a foreclosure sale until the inaccuracies are reconciled.

If the evidence submitted by the borrower is valid and material to the NPV outcome, the servicer must perform the NPV calculation with the corrected input values as set forth in Section 7.7. Following the re-evaluation, the servicer must provide the updated NPV outcome and input values to the borrower.

2.3.2.1.1 *Dispute of Multiple NPV Data Inputs including the Property Value Input*

In the event a borrower disputes the property value input as well as other NPV Data Input Fields and Values, the servicer may elect to validate the other disputed NPV Data Input Fields and Values and perform the NPV re-evaluation changing any other validated inputs while holding the original property value constant. If this re-evaluation renders a positive NPV result, the servicer may approve the borrower for a TPP without performing an NPV re-evaluation with a new property value or obtaining a new appraisal. If this re-evaluation renders a negative NPV result, the servicer must perform the preliminary NPV re-evaluation with the borrower's estimate of property value.

2.3.2.1.2 *Insufficient Evidence*

If a borrower submits written evidence for some but not all of the NPV inputs that the borrower is disputing, the servicer must notify the borrower promptly that all the necessary written evidence has not been received and that it must be received within the 30 calendar day period provided for borrower disputes of the Non-Approval Notice. This notification need not be in writing but must be documented in the servicing system and/or mortgage file and be provided promptly and in sufficient time for the borrower to comply with the 30 calendar day requirement. If in the servicer's business judgment the borrower is actively attempting to locate the missing evidence, the servicer may extend the 30 calendar day dispute period to allow the borrower time to send the missing evidence to the servicer. If the borrower fails to provide the remaining items within the original 30 calendar day period (as extended pursuant to the foregoing sentence, as applicable), the servicer may perform the NPV evaluation with the corrected input values that are supported by the borrower's submitted evidence.

2.3.2.1.3 *NPV Evaluation Assistance from MHA Help*

~~Alternatively~~ *Prior to disputing a non-approval with the servicer, the borrower may, as directed in the Non-Approval Notice, request assistance from MHA Help prior to contacting the servicer to evaluate whether the borrower's disputed NPV inputs would change the NPV outcome from negative to positive. Using the disputed inputs provided by the borrower, MHA Help will conduct a preliminary NPV re-evaluation and will provide the borrower with the printed NPV*

result, which should be given by the borrower to the servicer when requesting a formal re-evaluation by the servicer. If the borrower is represented by a trusted advisor, that advisor may also request the preliminary NPV re-evaluation from HSC.

A borrower or trusted advisor acting on behalf of a borrower may only request one NPV re-evaluation from MHA Help or HSC prior to contacting the servicer. If the re-evaluation performed by the servicer, MHA Help or HSC using the disputed borrower inputs returns a negative NPV result, the borrower is not eligible for additional appeals of other inputs.

Although the borrower may seek assistance from MHA Help or HSC, the borrower must still make its written request to the servicer within 30 calendar days from the date of the Non-Approval Notice.

2.3.2.1.4 Servicer Not Required to Perform NPV Re-Evaluation

The servicer is not required to perform an NPV re-evaluation when a negative NPV result was not the reason for the non-approval, even if the NPV Data Input Fields and Values were included in the Non-Approval Notice. Furthermore, a servicer is not required to perform an NPV re-evaluation if the servicer, in conjunction with its review of the corrected NPV Data Input Fields and Values, determines that the borrower does not qualify for a TPP on a basis other than a negative NPV result (e.g., if corrected income documentation submitted by the borrower shows that the borrower's current monthly mortgage payment is less than 31 percent of the borrower's monthly gross income). In such a case, the servicer must send a written communication to the borrower explaining that, after a review of the corrected NPV inputs submitted by the borrower, the borrower continues to be ineligible for HAMP and the reason for the non-approval. Following receipt of the communication, the borrower is not entitled to an additional 30 calendar day dispute period.

O. The first paragraph of Section 2.3.4 of Chapter II is amended to add the following text at the end of the paragraph:

As long as the borrower provides any publicly available evidence supporting the borrower's estimate of property value (e.g., sales prices from newspaper for sales of comparable homes, estimates from internet valuation sources, etc.), the servicer must utilize the borrower's evidence and perform the preliminary NPV re-evaluation required, notwithstanding the servicer's disagreement with the borrower's estimate.

P. The second paragraph of Section 2.3.4 of Chapter II is replaced in its entirety with the following text:

If the preliminary re-evaluation performed by the servicer (or MHA Help or HSC as noted above) produces a positive NPV result, the servicer must offer the borrower the opportunity to request an appraisal of the property; provided, however, if the servicer is willing to accept as accurate the borrower's estimate of the property value based on the borrower's submitted evidence, the servicer, subject to investor guidelines, is not required to offer the borrower the opportunity to obtain an appraisal. If an appraisal is obtained, the appraisal will establish the

fair market value of the property as of the NPV Date and ~~will be utilized~~ ~~is required~~ to complete the final NPV re-evaluation. The borrower must, no later than 15 calendar days from the date of notification that the preliminary NPV result is positive, remit a \$200 deposit against the full cost of the appraisal in a manner acceptable to the servicer. The balance of the actual appraisal cost will be added to the borrower's total arrearage under the loan. *If capitalization of the appraisal cost is prohibited by investor guidelines or applicable law, the servicer is permitted to collect the costs from the borrower in equal installments over a period of no less than 24 months and no greater than 60 months in addition to the borrower's modified monthly mortgage payment. Servicers must maintain evidence of the prohibition in the servicing system and/or mortgage file and provide it to HSC or MHA Help as necessary to resolve any Escalated Case.*

Q. Section 6.1.2 of Chapter II is amended to add the following text at the end of the Section:

For pay option loans (i.e., loans where the borrower has an option to pay a fully amortizing monthly payment, a negative amortizing monthly payment or an interest only monthly payment), the servicer in evaluating the borrower for HAMP must use the fully amortizing monthly payment amount. For loans where servicemembers are protected by the Servicemembers Civil Relief Act and temporary interest rate caps are imposed, the servicer in evaluating the borrower for HAMP must use the full contractual rate (regardless of the interest rate cap).

R. The second paragraph of Section 9.4 of Chapter II is amended to add the following text at the end of the paragraph:

In any event, a servicer cannot refer a HAMP-modified first lien to foreclosure until the loan loses good standing under HAMP.

S. The first sentence of Section 2.5 of Chapter III is amended to add the following text at the end of the sentence:

If a borrower who is eligible for UP declines an offer for an UP forbearance plan, the servicer is not required to offer the borrower a modification under HAMP; provided, however, the servicer may (but is not required to), in accordance with investor guidelines, offer to evaluate the borrower for HAMP.

T. Section 3 of Chapter III is amended to add the following text as the last bullet in the list contained in the Section:

- *Until the servicer has resolved the Escalated Case in accordance with Section 3 of Chapter I.*

- U. The fourth row labeled “Not vacant or condemned” in the table in Section 2 of Chapter IV is amended to add the following text at the end of the last paragraph in the second column in the row (Note – the original text that is being amended can be found in Exhibit A, Paragraph B of Supplemental Directive 10-18):**

Each servicer must include in its HAFA Policy the evidentiary materials that it will accept to validate the residency requirement. At a minimum, servicers are required to obtain some third-party verification that the property was the borrower’s primary residence at some point within the prior 12 months and servicers may not rely exclusively on an affidavit provided by the borrower.

- V. Section 3 of Chapter IV is amended to delete the last bullet in the second list in the Section and to add the following text immediately before the final paragraph of the Section:**

If a borrower requests a short sale or DIL (whether such request is in response to a servicer’s solicitation under the first paragraph of Section 4 or initiated by the borrower), within 45 days of such request the servicer must consider the borrower for HAFA and send the SSA, DIL Agreement, a written notification that the borrower will not be offered a SSA or DIL or a written response to the Alternative RASS, in accordance with Section 4.2 and Section 7.4.

- W. Section 4 of Chapter IV is replaced in its entirety with the following text:**

If the servicer determines that a borrower is eligible for a HAFA offer based on its HAFA Policy and the guidance provided in this Chapter, *and the borrower did not initiate the request for a short sale or DIL*, the servicer must proactively notify the borrower in writing of the availability of HAFA and allow the borrower 14 calendar days from the date of the notification to contact the servicer by verbal or written communication and request consideration under HAFA. If the borrower fails to contact the servicer within the time frame or at any time indicates that he or she is not interested in HAFA, the servicer has no further obligation to extend a HAFA offer.

When a borrower, who was not previously evaluated for HAMP, requests a short sale or DIL, the servicer *must evaluate the borrower for HAFA based on its HAFA Policy and the guidance provided in this Chapter. If, as part of this evaluation, the servicer determines that the borrower also meets the HAMP eligibility requirements*, the servicer must notify the borrower verbally or in writing of the availability of HAMP and allow the borrower 14 calendar days from the date of the notification to contact the servicer by verbal or written communication and request consideration for HAMP. This notification may be given simultaneously with the servicer’s consideration of the borrower for HAFA. If the borrower does not wish to be considered for HAMP, the servicer is not required to send the borrower a Non-Approval Notice under Section 2.3.2 of Chapter II.

4.1 Acknowledgment of Borrower Requests

Within 10 business days following receipt of a request for a short sale or DIL (whether the request is in response to the servicer’s notification as described in the first paragraph of this

Section or was initiated by a borrower) or receipt of an Alternative RASS, the servicer must send written confirmation to the borrower acknowledging the request. The acknowledgment must include a description of the servicer's HAFAs evaluation process and a timeline for decision, which must be no later than 45 calendar days from the date of the request.

4.2 Notice for Borrowers not Eligible for HAFAs

When a HAFAs short sale or DIL is not available, the servicer must communicate this decision in writing to any borrower that requested consideration. The notice must explain why a short sale or DIL under HAFAs cannot be offered, provide a toll free telephone number that the customer may call to discuss the decision and otherwise comply with the notice requirements set forth in Section 2 of Chapter II.

X. Section 5 of Chapter IV is amended to add the following text as the last bullet in the list contained in the Section:

- *Until the servicer has resolved the Escalated Case in accordance with Section 3 of Chapter I.*

Y. Section 7.3 of Chapter IV is amended to add the following text at the end of the Section:

A servicer may in its discretion approve an SSA, RASS or Alternative RASS between a servicer and a borrower that provides an option for the property to be sold to a non-profit organization with the stated purpose that the property will be rented or resold to the borrower so long as all other HAFAs program requirements are met. Servicers offering programs of this type must include program descriptions and conditions in their HAFAs Policy as well as retain evidence demonstrating that any such organization is a non-profit organization.

Z. The first paragraph of Section 7.4 of Chapter IV is replaced in its entirety with the following text (note –the original text that is being replaced can be found in Exhibit A, Paragraph G of Supplemental Directive 10-18):

~~Either proactively, or a~~At the request of an eligible borrower (*whether the request is in response to the servicer's notification as described in the first paragraph of Section 4 or was initiated by a borrower*), the servicer will prepare and send an SSA to the borrower after determining that the proposed sale is in the best interest of the investor. The servicer must complete and send the SSA to the borrower no later than ~~30~~ 45 calendar days from the date the borrower responds affirmatively to the servicer's HAFAs solicitation described in the first paragraph of Section 4. Alternatively, if ~~an unsolicited~~ a borrower initiates a request for a short sale or DIL ~~requests consideration under HAFAs~~, the servicer must evaluate the borrower's eligibility for HAFAs and, if eligible, must complete and send the SSA or DIL Agreement to the borrower no later than ~~30~~ 45 calendar days from the date of the borrower's request for ~~consideration under HAFAs~~ a short sale or DIL. *If the servicer is unable to respond within the 45-calendar day period, the servicer must send a written status notice to the borrower on or before the 45th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide either an SSA or a*

DIL Agreement, as applicable, or written notification that the borrower will not be offered a short sale or DIL.

A borrower may not participate in a TPP and agree to an SSA simultaneously. The servicer will also provide the borrower a RASS, pre-populated with contact information for the servicer, the property address and the loan number.

AA. Section 8 of Chapter IV is replaced in its entirety with the following text (note – the original text that is being replaced can be found in Exhibit A, Paragraph H of Supplemental Directive 10-18):

If the borrower has an executed sales contract and requests the servicer to approve a short sale under HAFA before an SSA has been executed, then the borrower must submit the request to the servicer in the form of the Alternative RASS accompanied by a signed Hardship Affidavit or RMA. Upon receipt of the Alternative RASS and signed Hardship Affidavit or RMA, the servicer must determine the borrower's eligibility as set forth in Section 6.1.1. If the borrower appears to be eligible and was not previously considered for HAMP, the servicer must notify the borrower of the availability of HAMP as set forth in Section 4. *Additionally, the servicer must acknowledge receipt of the borrower's request for a short sale and the Alternative RASS as set forth in Section 4.1.*

Within 30 45 calendar days of receipt of an executed sales contract, Alternative RASS and signed Hardship Affidavit or RMA, the servicer must communicate approval or disapproval of the sale, or provide a counter offer on the Alternative RASS form. *If the servicer is unable to respond within 45 calendar days the servicer must send a written status notice to the borrower on or before the 45th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide a written response to the Alternative RASS.*

Servicers may not, as a condition of sale, require that the real estate commission stated in the sales contract be reduced to less than six percent of the contract sale price. If a servicer retains a contractor or vendor to assist the listing broker with completion of the transaction, the servicer must include a statement in the Alternative RASS form that any associated vendor fees will not be charged to the borrower or deducted from the real estate commission.

BB. The fourth row labeled “Unpaid principal balance limits” in the table in Chapter 3.1 of Chapter V is amended to add the following text at the end of the first paragraph in the second column of the row:

The servicer must determine the thresholds as of the date of the initial 2MP evaluation. Payments and interest rate fluctuations during the evaluation period or trial period do not affect the initial 2MP eligibility determination.

CC. The first sentence in Section 3.3 of Chapter V is replaced in its entirety with the following text:

When a servicer had contact with a borrower in connection with a potential 2MP modification, the a-borrower is evaluated for 2MP and the borrower is not offered a 2MP modification, the 2MP servicer must mail a notice to the borrower no later than 10 business days following the date of the 2MP servicer's determination that a modification will not be offered.

DD. Section 4.1.1 of Chapter V is amended to add the following paragraphs at the end of the Section:

A "multiple subordinate lien match" will be deemed to exist when there are multiple second lien matches for a single HAMP-modified first lien. LPS will identify multiple matches that are discovered during the regular match process and will provide certain limited information to the 2MP servicer.

A "probable lien match" will be deemed to exist for a HAMP-modified first lien and second lien where the property addresses for both loans are not an exact match but the social security numbers of the borrowers and the property zip codes are the same for both liens.

EE. Section 4.1.2 of Chapter V is replaced in its entirety with the following text:

4.1.2 Servicer Enhanced Matching Capability

In some cases, information in the LPS database may not identify a match between a first lien HAMP modification and corresponding eligible second lien as described above, but the 2MP servicer may have sufficient information to identify a match. A 2MP servicer may direct LPS to match a second lien to a HAMP-modified first lien identify a match where: (i) the servicer services both the first and second liens or (ii) the 2MP servicer is confident that the first and second lien should be matched because the 2MP servicer obtains sufficient documentation of the HAMP modification from the first lien servicer from (1) the probable lien matches that LPS provided or (2) sources independent of LPS (e.g. the 2MP servicer itself, if the 2MP servicer services both the first and second liens, reliable borrower communications or direct communications with the HAMP first lien servicer).

In addition, to facilitate modifications, the HAMP Reporting Tool is being updated to allow reporting of valid 2MP modifications for which the corresponding first lien match is unable to be was not confirmed through by LPS. Therefore, participating 2MP servicers may offer and report a 2MP modification when the 2MP servicer identifies the match, even if the LPS database has not identified the match is not reflected in the LPS system.

If servicers choose to offer and report 2MP modifications outside of the LPS process For servicer identified matches, the 2MP servicer must be able to provide sufficient documentation that the borrower is entitled to the 2MP modification being offered. The documentation includes a copy of the fully executed HAMP modification agreement, and the information that must match includes, at a minimum, borrower name(s), social security number(s), property address and the

first lien loan number. For servicer-identified matches where the servicer services both the first and second liens, the servicer can rely on the executed HAMP documents in the servicer's possession and the servicer must verify the HAMP-modified first lien's good standing. For servicer-identified matches where the 2MP servicer does not service the first lien, the 2MP servicer can rely on a copy of the executed HAMP modification agreement obtained from the first lien servicer and verification from the first lien servicer of the HAMP-modified first lien's good standing. Under the modification agreement and the RMA, borrowers have consented to the disclosure of their personal information and the terms of their modification agreement to servicers of both their first and second lien loans.

All copies of documents validating the match of the first and second liens must be placed in the borrower's mortgage loan file and/or servicing system along with a record of the terms of the HAMP modification at the time the 2MP offer was sent to the borrower. Additionally, any communication with the first lien servicer where the 2MP servicer is not the servicer of the first lien, including discussions about the first lien modification and the first lien servicer contact information, must also be noted in the borrower's loan file and/or servicing system. Servicers must make this information available to MHA-C upon request.

~~LPS is also working with the Program Administrator to develop a long term solution that will provide 2MP servicers with a list of probable first lien matches for instances in which information in the LPS database did not identify a match between a HAMP modification and a corresponding eligible second lien. Additional guidance will be provided when the enhancement to this matching process is available.~~

FF. Sections 4.2.1 and 4.2.2 of Chapter V are replaced in their entirety with the following text:

4.2.1 LPS Matches

In cases of ~~a an LPS provided~~ match *through the LPS process*, a 2MP servicer must offer a 2MP trial period or 2MP modification, as applicable, to a second lien borrower no later than:

- For the first match file provided by LPS after the 2MP servicer goes into production with LPS, 120 calendar days from the date the servicer receives the notification of a match from LPS of the related permanent HAMP modification.
- ~~For any matches of permanent HAMP modifications provided by LPS prior to November 23, 2010, the 2MP servicer has until January 22, 2011.~~
- For all subsequent match files provided by LPS, 60 calendar days from the date the 2MP servicer receives the notification of a match from LPS of the related permanent HAMP modification.
- *For all match files where a borrower is in a bankruptcy, 60 calendar days from the later of (1) the date the borrower's counsel or the bankruptcy trustee requests consideration for a 2MP modification and (2) the date the 2MP servicer receives the notification of a match from LPS of the related permanent HAMP modification. The servicer must work with the borrower or borrower's counsel to obtain any court and/or trustee approvals*

required in accordance with local court rules and procedures and should extend time frames as necessary to accommodate dates in obtaining the approvals.

Servicers are not required to offer 2MP trial periods or modifications for probable lien matches which the servicer has not confirmed with LPS the probable lien match. 2MP servicers must record the date when they obtained information from LPS to use for the modification.

4.2.2 Servicer Matches Outside of the LPS Process

If a servicer chooses to offer a 2MP modification outside of the LPS process, ~~In cases of a servicer identified match~~ where the servicer services both the first and second liens, the servicers must offer a 2MP trial period or 2MP modification, as applicable, to the borrower no later than 60 calendar days after the effective date of the related permanent HAMP modification. ~~the later of:~~

- ~~• November 23, 2010; and~~
- ~~• T~~

If a servicer chooses to offer a 2MP modification outside of the LPS process ~~In cases of a 2MP servicer identified match~~ where the 2MP servicer does not service the first lien, the 2MP servicers must offer a 2MP trial period or 2MP modification, as applicable, to the borrower no later than 60 calendar days after the date the copy of the executed HAMP modification agreement is obtained from the first lien servicer and verification from the first lien servicer of the HAMP-modified first lien's good standing. ~~the later of:~~

- ~~• November 23, 2010; and~~
- ~~• T~~

For information on matches for a borrower is in a bankruptcy, refer to the guidance in Section 4.2.1.

Servicers must record in the borrower's mortgage loan file and/or the servicing system the date it receives the information from the first lien servicer.

GG. The fourth paragraph of Section 4.3 of Chapter V is replaced in its entirety with the following text.

2MP servicers are not required to verify any of the financial information provided by the borrower in connection with the HAMP modification. However, if the 2MP servicer has questions or concerns regarding ~~the data provided by the first lien servicer through LPS and it is attributes of a HAMP-modified first lien that are material to the terms of the an individual 2MP modification (e.g., forbearance percentage, forgiveness percentage, monthly gross income term after modification), the 2MP servicer should contact LPS to confirm the data is accurately reflected. If LPS confirms that the data accurately reflects what is reported in the system but the 2MP servicer still has concerns about the data, the servicer should not proceed with the 2MP modification and should~~ notify the Program Administrator via secure e-mail at support@HMPadmin.com so the Program Administrator can be involved in the resolution of the

issue. 2MP servicers must include the following information relating to the second lien: servicer name, servicer number, contact name, phone number and e-mail address, loan number, borrower name and property address. 2MP servicers must also include the following information relating to the first lien information received in the match file: servicer name, servicer number, loan number, borrower name and property address, and identify the data that is being disputed. *If the 2MP servicer has general questions or concerns regarding the match files maintained by LPS, the 2MP servicer should contact LPS.*

HH. Section 4.4 of Chapter V is replaced in its entirety with the following text:

Unless there is evidence of fraud or misrepresentation (such as when the 2MP servicer is aware that a property is not owner-occupied), evidence that the ~~second~~ *HAMP-modified first* lien does not meet the basic eligibility requirements of ~~2MP HAMP~~ or evidence that the property valuation provided is incorrect, there is no additional responsibility on the part of the 2MP servicer to verify the information provided by the first lien servicer through LPS. If the 2MP servicer identifies such evidence, the 2MP servicer should not proceed with the 2MP modification and must notify the Program Administrator at Escalations@HMPadmin.com and shall be given an opportunity to present such evidence.

II. The first sentence of Section 5.1.4 of Chapter V is replaced in its entirety with the following text:

In the fourth step, if there was principal forbearance or forgiveness on the HAMP-modified first lien, the 2MP servicer must forbear or forgive principal on the second lien in *at least* the same proportion; *provided, however, the 2MP servicer may, in its discretion and in accordance with investor guidelines, forbear or forgive more than the required proportionate amount.*

JJ. The final bullet in Section 11 of Chapter V is deleted and the following text added as the penultimate paragraph of the Section:

As long as the HAMP-modified first lien was in good standing and was not paid off as of the effective date of the 2MP modification or partial extinguishment (Modification or Extinguishment Effective Date), incentive compensation will be paid for 2MP modifications and partial extinguishments for the period between the Modification or Extinguishment Effective Date and the date the HAMP-modified first lien loses good standing or is paid off. Furthermore, servicer and investors will be entitled to incentive compensation for 2MP full extinguishments when the servicer does not also service the HAMP-modified first lien and as long as the 2MP servicer relied on the most recent LPS match file provided to the servicer before the effective date of the full extinguishment that indicated that the HAMP-modified first lien was in good standing and not paid off, even if the HAMP-modified first lien information is subsequently updated or corrected. Each servicer should retain in the servicing system and/or mortgage file the most recent LPS match file on which the servicer relied to determine that the HAMP-modified first lien was reported as in good standing and not paid off before the effective date of the full extinguishment.

KK. Section 3.2 of Chapter VI is amended to add the following text at the end of the Section:

Furthermore, no incentives of any kind will be paid if the FHA-HAMP modifications with effective dates on or after March 30, 2011 if the modified monthly mortgage payment does not achieve the target monthly mortgage payment ratio of 31 percent. In accordance with FHA guidance, if a servicer cannot achieve the target monthly mortgage payment ratio of 31 percent, it should contact the FHA National Servicing Center for assistance.

LL. Section 6 of Chapter VII is amended to add the following text at the end of the Section:

Servicers and investors are not eligible for incentive compensation under FHA2LP if the second lien servicer or investor charges a subordination fee or other administrative fee to the borrower or the first lien servicer or investor in conjunction with the full or partial extinguishment of a second lien to facilitate an FHA refinancing transaction.