

## At-A-Glance: Making Home Affordable –Administrative Clarifications (Supplemental Directive 11-02)

<b>For Use By:</b>	<i>Servicers</i>
<b>Description</b>	<p>Supplemental Directive (SD) 11-02 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).</p> <p>The guidance in this SD applies only to <b>Non-GSE loans</b> and does not cover loans that are owned or guaranteed by Fannie Mae or Freddie Mac, or insured or guaranteed by the Veterans Administration or the Department of Agriculture's Rural Housing Servicer or, except as specifically noted in the SD, insured by the Federal Housing Administration (FHA).</p>
<b>Effective Date</b>	The guidance is effective June 1, 2011 providing certain components are effective immediately, as noted below. Servicers may begin to implement the changes outlined in the SD immediately.

### Summary of Administrative Clarifications

#### Dodd-Frank Certification under 2MP

<b>Timing for Receipt</b>	<p>Participating 2MP servicers cannot offer a 2MP trial period, permanent modification or extinguishment until a Dodd-Frank Certification is received from the borrower. 2MP servicers will send the Dodd-Frank Certification to 2MP eligible borrowers and inform them that the certification must be executed. Servicers must adhere to the following policies:</p> <ul style="list-style-type: none"> <li>▪ Include a specific date by which the Dodd-Frank Certification must be received from the borrower. This date must be no less than 30 calendar days from the date of the communication in which the servicer sends the certification for execution to the borrower. 2MP servicers should document borrower communications.</li> <li>▪ If the borrower does not return a certification as requested, the servicer must make an attempt to contact borrower in writing and provide a new date by which the completed certification must be received. This date can be no less than 15 calendar days from the date of the second notice.</li> <li>▪ If the certification is not received by the new date, the servicer is no longer required to offer the borrower a(n): <ul style="list-style-type: none"> <li>○ 2MP trial period;</li> <li>○ Permanent modification or;</li> <li>○ Extinguishment</li> </ul> </li> </ul>
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#### Case Escalation

<b>Definition of Escalated Case</b>	Revised to state that general inquiries regarding 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.
<b>Accessibility</b>	When satisfying the requirement that a servicer who handles Escalated Cases must be accessible directly by phone and e-mail, a group email is acceptable. The servicer must ensure they follow applicable laws to protect the privacy of borrowers.
<b>Timing</b>	The 30-day period within which the servicer must resolve an Escalated Case does not commence until after the servicer receives any 3rd-party authorizations.
<b>Case Resolution</b>	<p>If the Escalated Case has not been resolved by the Resolution Date, the updated status to the Requestor and, as applicable, the borrower that the servicer must send on the Resolution Date and every 15 calendar days thereafter until the Escalated Case is resolved must be in writing via e-mail, fax or mail.</p> <p>Effective immediately, with respect to any Escalated Case, servicers are required to determine and document whether there is a change in the original determination and identify a resolution corresponding to one of the Resolution Categories. "No Change in Original Determination" is eliminated as a Resolution Category.</p>
<b>Suspension of Scheduled Foreclosure Sale</b>	<p>The servicer is not required to suspend a foreclosure sale when an Escalated Case is received after midnight of the seventh business day prior to the foreclosure sale date (Deadline). The 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, or the bankruptcy court, 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.</p> <p><i>Note: If an escalated case is pending at the time of a foreclosure sale, the servicer must still resolve the Escalated Case and when appropriate, the servicer will be required to take corrective action, even if the foreclosure sale has taken place.</i></p>

## Net Present Value (NPV) Clarifications

Use of Proxy Credit Scores	<p>For two borrowers, where a co-borrower has an available credit score and other co-borrower does not, the servicer must use the credit score that is available.</p>
	<p>For 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 a proxy credit score.</p>
	<p>For a borrower that has a credit score below 250, the servicer should input 250 as the credit score.</p>
Threshold Eligibility and NPV Evaluation	<p>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.</p>
	<p>Additionally, 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 NPV inputs were included in the Non-Approval Notice. When a negative NPV result was not the reason for the non-approval, servicers must include a statement that the borrower is not entitled to dispute the NPV inputs.</p> <p><i>Note: 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.</i></p>
Disputes Relating to NPV Inputs	<p>If a borrower disputes one or more NPV inputs within 30 calendar days of the date of a Non-Approval Notice, 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 (TPP) on a basis other than a negative NPV result. 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 include reason for the non-approval.</p>
	<p>If a borrower submits written evidence for some but not all of the NPV inputs in dispute, the SD requires 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.</p>
	<p>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 to allow a borrower time to send missing evidence.</p>
	<p>If the borrower fails to provide the remaining items within the stated 30 day period, the servicer may perform the NPV evaluation with the corrected input values that are supported by the borrower's submitted evidence.</p> <p>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.).</p>
Disputes Related to Property Value	<p>The 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.</p>
	<p>If a borrower disputes one or more NPV inputs in addition to the property value input, a servicer 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.</p>
	<p>If a borrower receives a TPP or permanent modification after the final NPV re-evaluation and the capitalization of the costs of the appraisal is prohibited by law or investor guidelines, 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.</p>

<b>HAMP Policy Clarifications</b>	
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 must use the fully amortizing monthly payment amount when evaluating the borrower for HAMP  For loans where service members are protected by the Service members 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	Effective immediately, the servicer cannot refer a HAMP modified first lien to foreclosure until the loan loses good standing under HAMP.
<b>UP Policy Clarifications</b>	
Evaluation of Unemployed Borrower in Bankruptcy	The servicer must first evaluate the borrower for UP, subject to any required bankruptcy court approvals, 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.
Offering HAMP to Borrower Eligible for UP	If a borrower who is eligible for UP declines an offer for an UP forbearance plan, the servicer may (but is not required to), in accordance with investor guidelines, offer to evaluate the borrower for HAMP.
<b>HAFAs Policy Clarifications</b>	
Validation of Residency	For properties that have 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 (DIL) Agreement, the servicer is required to obtain third -party verification that the property was the borrower's primary residence at some point within the prior 12 months. They may not rely exclusively on an affidavit provided by the borrower. A servicer must include in its HAFAs Policy the evidentiary materials that it will accept to validate the residency requirement.
Acknowledging of Requests for HAFAs	New Acknowledgement requirement: Within ten business days following the receipt of a request for short sale, DIL, or receipt of an Alternative RASS (whether such request is initiated by a borrower or is in response to a servicer's notification of the availability of HAFAs), the servicer must send written confirmation to the borrower acknowledging the request. The acknowledgement letter must include a description of the servicer's HAFAs evaluation process and timeline for decision, which must be no later than 45 days from the date of the request.
Extension of Response Time	The required response time has been extended from 30 calendar days to 45 calendar days from the receipt of the borrower's request for a DIL or a short sale (whether such request is initiated by a borrower or is in response to a servicer's notification of the availability of HAFAs). However, if the servicer is unable to respond within 45 calendar days, a written notice to the borrower must be sent on or before the 45th calendar day, with updates every 15 calendar days, until the servicer provides: <ul style="list-style-type: none"> <li>▪ A SSA or a DIL Agreement;</li> <li>▪ A written notification that the borrower will not be offered a short sale or DIL; or</li> <li>▪ A written response to the Alternative RASS.</li> </ul>
Sales to Non-Profit Housing Organizations	The servicer has discretion to approve sales to non-profit organizations with the stated purpose that the property will be rented or resold to the borrower, as long as all other HAFAs program requirements are met.

## 2MP Policy Clarifications (cont'd)

<p>Questions Regarding First Lien Data</p>	<p>Effective immediately the following guidance is applicable: (i) if the 2MP servicer has questions or concerns regarding attributes of a HAMP-modified first lien material to the terms of a 2MP modification, the servicer should notify the Program Administrator via secure e-mail at <a href="mailto:support@HMPAdmin.com">support@HMPAdmin.com</a> so the Program Administrator can be involved in resolution of the question/concern; (ii) if the 2MP servicer has general questions or concerns regarding the match file maintained by LPS, the 2MP servicer should contact LPS and (iii) if the 2MP servicer had evidence that the related HAMP-modified first lien does not meet basic eligibility requirements of HAMP, the 2MP servicer should not proceed with the 2MP modification and must notify the Program Administrator at <a href="mailto:support@HMPAdmin.com">support@HMPAdmin.com</a>.</p>
<p>Enhancements to LPS Data Matching</p>	<p>LPS has implemented the following enhancements to its matching process: (i) LPS will identify a “multiple lien match” (i.e., multiple second lien matches for a single HAMP-modified first lien) that are discovered during the regular lien match process and provide limited information to the 2MP servicer; (ii) LPS will identify a “probable lien match” (i.e., where the property addresses for the HAMP-modified first lien and second lien are not an exact match but the social security numbers for the borrowers and the property zip codes are the same for both liens) and provide limited information to the 2MP servicers. For probable lien matches, 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. 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 servicer identifies from (1) the probable lien matches or (2) sources independent of LPS.</p>
<p>Amount of 2MP Forbearance or Forgiveness</p>	<p>Effective immediately, 2MP servicers may, in their discretion and in accordance with investor guidelines, forbear or forgive in an amount greater than an amount proportionate to the amount forborne or forgiven on the HAMP-modified first lien. 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.</p> <p><i>Note: New reporting processes will be provided on <a href="http://www.HMPAdmin.com">www.HMPAdmin.com</a></i></p>
<p>Borrower in Bankruptcy</p>	<p>Effective immediately, a 2MP 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.</p>
<p>Incentive Payments for 2MP</p>	<p>Effective immediately, guidance for 2MP incentive payments is amended as follows:</p> <ul style="list-style-type: none"> <li>▪ 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, 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 effective date of the 2MP modification or partial extinguishment and the date the HAMP-modified first lien loses good standing or is paid off.</li> <li>▪ 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 relied on the most recent LPS match file provided 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.</li> </ul> <p><i>Note: Reporting/payment processes will be updated on <a href="http://www.HMPAdmin.com">www.HMPAdmin.com</a>.</i></p>
<p><b>Treasury FHA HAMP Incentives</b></p>	<p>FHA-HAMP modifications with an effective date on or after the effective date of SD 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 FHA National Servicing Center for assistance.</p>
<p><b>Subordination Fees and FHA2LP</b></p>	<p>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.</p>
<p><b>Where to Learn More</b></p>	<ul style="list-style-type: none"> <li>▪ Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages</li> <li>▪ Making Home Affordable Website: <a href="http://www.MHA.gov">www.MHA.gov</a></li> <li>▪ HAMP Website: <a href="http://www.HMPAdmin.com">www.HMPAdmin.com</a></li> <li>▪ SD 11-02 - Administrative Clarifications (Issued 3/30/11)</li> </ul>