

*Supplemental Directive 11-07**July 25, 2011*

Making Home Affordable Program – Expansion of Unemployment Forbearance

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 U.S. Department of the Treasury (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance. In June 2011, Treasury issued version 3.2 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).

In order to provide additional assistance to borrowers who are unable to sustain their scheduled monthly mortgage payment due to unemployment, this Supplemental Directive expands the eligibility and duration of the relief afforded under the Home Affordable Unemployment Program (UP) in Chapter III of the *Handbook*. It also clarifies and amends Chapter VIII of the *Handbook* with respect to the interaction of UP and other unemployment assistance programs.

Servicers that are subject to a servicer participation agreement and related documents (SPA) must implement all of the guidance set forth in this Supplemental Directive, which is effective for all participating servicers on October 1, 2011; however, servicers may begin to implement the changes outlined herein immediately. Servicers must implement all of the guidance in this Supplemental Directive and Chapter III of the *Handbook* subject to investor and regulator guidelines.

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. It is intended to complement the updated unemployment forbearance guidance recently issued by the Federal Housing Administration (FHA).

This Supplemental Directive covers the following topics:

- UP Forbearance Plan Terms
- UP Forbearance Plan Eligibility
- Documentation Requirements for UP
- Forbearance Plan Notice (FPN)
- Simultaneous UP Forbearance Plan and Foreclosure Explanation
- Borrowers Currently In UP, Previously in UP, or Previously Denied for UP
- Application of Foreclosure Deadline to UP

- Application of UP Payments
- Interactions with Non-MHA Unemployment Assistance Programs
- Treatment of Accrued Principal, Interest and Fees

UP Forbearance Plan Terms

The UP forbearance period is extended to a minimum of 12 months. There is no maximum forbearance period; however, servicers are not required to offer forbearance for a term that would cause the dollar amount of the borrower's delinquency to exceed 12 months of the borrower's scheduled monthly mortgage payment (which includes taxes and insurance for those loans where such expenses are escrowed).

The UP forbearance plan will continue to its end point unless one of the following conditions occurs:

- The borrower abandons the property;
- The borrower advises the servicer that he/she is no longer going to seek employment;
- The borrower does not honor the terms of the UP forbearance plan;
- The borrower is re-employed;
- The borrower is evaluated for a modification under a Home Affordable Modification Program (HAMP) and qualifies for a trial period plan; or
- At the servicer's discretion, the dollar amount of the borrower's delinquency exceeds 12 months of the borrower's scheduled monthly mortgage payments (which includes taxes and insurance for those loans where such expenses are escrowed);

UP Forbearance Plan Eligibility

With respect to UP eligibility, borrowers are no longer required to make a request for UP before the first mortgage lien is seriously delinquent (i.e., before three monthly payments are due and unpaid). Although the serious delinquency eligibility prohibition is removed, servicers are not required to offer an UP forbearance plan to borrowers whose delinquency, at the time of the UP request exceeds 12 months of the borrower's scheduled monthly mortgage payment (which includes taxes and insurance for those loans where such expenses are escrowed).

Servicers no longer have discretion to require that a borrower receive up to three months of unemployment benefits as a condition of an UP forbearance plan. All unemployed borrowers who will receive unemployment benefits in the month of the effective date of the UP forbearance plan, must be considered for UP.

Additionally, servicers may evaluate unemployed borrowers for the HAMP and can offer a HAMP trial period plan instead of an UP forbearance plan if, in the servicer's business judgment, HAMP is the better loss mitigation option. Unemployment benefits may not be included as income in the HAMP evaluation as described in Section 5.1.10 of Chapter II of the *Handbook*. The servicer must document in the servicing system and/or mortgage file why the option selected was considered to be the best option for the borrower. If an unemployed borrower evaluated for HAMP is not offered a trial period plan, the servicer must consider the

borrower for UP. If an unemployed borrower is offered a trial period plan but requests UP forbearance instead, the servicer may but is not required to offer UP.

Documentation Requirements for UP

Servicers are required to amend their written policies and procedures relating to UP forbearance plans to include:

- Periodic assessment of a borrower's continued eligibility for UP;
- The conditions upon which a borrower in an UP forbearance plan would be considered for HAMP during the UP forbearance period but prior to the transition to the mandatory HAMP evaluation requirements outlined in Section 5 of Chapter III of the *Handbook*.
- How the servicer will determine that one of the conditions for early termination of forbearance, as outlined above, has been reached.

Forbearance Plan Notice (FPN)

The terms and conditions of the FPN are expanded to include:

- An explanation of how payments made during the forbearance period will be applied to the borrower's account;
- A statement that UP forbearance is a temporary change to the loan terms and there is no guarantee that the borrower will be eligible for a permanent modification at the end of the forbearance period;
- An estimate of the accrued but unpaid principal and interest balance that will be due at the end of the UP forbearance period if the borrower makes required forbearance plan payments on a timely basis; and
- A statement that the UP forbearance plan may adversely impact the borrower's credit rating.

Simultaneous UP Forbearance Plan and Foreclosure Explanation

When a borrower's mortgage has already been referred to foreclosure prior to the UP evaluation, the servicer must provide the borrower with a written notification that explains, in clear language, the concurrent forbearance and foreclosure processes and states that even though certain foreclosure activities may continue, the home will not be sold at a foreclosure sale while the borrower is being considered for UP or while the borrower is making payments under the UP forbearance plan. A model clause describing these rights is attached as Exhibit B. Use of the model language is optional; however, it illustrates the level of specificity that is deemed to be in compliance with the language requirements of the *Handbook*.

Borrowers Currently in UP, Previously in UP, or Previously Denied for UP

Borrowers in an active UP forbearance plan as of the effective date of this Supplemental Directive, must, prior to the expiration of that plan, be considered for an extension of UP for a period that extends the unemployment assistance to a minimum of 12 months (including UP, as

well as any unemployment mortgage assistance provided by the Hardest Hit Fund (HHF) programs, the Emergency Homeowner's Loan Program (EHLP) and other state unemployment mortgage assistance programs (collectively, Non-MHA Unemployment Assistance)).

Upon receipt of a request from a borrower who completed an UP forbearance plan prior to the effective date of this Supplemental Directive, and who continues to meet the UP eligibility requirements, the servicer must evaluate that borrower for additional forbearance that extends the unemployment assistance to a minimum of 12 months, that includes prior UP or Non-MHA Unemployment Assistance.

Upon receipt of a request from a borrower who was previously denied an UP forbearance plan because the first mortgage lien was seriously delinquent at the time of the request or the borrower was not in receipt of unemployment benefits for a period of up to three months prior to the effective date of the UP forbearance plan, the servicer must evaluate the borrower for an UP forbearance plan for a minimum of 12 months of unemployment assistance that includes any prior Non-MHA Unemployment Assistance.

Application of Foreclosure Deadline to UP

Servicers are not required to consider a borrower for UP if the request is received after midnight on the seventh business day prior to the foreclosure sale.

Application of UP Payments

Payments made during an UP forbearance plan must be applied in accordance with the terms of the existing loan documents. A servicer should not change a borrower's scheduled loan terms in its servicing system and/or mortgage file during an UP forbearance plan.

If permitted by the applicable loan documents, servicers may accept and hold as "unapplied funds" (held in a taxes and insurance custodial account) amounts received which do not constitute a full monthly, contractual principal, interest, tax and insurance (PITI) payment. However, when the total of the reduced payments held as "unapplied funds" is equal to a full PITI payment, the servicer is required to apply all full payments to the mortgage loan.

Any unapplied funds remaining at the end of the UP forbearance plan that do not constitute a full PITI payment should be applied to reduce any amounts that would otherwise be capitalized onto the principal balance.

Interactions with Non-MHA Unemployment Assistance Programs

This Supplemental Directive expands the guidance for interaction with UP beyond unemployment assistance provided by HHF to include EHLP and other state mortgage assistance unemployment programs.

This Supplemental Directive clarifies that Non-MHA Unemployment Assistance may precede an UP forbearance plan or be used to extend it. However, if a borrower has already received 12 or

more months of Non-MHA Unemployment Assistance, servicers are not required to offer UP. If a borrower has received less than 12 months of Non-MHA Unemployment Assistance and remains unemployed, servicers must consider the borrower for an UP forbearance plan for a period that extends the total unemployment assistance to a minimum of 12 months.

Although servicers may encourage borrowers to apply for Non-MHA Unemployment Assistance, servicers may not delay the UP evaluation timelines described in Section 4.1 of Chapter III of the *Handbook* while a borrower is being evaluated for Non-MHA Unemployment Assistance. In the event a borrower terminates an UP forbearance plan to receive assistance through Non-MHA Unemployment Assistance, servicers may, but are not required to, provide any additional period of UP forbearance to the borrower following expiration of Non-MHA Unemployment Assistance.

Treatment of Accrued Principal, Interest and Fees

At the expiration of an UP forbearance plan, if a borrower has made each required forbearance payment by the last day of the month in which it was due and is subsequently determined to be ineligible for HAMP, the servicer is required to consider the borrower for all other available loss mitigation options, including, but not limited to non-HAMP modifications. Such consideration may not be conditioned on a lump sum borrower contribution for unpaid interest and fees that accrued during the forbearance. Further, payments due under any payment plan or modification must be based on the borrower's income and ability to repay.

EXHIBIT A MHA HANDBOOK MAPPING

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 2.2.2 of Chapter I is replaced in its entirety with the following text:

In addition to the requirements in Section 2.2, required documentation for UP includes, but is not limited to:

- Written policies and procedures relating to UP forbearance plans, including:
 - Determining eligibility for the program including: unemployment status; ~~any requirement for receipt of unemployment benefits prior to commencement of the forbearance period~~; duration and status of unemployment benefits; waiver of the 31 percent mortgage payment ratio threshold; and forbearance term extension criteria;
 - ~~Determining any borrower eligibility recertification and re-employment status;~~
 - *Periodic assessment of a borrower's continued eligibility for UP;*
 - Determining when an UP forbearance plan requires a payment and how the payment amount is determined; ~~and~~
 - Canceling any existing TPP determined to be eligible for an UP forbearance plan;-
 - *The conditions upon which a borrower in an UP forbearance plan will be considered for HAMP during the UP forbearance period but prior to the transition to the mandatory HAMP evaluation requirements outlined in Section 5 of Chapter III;*
 - *The conditions upon which servicers may evaluate the borrower for HAMP instead of an UP forbearance plan if, in the servicer's business judgment, HAMP is the better option for the borrower;*
 - *Determining whether a borrower has already received unemployment assistance (including UP, and unemployment assistance provided by the HHF programs, the Emergency Homeowner's Loan Program (EHLA) and other state unemployment mortgage assistance programs (collectively, Non-MHA Unemployment Assistance); and*
 - *Determining when conditions for early termination of the UP forbearance plan are reached.*

B. Section 5.1.5 of Chapter II is replaced in its entirety with the following text:

Borrowers who receive unemployment benefits and request assistance under HAMP must be evaluated for and, if eligible, offered an UP forbearance plan ~~before the borrower may be considered for HAMP~~. *Alternatively, servicers may evaluate unemployed borrowers for HAMP and can offer a TPP instead of an UP forbearance plan if, in the servicer's business judgment, HAMP is the better loss mitigation option. The servicer must document in the servicing system and/or mortgage file why the option selected was considered to be the best option for the borrower.* See Chapter III, Home Affordable Unemployment Program. See also Section 5.1.10

(excluding unemployment benefits from gross income calculations under HAMP). *If an unemployed borrower evaluated for HAMP is not offered a TPP, the servicer must consider the borrower for UP. If an unemployed borrower is offered a TPP, but requests UP forbearance instead, the servicer may but is not required to offer UP.*

C. Section 5.1.10 of Chapter II is amended to add a new final bullet as follows:

- Payments from Non-MHA Unemployment Assistance programs

D. Section 1 of Chapter III is amended in the introductory paragraph as follows:

The Home Affordable Unemployment Program (UP) provides servicers the flexibility to provide assistance to borrowers whose hardship is related to unemployment. Servicers that are participating in HAMP with respect to Non-GSE Mortgages must follow the guidance set forth in this Chapter, *subject to investor and regulator guidelines*, when borrowers seeking assistance are unemployed.

E. Section 2.1 of Chapter III is amended in the introductory paragraph as follows:

A borrower or co-borrower who is unemployed and requests assistance under HAMP must be evaluated for and, if qualified, must receive an *offer for an UP forbearance plan before the borrower may be considered for HAMP*. *Servicers may evaluate unemployed borrowers for HAMP and can offer a HAMP TPP instead of an UP forbearance plan if, in the servicer's business judgment, HAMP is the better loss mitigation option. The servicer must document in the servicing system and/or mortgage file why the option selected was considered to be the best option for the borrower. If an unemployed borrower evaluated for HAMP is not offered a trial period plan, the servicer must consider the borrower for UP.*

~~Servicers are required to offer an UP forbearance plan to a borrower who meets the following HAMP minimum eligibility criteria:~~

The UP eligibility criteria are as follows:

F. Section 2.1 of Chapter III is amended to revise the last row as follows:

Not previously HAMP modified	The mortgage loan has not been previously modified under HAMP and the borrower has not previously received an UP forbearance.
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G. Section 2.2 of Chapter III is replaced in its entirety with the following text:

Minimum monthly mortgage payment ratio	The borrower's monthly mortgage payment (including principal, interest, taxes, insurance, and when applicable, homeowners assessments) prior to the modification is greater than 31 percent of the borrower's verified monthly gross income. Servicers may waive this criterion for UP forbearance plan eligibility. However, servicers are not required to offer an UP
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	<p>forbearance plan to borrowers whose total monthly mortgage payment is less than or equal to 31 percent of the borrower's monthly gross income, including unemployment benefits. Servicers are not required to offer an UP forbearance plan if a household member that is not a borrower becomes unemployed, even if that income contributed to the mortgage payment.</p>
Request prior to serious delinquency	<p>The borrower makes a request before the first mortgage lien is seriously delinquent (before three monthly payments are due and unpaid on the last day of the third month).</p>
Unemployed at date of UP request	<p>The borrower is unemployed at the date of the request.</p>
Receipt of unemployment benefits	<p>The borrower will receive unemployment benefits in the month of the Forbearance Period Effective Date. The borrower's unemployment benefit eligibility need not extend for the entire duration of the UP forbearance period.</p> <p>The servicer may, pursuant to investor or regulator guidelines, require that a borrower has already received unemployment benefits for up to three months before the UP forbearance period begins.</p> <p>A borrower who has received unemployment benefits for less than the minimum time period required by the servicer may request consideration for an UP forbearance plan; however, the forbearance period will not begin until after the borrower has received unemployment benefits for the minimum time period required by the servicer.</p> <p>Servicers must have written procedures for determining when a borrower must be in receipt of up to three months of unemployment benefits and must consistently apply those procedures.</p>
Total Delinquency	<p><i>Servicers are not required to offer an UP forbearance plan to borrowers whose delinquency, at the time of the UP request, exceeds 12 months of the borrower's scheduled monthly mortgage payment (which includes taxes and insurance for those loans where such expenses are escrowed).</i></p>
Prior Unemployment Mortgage Assistance – borrower in or completed UP forbearance plan	<p><i>Upon receipt of a request from a borrower who completed an UP forbearance plan prior to October 1, 2011 or is currently performing in an UP forbearance plan as of October 1, 2011, and who continues to meet the UP eligibility requirements, the servicer must evaluate that borrower for additional forbearance for a period that extends the unemployment assistance to a minimum of 12 months. Unemployment assistance may include UP and/or unemployment mortgage assistance provided by HHF program, the Emergency Homeowner's Loan Program (EHLA) and other state unemployment mortgage assistance programs (collectively, Non-MHA Unemployment Assistance).</i></p>

<p><i>Prior Unemployment Mortgage Assistance – borrower denied UP forbearance plan</i></p>	<p><i>Upon receipt of a request from a borrower who was previously denied an UP forbearance plan prior to October 1, 2011 because the first mortgage lien was seriously delinquent at the time of the request or the borrower was not in receipt of unemployment benefits for a period of up to three months prior to the effective date of the UP forbearance plan, the servicer must re-evaluate the borrower for an UP forbearance plan for a minimum of 12 months of unemployment assistance that includes any prior Non-MHA Unemployment Assistance.</i></p>
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H. Section 2.3 of Chapter III is amended to revise the second row as follows:

<p>Borrower in an Active Trial Period Plan</p>	<p>A borrower who is currently in a TPP and becomes unemployed may seek consideration under UP if the borrower has made all required TPP payments by the end of the month in which the payment was due and was not seriously delinquent (before three monthly payments are due and unpaid on the last day of the third month) as of the first payment due date of the HAMP TPP. A borrower may not simultaneously be in a HAMP TPP and an UP forbearance plan.</p> <p>A servicer may not require an unemployed borrower in a TPP to convert to an UP forbearance plan.</p>
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I. Section 3 of Chapter III is amended as follows:

3.1 Suspension of a Referral to Foreclosure or Foreclosure Sale

Servicers may not refer any loan to foreclosure or conduct a scheduled foreclosure sale in the following circumstances:

- After a borrower makes a request for UP consideration and while the borrower is being evaluated for UP; After the servicer mails the Forbearance Plan Notice (FPN) as described in Section 4.3, ~~even if the servicer requires the borrower to be in receipt of up to three months of unemployment benefits before commencement of the forbearance plan;~~
- During the initial UP forbearance plan or any extension thereof; and
- Following the UP forbearance plan while the borrower is being evaluated for or participating in HAMP or HAFA.
- Until the servicer has resolved the Escalated Case in accordance with Section 3 of Chapter I.

In addition, servicers must follow the solicitation and foreclosure provisions in Section 2.2 and Section 3.4 of Chapter II, respectively.

3.2 Deadline for UP Consideration

Servicers are not required to consider a borrower for UP if the request is received after midnight on the seventh business day prior to a scheduled foreclosure sale.

3.3 Simultaneous Forbearance Plan and Foreclosure Explanation

When a borrower's mortgage has already been referred to foreclosure prior to the UP evaluation, the servicer must provide the borrower with a written notification that explains, in clear language, the concurrent forbearance and foreclosure processes and states that even though certain foreclosure activities may continue, the home will not be sold at a foreclosure sale while the borrower is being considered for UP or while the borrower is making payments under their UP forbearance plan. Model language for this notification is available on www.HMPadmin.com. Use of the model language is optional; however, it illustrates the level of specificity that is deemed to be in compliance with the language requirements of the MHA Program.

J. Section 4.2.1 of Chapter III is replaced in its entirety with the following text:

The minimum UP forbearance period is ~~the lesser of three~~ 12 months. ~~Servicers should establish procedures for tracking borrowers' employment status and include any applicable borrower instructions in the FPN, as described below~~ There is no maximum forbearance period; however, servicers are not required to offer forbearance for a term that would cause the dollar amount of the borrower's delinquency to exceed 12 months of the borrower's scheduled monthly mortgage payment (which includes taxes and insurance for those loans where such expenses are escrowed).

K. Section 4.2.2 of Chapter III is replaced in its entirety with the following text:

Servicers may extend the minimum forbearance period in increments at the servicer's discretion, ~~in accordance with investor and regulatory guidelines~~. Any borrower eligibility review or ~~recertification~~ documentation requirements that may apply after the initial forbearance period are at the servicer's discretion, ~~in accordance with investor and regulatory guidelines~~.

Borrowers in an active UP forbearance plan as of October 1, 2011, must, prior to the expiration of that plan, be considered for an extension of UP for a minimum of 12 months of unemployment assistance, including UP and Non-MHA Unemployment Assistance.

L. Section 4.2.5 of Chapter III is added with the following text:

4.2.5 Termination of UP Forbearance

The UP forbearance plan will continue to its end point unless one of the following conditions occurs:

- *The borrower abandons the property;*
- *The borrower advises the servicer that he/she is no longer going to seek employment;*
- *The borrower does not honor the terms of the UP forbearance plan;*
- *The borrower is re-employed;*
- *The borrower is evaluated for HAMP and qualifies for a trial period plan; or*
- *At the servicer's discretion, the dollar amount of the borrower's total delinquency exceeds 12 months of the borrower's scheduled monthly mortgage payments (which includes taxes and insurance for those loans where such expenses are escrowed).*

M. Section 4.3 of Chapter III is amended to revise the second paragraph with the following text:

If a borrower is eligible for UP ~~and~~ or any extension thereof, the servicer must send the borrower an FPN that describes the terms and conditions of the initial UP forbearance plan or extension and, which at a minimum must include the following:

- Duration of the forbearance plan along with the Forbearance Period Effective Date and the expiration date;
- Periodic payment amount, if any, *and an explanation of how payments made during the forbearance period will be applied to the borrower's account;*
- *Statement that the UP forbearance is a temporary change to the loan terms and there is no guarantee that the borrower will be eligible for a modification at the end of the forbearance period;*
- *Estimate of the accrued but unpaid balance that will be due at the end of the UP forbearance period if the borrower makes required forbearance plan payments on a timely basis;*
- Brief explanation regarding what will occur when the borrower is re-employed or when the forbearance plan expires; ~~and~~
- Borrower's responsibility to provide updates to his or her employment status during the forbearance plan, if applicable; *and*
- *Statement that the UP forbearance plan may adversely impact the borrower's credit rating.*

N. Section 4.4 of Chapter III is amended to replace the first paragraph with the following text:

A borrower's UP forbearance plan starts on the Forbearance Period Effective Date. If the servicer transmits the FPN to the borrower on or before the 15th day of a calendar month, then the servicer should insert the first day of the next month as the Forbearance Period Effective Date. If the servicer transmits the FPN to the borrower after the 15th day of a calendar month, the servicer may, as an alternative, use the first day of the month after the next month as the Forbearance Period Effective Date. Servicers who elect this alternative ~~and require the borrower to have received unemployment benefits for up to three months should factor the additional~~

~~month towards meeting the established requirement for unemployment benefits so that the forbearance period may begin immediately after meeting the requirement and must do so consistently for all borrowers in accordance with written policies and procedures. This determination should be based on the date that the FPN is sent to the borrower.~~

O. Section 4.7 of Chapter III is added with the following text:

4.7 Application of UP Payments

Payments made during an UP forbearance plan must be applied in accordance with the terms of the existing loan documents. A servicer should not change a borrower's scheduled loan terms in its servicing system and/or mortgage file during an UP forbearance plan.

If permitted by the applicable loan documents, servicers may accept and hold as "unapplied funds" (held in a T&I custodial account) amounts received which do not constitute a full monthly, contractual PITI payment. However, when the total of the reduced payments held as "unapplied funds" is equal to a full PITI payment, the servicer is required to apply all full payments to the mortgage loan.

Any unapplied funds remaining at the end of the UP forbearance plan that do not constitute a full PITI payment should be applied to reduce any amounts that would otherwise be capitalized onto the principal balance.

P. Section 4.7 of Chapter III is added with the following text:

4.7 Treatment of Accrued Principal, Interest and Fees for HAMP Ineligible Borrowers

At the expiration of an UP forbearance plan, if a borrower has made each required forbearance payment by the last day of the month in which it was due and is subsequently determined to be ineligible for HAMP, the servicer is required to consider the borrower for all other available loss mitigation options, including, but not limited to non-HAMP modifications. Such consideration may not be conditioned on a lump sum borrower contribution for unpaid interest and fees that accrued during the forbearance. Further, payments due under any payment plan or modification must be based on the borrower's income and ability to repay.

Q. Section 5 of Chapter III is amended to revise the first paragraph with the following text:

At the earlier of 30 days following notification that the borrower has found employment or 30 days prior to expiration of the forbearance period, the servicer must provide a HAMP-eligible borrower with an Initial Package of HAMP documents and, upon receipt of an Initial Package (as defined in Section 4 of Chapter II) from the borrower, must evaluate the borrower for HAMP. Both the borrower and the servicer must adhere to the timing and notice requirements in Section 4.5 and Section 4.6 of Chapter II. The servicer may extend the forbearance period by a maximum of 30 days as needed to allow the borrower time to submit the needed documentation. A borrower that has obtained employment during or after an UP forbearance plan or Non-MHA

Unemployment Assistance, but still has a financial hardship and otherwise meets HAMP eligibility criteria, must be considered for HAMP prior to consideration of other loss mitigation alternatives. If the borrower is determined to be ineligible for HAMP or other home retention options, the borrower must be considered for other foreclosure alternatives, such as HAFA or other short sale and deed-in-lieu programs.

R. Section 4 of Chapter VIII is replaced in its entirety with the following text:

As detailed in the program guidance set forth in Chapter III, UP requires servicers to offer eligible borrowers receiving unemployment benefits a minimum ~~three~~ 12 month forbearance period. ~~In connection with UP, servicers may require a borrower to make a minimum monthly mortgage payment not to exceed 31 percent of the borrower's monthly gross income. Many HHE programs, the Emergency Homeowner's Loan Program (EHL) administered by the US Department of Housing and Urban Development and some state unemployment mortgage assistance programs (collectively, "Non-MHA Unemployment Assistance") programs also provide mortgage assistance to unemployed borrowers by paying all or some of the borrower's monthly mortgage payment for a period of time. HHE unemployment assistance Non-MHA Unemployment Assistance may precede an UP forbearance, run concurrently with UP plan or may be used to extend it. If a borrower on an UP forbearance plan accepts Non-MHA Unemployment Assistance, the UP forbearance plan must be cancelled.~~

- Borrowers who have received less than 12 months of Non-MHA Unemployment Assistance and remain unemployed, must be considered for UP forbearance for a period that extends the total unemployment assistance to a minimum of 12 months, subject to investor and regulator guidelines.*
- Borrowers who have already received 12 or more months of Non-MHA Unemployment Assistance are not required to be offered UP.*
- Borrowers who have received any duration of UP forbearance may be eligible for Non-MHA Unemployment Assistance in accordance with applicable program terms.*
- Servicers may, but are not required to, provide any additional period of UP forbearance to a borrower who terminated a prior UP forbearance plan to receive assistance through Non-MHA Unemployment Assistance following expiration of the Non-MHA Unemployment Assistance.*

In evaluating a borrower for UP, servicers may encourage borrowers to apply for Non-MHA Unemployment Assistance, however, servicers may not delay the UP evaluation timelines described in Section 4.1 of Chapter III while a borrower is being evaluated for Non-MHA Unemployment Assistance.

In connection with UP, servicers may require a borrower to make a minimum monthly mortgage payment not to exceed 31 percent of the borrower's monthly gross income during the UP forbearance plan. Servicers are required to have a written policy detailing when a monthly mortgage payment under UP will be required and how it will be determined, and the policy cannot change based on the availability of an ~~HHE program~~ Non-MHA Unemployment Assistance.

- ~~If the servicer accepts unemployment assistance payments from an HHF program that, when combined with payments made by the borrower, are less than or equal to 31 percent of the borrower's monthly gross income, the servicer will have satisfied the UP forbearance requirement.~~
- ~~If the servicer accepts unemployment assistance payments from an HHF program that, when combined with payments made by the borrower, exceed 31 percent of the borrower's monthly gross income, the servicer will not have satisfied the UP forbearance requirement. In this circumstance, following expiration of the HHF unemployment assistance program:~~
 - ~~Qualified unemployed borrowers must be provided with at least three months of UP forbearance before being evaluated for HAMP; or~~
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A borrower that has obtained employment *during or after UP or Non-MHA Unemployment Assistance*, but still has a financial hardship and otherwise meets HAMP eligibility criteria, must be considered for HAMP prior to consideration of other loss mitigation alternatives. Any ~~unemployment assistance from an HHF program~~ *Non-MHA Unemployment Assistance* may not be considered as income for HAMP, and an unemployed borrower in a TPP may not use ~~HHF Non-MHA Unemployment Assistance~~ funds to make their trial period payments. If a borrower receives a permanent modification, and subsequently becomes unemployed, he or she can use ~~unemployment assistance from an HHF program~~ *funds provided through Non-MHA Unemployment Assistance* to help them to continue to make their monthly mortgage payments.

EXHIBIT B
Model Letter for Simultaneous UP Forbearance Plan–
Foreclosure Process Explanation

[Servicer Logo]

[Date]

[Name]

[Address 1]

[Address 2]

Dear [borrower and co-borrower name(s)]:

We are committed to helping you retain your home. That is why we are currently evaluating your mortgage for eligibility in the Home Affordable Unemployment Program (“UP”). Your loan has been previously referred to foreclosure and we will continue the foreclosure process while we evaluate your loan for UP. However, **no foreclosure sale will be conducted and you will not lose your home** during the UP evaluation.

UP Eligibility

If you are eligible for UP, you will enter into a forbearance plan under which your payments will be reduced or suspended. You will receive a Forbearance Plan Notice which will contain the payment amount, if any, (this will temporarily replace your current mortgage payment during the UP forbearance period). Your home will not be taken to foreclosure sale while you are in an UP forbearance plan if you make the required payments by their specified due dates.

Important—Do not ignore any foreclosure notices.

The UP evaluation and the process of foreclosure may proceed at the same time. You may receive foreclosure/eviction notices - delivered by mail or in person - or you may see steps being taken to proceed with a foreclosure sale of your home. While you will not lose your home during the UP evaluation or while you are in an UP forbearance plan and making required payments by their specified due dates, to protect your rights under applicable foreclosure law, you may need to respond to these foreclosure notices or take other actions. If you have any questions about the foreclosure process and the evaluation of your UP request, contact us at [XXX.XXX.XXXX]*. If you do not understand the legal consequences of the foreclosure, you are also encouraged to contact a lawyer or housing counselor for assistance.

Questions

Call XXX.XXX.XXXX if you would like more information about UP or if you have decided to leave your home. Additionally, if you have any questions about the foreclosure (or other legal notices that you receive), please call us for assistance. You can also call the Homeowner’s HOPE™ Hotline at 1-888-995-HOPE (4673) if you need further counseling.

They offer free HUD-certified counseling services in English and Spanish, and can help answer any questions you have.

Sincerely,
[Servicer Contact Person Name]
[Servicer Contact Person Title]
[Servicer Name]

*Servicers who are required to implement Single Point of Contact must include the Relationship Manager's name and number in this notification after the effective date of Supplemental Directive 11-04.