

*Supplemental Directive 12-04**July 13, 2012****Making Home Affordable Program Dodd-Frank Certification,
Borrower Identity and Owner-Occupancy Verification***

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. On December 15, 2011, Treasury issued version 3.4 of the *Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (Handbook)*, a consolidated resource for guidance related to MHA for mortgage loans that are not owned or guaranteed by Fannie Mae and Freddie Mac (Non-GSE Mortgages).

On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (Dodd-Frank Act). On September 21, 2010, Treasury issued Supplemental Directive 10-11 providing guidance to servicers participating in MHA with respect to Non-GSE mortgages on compliance with the aforementioned Section 1481(d) of the Dodd-Frank Act¹, which guidance was subsequently incorporated in Section 1.7 of Chapter II of the *Handbook*. Supplemental Directive 10-11 provided a form of a Dodd-Frank Certification (Dodd-Frank Certification) and directed servicers, effective September 21, 2010, to obtain a completed Dodd-Frank Certification from each borrower seeking assistance under any MHA program with respect to mortgage loans that are not owned or guaranteed by Fannie Mae or Freddie Mac. On March 9, 2012 Treasury issued Supplemental Directive 12-02 and on April 17, 2012 issued Supplemental Directive 12-03, together providing additional guidance with respect to relocation incentives that may be paid to a non-borrower occupant in connection with a HAFA transaction. Such guidance stated that the servicer, in advance of closing, must receive a Dodd-Frank Certification signed by each borrower as well as a Non-Owner Occupant Certification signed by each non-borrower that will receive relocation assistance. For purposes of this Supplemental Directive, the Dodd-Frank Certification and Non-Owner Occupant Certification shall be referred to collectively as the “Dodd-Frank Certification”.

This Supplemental Directive provides additional guidance to servicers for compliance with the requirements of the Dodd-Frank Act, as well as MHA requirements related to borrower identity

¹ (d) PREVENTION OF QUALIFICATION FOR CRIMINAL APPLICANTS.—

(1) IN GENERAL.—No person shall be eligible to begin receiving assistance from the Making Home Affordable Program authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), or any other mortgage assistance program authorized or funded by that Act, on or after 60 days after the date of the enactment of this Act, if such person, in connection with a mortgage or real estate transaction, has been convicted, within the last 10 years, of any one of the following:

- (A) Felony larceny, theft, fraud, or forgery.
- (B) Money laundering.
- (C) Tax evasion.

and owner-occupancy, as applicable, for Non-GSE mortgages. This Supplemental Directive provides guidance related to compliance for the Home Affordable Modification Program (HAMP), Treasury/Federal Housing Administration (FHA) HAMP (Treasury FHA-HAMP), Rural Development-HAMP (RD-HAMP), the Second Lien Modification Program (2MP), and the Home Affordable Foreclosure Alternatives (HAFA) Program. Specifically, the additional guidance and procedures are designed to ensure that borrowers (including non-borrower occupants, as applicable) applying for or receiving benefits under MHA:

- Are the individuals they have represented themselves to be (borrower identity);
- Meet the owner-occupancy requirements of the MHA program(s) in which they participate, if applicable (owner-occupancy); and
- Have not been convicted of certain crimes, within the applicable time period that under the Dodd-Frank Act would make them ineligible for MHA assistance (Disqualifying Crime), as attested to in their signed Dodd-Frank Certification.

Treasury's compliance agent, Making Home Affordable Compliance (MHA-C) has retained a contractor (Vendor) to gather, analyze and share with servicers, information regarding individuals applying for and receiving assistance under MHA with respect to borrower identity and owner-occupancy status and the accuracy of their Dodd-Frank Certification. The Vendor will be provided identifying information for loans selected for review and will conduct research and analysis to identify potential borrower identity and owner-occupancy discrepancies for servicers to investigate further. Additionally, on some but not all of the selected loans, the Vendor will conduct a criminal background check through public records to identify potential inaccuracies with respect to the individual's attestation in their Dodd-Frank Certification. The results of the Vendor research and analysis with respect to borrowers will be provided to servicers to assist them in complying with the Dodd-Frank Act and their responsibilities with respect to MHA guidelines on borrower identity and owner-occupancy.

This Supplemental Directive amends and supersedes the notated portions of the *Handbook* (as shown in the mapping attached to Supplemental Directive 12-03) and is effective on September 30, 2012.

Servicers that are subject to the terms of 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 or insured or guaranteed by the Veterans Administration.

This Supplemental Directive covers the following topics:

- Overview
- Borrower Eligibility & Compliance Portal
- Loan Selection
- Servicer Documentation
- Hold on Program Participation for Trial Period Plans or Pending HAFA Transactions

- Vendor Review and Alert Notification
- Alert Clearance Process
- Reporting Clearance Status
- Not-Cleared Borrower Notices
- Treasury System Reporting and Incentives
- Interaction with Other EESA Programs
- Compliance With Applicable Law
- BE&C Portal Questions

Overview

As described herein, loans will be selected for review from loans entered into the HAMP Reporting Tool. If the Vendor identifies a potential irregularity with respect to any loan reviewed for borrower identity or owner-occupancy compliance or if a borrower appears to have been convicted of a Disqualifying Crime, the Vendor will post an “Alert” status in a web-based portal for that loan. Servicers will periodically access this portal (viewing only their own loans) and evaluate the information provided with the Alert. Servicers will undertake their own evaluation of the Alerts, perform any necessary additional research, communicate with the borrower as described herein, and ultimately either “clear” the Alert or post a status of “not clear” on the portal.

Servicers must take such action as necessary to prevent loans associated with Alerts from reaching a status where Treasury pays any incentives until the Alert has been “Cleared” by the servicer as described herein.

Individuals associated with Alerts that are not ultimately “Cleared” are not eligible for participation in any MHA program. If the individual is a borrower (as opposed to a non-borrower occupant), the respective loan must be canceled from Treasury’s system of record. Treasury will recapture any servicer, borrower or investor incentives previously paid on a loan cancelled from the HAMP Reporting Tool as a result of borrower identity, owner-occupancy or borrower Dodd-Frank Certification non-compliance.

Borrower Eligibility & Compliance Portal

To facilitate the exchange of communication among Treasury, the Vendor, and servicers, the Vendor has established a web-based Borrower Eligibility & Compliance (BE&C) Portal. The Vendor will issue an “Alert” to servicers on any loan for which it identifies a potential borrower identity or owner-occupancy irregularity or a possible borrower Disqualifying Crime, and will share information relevant to the Alert with the applicable servicer. The BE&C Portal will also be used by servicers to report on their efforts to investigate and resolve Alerts (a process that is explained in more detail below). The Vendor will only allow Servicers to access loans in their own servicing portfolios on the BE&C Portal.

Loan Selection

Loans will be selected for Vendor review from loans entered into the HAMP Reporting Tool from the following programs: HAMP, Treasury FHA-HAMP, RD-HAMP, 2MP and HAFA. Selection will include loans in active trial period plans, those that have been permanently modified, and loans in connection with pending or completed HAFA transactions. Dodd-Frank Certification compliance will only be conducted on loans with trial period first payment due dates on or after September 22, 2010, 2MP modifications that have modification dates on or after September 22, 2010 and corresponding GSE first lien modifications, or HAFA transactions that were entered into the HAMP Reporting Tool on or after September 22, 2010.

Beginning in October 2012, borrower identity and owner occupancy review, when applicable, on all new trial period plans, 2MP modifications with corresponding GSE first lien modifications, and HAFA transactions reported to the HAMP Reporting Tool during the current month's reporting cycle will be performed. Disqualifying Crime review will be performed on a random sample of those loans.

Servicer Documentation

Effective with publication of Supplemental Directive 09-01, it has been a program eligibility requirement that each borrower and co-borrower (collectively referred to as "borrower") of a loan execute a Hardship Affidavit, attesting to certain matters, including identity, owner-occupancy, when applicable and financial hardship and acknowledging that their statements on the Hardship Affidavit are true and are subject to examination and verification. The Hardship Affidavit may be a stand-alone document or may be included in a Request for Mortgage Assistance (formerly known as the Request for Modification and Affidavit) or other substantially similar financial information form permitted under MHA guidance (for purposes of this Supplemental Directive to be referred to as the "RMA"). Additionally, Supplemental Directive 12-02 provides that all non-borrower occupants who will receive relocation assistance in conjunction with a HAFA transaction must execute a Non-Owner Occupant Certification. Regardless of the form of the request, in every case servicers are required to maintain executed copies of the Hardship Affidavit and all application materials including the Dodd-Frank Certification and when applicable, the RMA. When a servicer enters a transaction in the HAMP Reporting Tool, it is representing that it has obtained executed copies of all requisite program documentation and that the borrower (including non-borrower occupants, as applicable) and the loan meet all applicable program requirements.

Hold on Program Participation for Trial Period Plans or Pending HAFA Transactions

Servicers must take such actions as necessary to prevent loans in trial period plan status from converting to permanent modifications and to prevent pending HAFA transactions from closing, upon discovery by the servicer that:

- There is a missing or unexecuted RMA or Dodd-Frank Certification; or

- Upon receipt of notification from the Vendor of an “Alert” as defined in this Supplemental Directive.

In all cases the Vendor will first review loans for borrower identity and, when applicable occupancy, before conducting a review for Dodd-Frank Certification compliance. Once a servicer has placed a hold on a loan, the servicer may not release the hold and complete the permanent modification or HAFA transaction until the later of (i) the servicer’s receipt of notification from the Vendor that the loan is not subject to an Alert with respect to identity, Dodd-Frank Certification and when applicable, owner occupancy, or (ii) clearance by the servicer of all identity, occupancy or Dodd-Frank Certification Alerts posted by the Vendor with respect to the loan.

Vendor Review and Alert Notification

If the Vendor identifies a potential irregularity with respect to any loan reviewed for borrower identity or owner-occupancy compliance, or if a borrower appears to have been convicted of a Disqualifying Crime, the Vendor will post an “Alert” status in the BE&C Portal for that loan. The BE&C Portal will provide the servicer with the type of Alert (borrower identity, owner-occupancy or Dodd-Frank Certification), and provide servicers with the information upon which the Alert was based. The servicer must independently evaluate the Alert and associated material and conduct any additional due diligence necessary to clear the Alert. This includes, where required under this Supplemental Directive or applicable law, rule or regulation, working with the borrower.

The Vendor will notify servicers on a weekly basis (or such other time frame as Treasury and/or MHA-C may direct), of any new Alerts it has posted to the BE&C Portal. Within two (2) business days after receipt of this notification, the servicer must access the BE&C Portal to retrieve the list of new Alerts posted.

If a loan is subject to a borrower identity Alert, the Vendor will not research Dodd-Frank Certification compliance until the borrower identity Alert has first been cleared and the correct identity of the borrower has been determined.

Alert Clearance Process

Within ten (10) business days after a borrower identity, owner-occupancy or Dodd-Frank Certification Alert status is posted on the BE&C Portal, the servicer must evaluate the information provided by the Vendor, as well as any other information the servicer may have relied upon to make the initial identity or occupancy determination, and must either:

- (i) make a determination that the servicer has sufficient evidence to confirm the borrower’s identity, occupancy status or Dodd-Frank Certification compliance in accordance with program requirements; document the basis for this determination and maintain it in the servicing system and/or mortgage file; and use the BE&C Portal to report a “Cleared” status in accordance with the guidance in this section; or

- (ii) notify the borrower in writing, by certified mail with return receipt requested, that the servicer was unable to verify the accuracy of the borrower's identity, owner occupancy status, or Dodd-Frank Certification compliance.

All borrower Alert notices under this section must:

- a. Provide the borrower with the underlying information upon which the Alert was issued (which may include the information provided by the Vendor and/or any additional information obtained by the servicer). To the extent servicer is providing information prepared by the Vendor, borrower shall be notified that: the information was collected from public sources; they have a right under the Fair Credit Reporting Act to request the underlying information from www.cebsupport.com; and that the Vendor is not a consumer reporting agency and did nothing to influence the decision of their servicer.
- b. Instruct the borrower that they have fifteen (15) calendar days from the date of the communication from the servicer to provide any information that might help the servicer clarify the information upon which the Alert was issued and verify the borrower's original attestation.
- c. State that failure to respond to the notice by the date specified or failure to verify the accuracy of the borrower's identity, occupancy status, or Dodd-Frank Certification may result in the borrower being ineligible for any housing program funded under the Emergency Economic Stabilization Act of 2008 (EESA)², which includes the program for which the borrower has been accepted, and with respect to permanent modifications, pay-for-success benefits to which the borrower might otherwise be entitled to.
- d. Provide contact information for the borrower's relationship manager, if applicable, or other point of contact at the servicer.
- e. With respect to an identity or Dodd-Frank Certification Alert placed on a loan subject to a pending HAFA transaction involving a non-borrower occupant, the servicer must either work with the borrower and/or non-borrower occupant to clear the Alert or offer the borrower the option to withdraw the request for relocation assistance and complete the transaction.

With respect to Alerts issued on loans associated with a closed HAFA transaction, loans that have been paid off, loans that have been extinguished, or where the servicer is otherwise unable to locate the borrower, the servicer may, but is not required to send the Alert notice required by this section. However, if the servicer is unable to clear an Alert, it will be subject to recapture of any servicer, borrower or investor incentives previously paid on the loan as described in the guidance.

Servicers will not receive notification of or be expected to clear Alerts involving non-borrower occupants that received relocation assistance in conjunction with a closed HAFA transaction.

² EESA funded programs include: HAMP, 2MP, HAFA, Treasury FHA-HAMP, RD-HAMP, FHA2LP, FHA Refinance of Borrowers in Negative Equity Positions Program, and the Hardest Hit Fund.

Additionally, there will be no recapture of relocation incentives paid to non-owner occupants when the non-owner occupant is the subject of the Alert.

Servicer Responsibility for Assessing Information

Servicers bear sole responsibility for assessing the validity of any information provided by Vendor, borrower or non-borrower occupant, if applicable, and accepting or rejecting such information in determining whether the borrower is compliant with the provisions of Section 1481(d) of the Dodd-Frank Act and with program guidelines on borrower identity and, as applicable, owner-occupancy. Servicers should make every effort to clear Alerts within ten (10) business days of the borrower response due date. However, as necessary, servicers should grant extensions of time to submit information necessary to clear Alerts. Extensions should be granted in fifteen (15) calendar day increments and should not exceed a total of forty-five (45) calendar days.

Until such time as the servicer reports a Cleared status for an individual who is subject to an Alert, the subject individual is not eligible for participation in any mortgage assistance program authorized or funded under EESA.

Servicer Clearance Procedures

Servicers must develop and implement written policies and procedures no later than August 31, 2012 for clearing Alerts and for addressing any potential irregularities that may be identified independently by the servicer. These policies and procedures must document the process the servicer will take to notify the borrower, methods for borrower communication, and the process to verify the accuracy of information disputed by a borrower. The servicer's policy and procedures related to compliance with this guidance must be provided to MHA-C upon request.

Reporting Clearance Status

No later than ten (10) business days following the due date specified in the Alert notice and at least once each month thereafter until the Alert is "Cleared" or "Not Cleared", the servicer must use the BE&C Portal to report the status of efforts to clear the Alert, using one of the Alert status types listed below.

If an Alert is received on a loan associated with a closed HAFA transaction and the servicer's own research has not resulted in information sufficient to clear the Alert, the servicer must, within forty-five (45) calendar days of receipt of the Alert status, report a Not Clear status to the BE&C Portal using one of the Alert status types listed below.

Identity/Occupancy Verification Alert Status

If the servicer received an Alert for both identity and owner-occupancy on the same loan, the servicer must report the status of each Alert separately.

- a. Cleared—Servicer Reporting Error: The servicer made a data reporting error and has corrected it in the HAMP Reporting Tool and the BE&C Portal.
- b. Cleared—Identity Confirmed: The borrower provided sufficient documentation confirming identity.
- c. Cleared—Occupancy Confirmed: The borrower provided sufficient documentation to confirm that they met the owner-occupancy requirements of the program or that owner-occupancy is not required.
- d. Investigation in Progress: The servicer is still investigating the Alert or has granted the borrower an extension of time for receipt of sufficient clearance evidence. This status requires input to the BE&C Portal of the extension date.
- e. Non-Approval or Notice of Ineligibility Sent: The servicer has exhausted efforts to clear the Alert and has issued a Non-Approval or other notice of ineligibility to the borrower.
- f. Not Cleared: The borrower did not provide sufficient documentation to clear the identity and/or occupancy Alert. The Not Cleared status is a final determination and should only be used after the borrower has received a Non-Approval Notice or notice of ineligibility and the 30 day dispute period has expired.

Dodd-Frank Certification Compliance Alert Status

- a. Cleared—Mistaken Identity: The borrower or non-borrower occupant provided sufficient documentation showing that the individual in the Alert is not the borrower or non-borrower occupant.
- b. Cleared—Not a Disqualifying Crime: The borrower or non-borrower occupant provided sufficient documentation showing that there was no conviction or that the conviction was not for a Disqualifying Crime.
- c. Cleared—Outside Time Limit: The borrower or non-borrower occupant provided sufficient documentation showing that the conviction was outside the applicable timeframe.
- d. Cleared—Relocation Assistance for Non-Borrower Withdrawn: The borrower has withdrawn a request that Relocation Assistance be paid to a non-borrower occupant in conjunction with a pending HAFA transaction.
- e. Investigation in Progress: The servicer is still investigating the Alert or has granted the borrower an extension of time for receipt of sufficient clearance information. This status requires input to the BE&C Portal of the extension date.
- f. Non-Approval or Notice of Ineligibility Sent: The servicer has exhausted efforts to clear the Alert and has issued a Non-Approval or other notice of ineligibility to the borrower.

- g. Not Cleared: The borrower did not provide sufficient documentation demonstrating that they had not been convicted of a Disqualifying Crime. The Not Cleared status is a final determination and should only be used after the borrower has received a Non-Approval or Termination notice and the 30 day dispute period has expired.

Not-Cleared Borrower Notices

If a servicer has independently determined based on its own evaluation of an Alert that a borrower has misrepresented his or her identity, or that the property is not owner occupied, if required by program rules, or the borrower or non-borrower occupant was convicted of a Disqualifying Crime, the servicer must, within ten (10) business days of the due date specified on the Alert notice to the borrower or any extension thereof, take the following actions:

Not Cleared Notices for Trial Period Plans and Pending HAFA Transactions

If the borrower is in an active trial period plan or pending HAFA transaction, the servicer must send a notice in accordance with Sections 2.3.1 and 2.3.2 of Chapter II or Section 4.2 of Chapter IV, respectively of the *Handbook* (as shown in the mapping attached to Supplemental Directive 12-03).

- If the Alert was based on owner-occupancy, the servicer will use language affiliated with reason code - Property Not Owner Occupied, which must be similar to the following – “We are unable to offer you a [name of program] because you do not live in the property as your primary residence.”
- If the Alert was based on borrower identity, the servicer will use language affiliated with reason code - Ineligible Borrower, which must be similar to the following – “We are unable to offer you a [name of program] because we have been unable to verify your identity.”
- If the Alert was based on potential Dodd-Frank Certification noncompliance by the borrower the servicer will use language affiliated with reason code - Dodd-Frank Certification, which must be similar to the following – “We are unable to offer you a [name of program] because you did not meet the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.”

If the borrower is in a pending HAFA transaction and the Alert was based on potential Dodd-Frank Certification noncompliance by a non-borrower occupant the servicer will not send a notice of ineligibility but must notify the borrower in writing using language similar to the following – “We are unable to offer a HAFA relocation assistance incentive to a person who does not meet the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.”

All borrower notices sent in compliance with this section must:

- Explain that the borrower is not eligible to participate in any other EESA funded housing program;
- Identify other available loss mitigation alternatives for which the borrower may be eligible;
- Provide contact information for both the borrower’s relationship manager, if applicable, or other contact at the servicer; and
- Include the following borrower response period language – “You have 30 calendar days from the date of this notice to contact [name of servicer] to discuss the reason for your ineligibility or to discuss alternative loss mitigation options that may be available to you. Your loan may be referred to foreclosure during this time, or any pending foreclosure action may continue. However, **no foreclosure sale will be conducted** during this 30-day period [or any longer period required for us to review supplemental material you may provide in response to this Notice].”

If the borrower is in a trial period plan or a pending HAFA transaction and the servicer is unable to clear the Alert, the servicer must designate the loan “Not Cleared” on the BE&C Portal and cancel the transaction in the HAMP Reporting Tool. Following cancellation of a trial period plan or pending HAFA transaction, servicers may, but are not required to offer the borrower a proprietary modification or other proprietary loss mitigation option.

Not Cleared Notices for Permanent Modifications and Closed HAFA Transactions

If the borrower is in a permanent modification and the servicer is unable to clear the Alert, the servicer must designate the loan “Not Cleared” on the BE&C Portal and cancel the transaction in the HAMP Reporting Tool. Cancellation in the HAMP Reporting Tool does not terminate or alter a modification agreement executed between the servicer and borrower.

In the event that a permanent HAMP modification is cancelled as a result of borrower identity, owner-occupancy or Dodd-Frank Certification non-compliance, servicers may, but are not required to convert the borrower to a proprietary loss mitigation option. However, if the servicer determines in conjunction with a pending cancellation that it has cause to change any term of its modification agreement with the borrower, including the borrower’s expectation of receipt of pay-for-success incentives, the servicer must notify the borrower in writing of the change(s) and provide the borrower a period of thirty (30) calendar days from the date of the notice to dispute the action prior reporting a “Not Cleared” status or cancelling the loan in the HAMP Reporting Tool. Such notice must include contact information for the borrower’s relationship manager, if applicable, or other contact at the servicer and MHA-Help. If the cancellation does not impact the borrower’s modified loan terms and the servicer intends to continue to pay any applicable pay-for-success incentives, no borrower notice is required.

No borrower notice is required if the loan is associated with a closed HAFA transaction.

Treasury System Reporting and Incentives

No later than the fourth (4th) business day of the month after the expiration of the 30-day dispute period, the servicer must cancel the loan in the HAMP Reporting Tool using reason code that corresponds with the reason cited in the Non-Approval or other notice of ineligibility (or in the case of a HAFA transaction, using a reason code of “Other”). If as a result of the Alert clearance process, the servicer determines that any information in the HAMP Reporting Tool was incorrect, the servicer must concurrent with submitting the corrected information to the BE&C Portal in the manner described in the instructions found on the BE&C Portal, also submit corrected information to the HAMP Reporting Tool. In the event of a reporting issue into the HAMP Reporting Tool, the servicer must submit a request to Treasury through the waiver process.

Treasury will recapture any servicer, borrower or investor incentives previously paid on a loan cancelled from the HAMP Reporting Tool as a result of borrower identity, owner-occupancy or Dodd-Frank Certification non-compliance.

Interaction with Other EESA Programs

It is possible that a single borrower (including non-borrower occupants, as applicable) or loan could benefit from more than one EESA funded program at the same time. For example, a borrower whose loan was permanently modified under HAMP may also have a second lien modified through 2MP or receive assistance through an HHF unemployment assistance program.

In the event a borrower (including non-borrower occupants, as applicable) is found to be benefiting from another EESA funded program, Treasury will notify the servicer of the respective EESA funded program(s) that the person and applicable loan must be removed from participation in the other EESA funded programs within fifteen (15) calendar days from the date of the notification. Treasury will recapture any servicer, borrower or investor incentives previously paid on the loan under such other programs.

Compliance with Applicable Laws

As a reminder, in taking any action pursuant to or in connection with this Supplemental Directive, including any decisions relating to (i) borrower’s eligibility for any MHA program and/or (ii) any communications with borrowers hereunder, Section 1.6 of Chapter I of the *Handbook* (as shown in the mapping attached to Supplemental Directive 12-03) is applicable.

BE&C Portal Questions

Servicer questions regarding the technical use of the BE&C Portal or the content of a particular Alert on the BE&C Portal should be raised directly with the Vendor. Contact information is provided on the BE&C Portal.

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

A. A new Section 2.8 of Chapter I is inserted in its entirety as follows:

2.8 *Dodd-Frank Certification, Borrower Identity and Owner Occupancy Compliance*

Review of Dodd-Frank Certification, borrower identity and owner-occupancy compliance will be conducted in an effort to ensure that (including non-borrower occupants, as applicable) applying for or receiving benefits under MHA:

- Are the individuals they have represented themselves to be (borrower identity);
- Meet the owner-occupancy requirements of the MHA program(s) in which they participate, if applicable (owner-occupancy); and
- Have not been convicted of certain crimes, within the applicable time period that under the Dodd-Frank Act would make them ineligible for MHA assistance (Disqualifying Crime), as attested to in their signed Dodd-Frank Certification.

MHA-C has retained a contractor (Vendor) to gather, analyze and share with servicers, information regarding individuals applying for and receiving assistance under MHA with respect to borrower identity and owner-occupancy status and the accuracy of their Dodd-Frank Certification. The Vendor will be provided identifying information for loans selected for review from loans entered into the HAMP Reporting Tool and will conduct research and analysis to identify potential borrower identity and owner-occupancy discrepancies for servicers to investigate further. Additionally, on some, but not all of the selected loans, the Vendor will conduct a criminal background check through public records to identify potential inaccuracies with respect to the individual's attestation in their Dodd-Frank Certification. The results of the Vendor research and analysis with respect to borrowers will be provided to servicers to assist them in complying with the Dodd-Frank Act and their responsibilities with respect to MHA guidelines on borrower identity and owner-occupancy. If the Vendor identifies a potential irregularity with respect to any loan reviewed for borrower identity or owner-occupancy compliance or if a borrower appears to have been convicted of a Disqualifying Crime, the Vendor will post an "Alert" status in a web-based portal for that loan. Servicers will periodically access this portal (viewing only their own loans) and evaluate the information provided with the Alert. Servicers will undertake their own evaluation of the Alerts, perform any necessary additional research, communicate with the borrower as described herein, and ultimately either "clear" the Alert or post a status of "not clear" on the portal.

Servicers must take such action as necessary to prevent loans associated with Alerts from reaching a status where Treasury pays any incentives until the Alert has been "Cleared" by the servicer.

Individuals associated with Alerts that are not ultimately “Cleared” are not eligible for participation in any MHA program. If the individual is a borrower (as opposed to a non-borrower occupant), the respective loan must be canceled from Treasury’s system of record. Treasury will recapture any servicer, borrower or investor incentives previously paid on a loan cancelled from the HAMP Reporting Tool as a result of borrower identity, owner-occupancy or borrower Dodd-Frank Certification non-compliance.

2.8.1 Borrower Eligibility & Compliance Portal

To facilitate the exchange of communication among Treasury, the Vendor and servicers, the Vendor has established a web-based Borrower Eligibility & Compliance (BE&C) Portal. The Vendor will issue an “Alert” to servicers on any loan for which it identifies a potential borrower identity or owner-occupancy irregularity, or a possible Disqualifying Crime, and will share information relevant to the Alert with the applicable servicer. The BE&C Portal will also be used by servicers to report on their efforts to investigate and resolve Alerts. The Vendor will only allow Servicers to access loans in their own servicing portfolios on the BE&C Portal.

Servicer questions regarding the technical use of the BE&C Portal or the content of a particular Alert on the BE&C Portal should be raised directly with the Vendor.

2.8.2 Loan Selection

Loans will be selected for Vendor review from loans entered into the HAMP Reporting Tool from the following programs: HAMP, Treasury FHA-HAMP, RD-HAMP, 2MP and HAFA. Selection will include loans in active TPPs, those that have been permanently modified, and loans in connection with pending or completed HAFA transactions. Dodd-Frank Certification compliance will only be conducted on loans with TPP Effective Dates on or after September 22, 2010, 2MP modifications that have modification dates on or after September 22, 2010 and corresponding GSE first lien modifications, or HAFA transactions that were entered into the HAMP Reporting Tool on or after September 22, 2010.

Borrower identity and owner occupancy review, when applicable, on all new TPPs, 2MP modification with corresponding GSE first lien modifications and HAFA transactions reported to the HAMP Reporting Tool during the current month’s reporting cycle will be performed. Disqualifying Crime review will be performed on a random sample of those loans.

2.8.3 Servicer Documentation

Regardless of the form of the MHA request, in every case servicers are required to maintain executed copies of the Hardship Affidavit and all application materials including the Dodd-Frank Certification and when applicable, the RMA. When a servicer enters a transaction in the HAMP Reporting Tool, it is representing that it has obtained executed copies of all requisite program documentation and that the borrower (including non-borrower occupants, as applicable) and the loan meet all applicable program requirements.

2.8.4 Hold on Program Participation for Trial Period Plans or Pending HAFA Transactions

Servicers must take such actions as necessary to prevent loans in TPP status from converting to permanent modifications and to prevent pending HAFA transactions from closing, upon discovery by the servicer that:

- There is a missing or unexecuted RMA or Dodd-Frank Certification; or
- Upon receipt of notification from the Vendor of an “Alert” status in the BE&C Portal for that loan.

In all cases the Vendor will first review loans for borrower identity and, when applicable occupancy, before conducting a review for Dodd-Frank Certification compliance. Once a servicer has placed a hold on a loan, the servicer may not release the hold and complete the permanent modification or HAFA transaction until the later of (i) the servicer’s receipt of notification from the Vendor that the loan is not subject to an Alert with respect to identity, Dodd-Frank Certification and when applicable, owner occupancy, or (ii) clearance by the servicer of all identity, occupancy or Dodd-Frank Certification Alerts posted by the Vendor with respect to the loan.

2.8.5 Vendor Review and Alert Notification

If the Vendor identifies a potential irregularity with respect to any loan reviewed for borrower identity or owner-occupancy compliance, or if a borrower appears to have been convicted of a Disqualifying Crime, the Vendor will post an “Alert” status in the BE&C Portal for that loan. The BE&C Portal will provide the servicer with the type of Alert (borrower identity, owner-occupancy or Dodd-Frank Certification), and provide servicers with the information upon which the Alert was based. The servicer must independently evaluate the Alert and associated material and conduct any additional due diligence necessary to clear the Alert. This includes, where required under this guidance or applicable law, rule or regulation, working with the borrower.

The Vendor will notify servicers on a weekly basis (or such other time frame as Treasury and/or MHA-C may direct), of any new Alerts it has posted to the BE&C Portal. Within two (2) business days after receipt of this notification, the servicer must access the BE&C Portal to retrieve the list of new Alerts posted.

If a loan is subject to a borrower identity Alert, the Vendor will not research Dodd-Frank Certification compliance until the borrower identity Alert has first been cleared and the correct identity of the borrower has been determined.

2.8.6 Alert Clearance Process

Within ten (10) business days after a borrower identity, owner-occupancy or Dodd-Frank Certification Alert status is posted on the BE&C Portal, the servicer must evaluate the information provided by the Vendor, as well as any other information the servicer may have relied upon to make the initial identity or occupancy determination and must either:

- (i) make a determination that the servicer has sufficient evidence to confirm the borrower's identity, occupancy status or Dodd-Frank Certification compliance in accordance with program requirements; document the basis for this determination and maintain it in the servicing system or mortgage file; and use the BE&C Portal to report a "Cleared" status in accordance with the guidance in this section; or
- (ii) notify the borrower in writing, by certified mail with return receipt requested that the servicer was unable to verify the accuracy of the borrower's identity, owner occupancy status, or Dodd-Frank Certification compliance.

All borrower Alert notices under this section must:

- a. Provide the borrower with the underlying information upon which the Alert was issued (which may include the information provided by the Vendor and/or any additional information obtained by the servicer). To the extent servicer is providing information prepared by the Vendor, borrower shall be notified that: the information was collected from public sources; they have a right under the Fair Credit Reporting Act to request the underlying information from www.cebsupport.com; and that the Vendor is not a consumer reporting agency and did nothing to influence the decision of their servicer.
- b. Instruct the borrower that they have fifteen (15) calendar days from the date of the communication from the servicer to provide any information that might help the servicer clarify the information upon which the Alert was issued and verify the borrower's original attestation.
- c. State that failure to respond to the notice by the date specified or failure to verify the accuracy of the borrower's identity, occupancy status, or Dodd-Frank Certification may result in the borrower being ineligible for any housing program funded under the Emergency Economic Stabilization Act of 2008 (EESA), which includes the program for which the borrower has been accepted, and with respect to permanent modifications, pay-for-success benefits to which the borrower might otherwise be entitled to.
- d. Provide contact information for the borrower's relationship manager, if applicable, or other point of contact at the servicer.
- e. With respect to an identity or Dodd-Frank Certification Alert placed on a loan subject to a pending HAFA transaction involving a non-borrower occupant, the servicer must either work with the borrower and/or non-borrower occupant to clear the Alert or offer the borrower the option to withdraw the request for relocation assistance and complete the transaction.

With respect to Alerts issued on loans associated with a closed HAFA transaction, loans that have been paid off, loans that have been extinguished, or where the servicer is otherwise unable to locate the borrower, the servicer may, but is not required to send the Alert notice required by this section. However, if the servicer is unable to clear an Alert, it will be subject to recapture of

any servicer, borrower or investor incentives previously paid on the loan as described in the guidance.

Servicers will not receive notification of, or be expected to clear Alerts involving non-borrower occupants that received relocation assistance in conjunction with a closed HAFA transaction. Additionally, there will be no recapture of relocation incentives paid to non-owner occupants when the non-owner occupant is the subject of the Alert.

2.8.6.1 Servicer Responsibility for Assessing Information

Servicers bear sole responsibility for assessing the validity of any information provided by Vendor, borrower or non-borrower occupant, if applicable, and accepting or rejecting such information in determining whether the borrower is compliant with the provisions of Section 1481(d) of the Dodd-Frank Act and with program guidelines on borrower identity and, as applicable, owner-occupancy. Servicers should make every effort to clear Alerts within ten (10) business days of the borrower response due date. However, as necessary servicers should grant extensions of time to submit information necessary to clear Alerts. Extensions should be granted in fifteen (15) calendar day increments and should not exceed a total of forty-five (45) calendar days.

Until such time as the servicer reports a Cleared status for an individual who is subject to an Alert, the subject individual is not eligible for participation in any mortgage assistance program authorized or funded under EESA (e.g., HAMP, 2MP, HAFA, Treasury FHA-HAMP, RD-HAMP, FHA2LP, FHA Refinance of Borrowers in Negative Equity Positions Program, and the Hardest Hit Fund).

2.8.7 Reporting Clearance Status

No later than ten (10) business days following the due date specified in the Alert notice and at least once each month thereafter until the Alert is “Cleared” or “Not Cleared”, the servicer must use the BE&C Portal to report the status of efforts to clear the Alert, using one of the Alert status types listed below.

If an Alert is received on a loan associated with a closed HAFA transaction and the servicer’s own research has not resulted in information sufficient to clear the Alert, the servicer must, within forty-five (45) calendar days of receipt of the Alert status, report a Not Clear status to the BE&C Portal using one of the Alert status types listed below.

2.8.7.1 Identity/Occupancy Verification Alert Status

If the servicer received an Alert for both Borrower identity and owner-occupancy on the same loan, the servicer must report the status of each Alert separately.

- a. Cleared—Servicer Reporting Error: The servicer made a data reporting error and has corrected it in the HAMP Reporting Tool and the BE&C Portal.

- b. Cleared—Identity Confirmed: The borrower provided sufficient documentation confirming identity.
- c. Cleared--Occupancy Confirmed: The borrower provided sufficient documentation to confirm that they met the owner-occupancy requirements of the program or that owner-occupancy is not required.
- d. Investigation in Progress: The servicer is still investigating the Alert or has granted the borrower an extension of time for receipt of sufficient clearance evidence. This status requires input to the BE&C Portal of the extension date.
- e. Non-Approval or Notice of Ineligibility Sent: The servicer has exhausted efforts to clear the Alert and has issued a Non-Approval or other notice of ineligibility to the borrower.
- f. Not Cleared: The borrower did not provide sufficient documentation to clear the identity and/or occupancy Alert. The Not Cleared status is a final determination and should only be used after the borrower has received a Non-Approval Notice or notice of ineligibility and the 30 day dispute period has expired.

2.8.7.2 Dodd-Frank Certification Compliance Alert Status

- a. Cleared—Mistaken Identity: The borrower or non-borrower occupant provided sufficient documentation showing that the individual in the Alert is not the borrower or non-borrower occupant.
- b. Cleared—Not a Disqualifying Crime: The borrower or non-borrower occupant provided sufficient documentation showing that there was no conviction or that the conviction was not for a Disqualifying Crime.
- c. Cleared—Outside Time Limit: The borrower or non-borrower occupant provided sufficient documentation showing that the conviction was outside the applicable timeframe.
- d. Cleared Relocation Assistance for Non-Borrower Withdrawn: The borrower has withdrawn a request that Relocation Assistance be paid to a non-borrower occupant in conjunction with a pending HAFA transaction.
- e. Investigation in Progress: The servicer is still investigating the Alert or has granted the borrower an extension of time for receipt of sufficient clearance information. This status requires input to the BE&C Portal of the extension date.
- f. Non-Approval or Notice of Ineligibility Sent: The servicer has exhausted efforts to clear the Alert and has issued a Non-Approval or other notice of ineligibility to the borrower.

- g. Not Cleared: The borrower did not provide sufficient documentation demonstrating that they had not been convicted of a Disqualifying Crime. The Not Cleared status is a final determination and should only be used after the borrower has received a Non-Approval or Termination notice and the 30 day dispute period has expired.

2.8.8 Not Cleared Borrower Notices

If a servicer has independently determined based on its own evaluation of an Alert that a borrower has misrepresented his or her identity, or that the property is not owner occupied, if required by program rules, or the borrower or non-borrower occupant was convicted of a Disqualifying Crime, the servicer must, within ten (10) business days of the due date specified on the Alert notice to the borrower or any extension thereof, take the actions described below. If the borrower is in an active TPP or pending HAFA transaction, the servicer must send a notice in accordance with Sections 2.3.2.5 of Chapter II or Section 4.2 of Chapter IV, respectively.

If the borrower is in a TPP or a pending HAFA transaction and the servicer is unable to clear the Alert, the servicer must designate the loan “Not Cleared” on the BE&C Portal and cancel the transaction in the HAMP Reporting Tool. Following cancellation of a TPP or pending HAFA transaction, servicers may, but are not required to offer the borrower a proprietary modification or other proprietary loss mitigation option.

If the borrower is in a permanent modification and the servicer is unable to clear the Alert, the servicer must designate the loan “Not Cleared” on the BE&C Portal and cancel the transaction in the HAMP Reporting Tool. Cancellation in the HAMP Reporting Tool does not terminate or alter a modification agreement executed between the servicer and borrower.

In the event that a permanent HAMP modification is cancelled as a result of borrower identity, owner-occupancy or Dodd-Frank non-compliance, servicers may, but are not required to convert the borrower to a proprietary loss mitigation option. However, if the servicer determines in conjunction with a pending cancellation that it has cause to change any term of its modification agreement with the borrower, including the borrower’s expectation of receipt of pay-for-success incentives, the servicer must notify the borrower in writing of the change(s) and provide the borrower a period of thirty (30) calendar days from the date of the notice to dispute the action prior reporting a “Not Cleared” status or cancelling the loan in the HAMP Reporting Tool. Such notice must include contact information for the borrower’s relationship manager, if applicable, or other contact at the servicer and MHA-Help. If the cancellation does not impact the borrower’s modified loan terms and the servicer intends to continue to pay any applicable pay-for-success incentives, no borrower notice is required.

No borrower notice is required if the loan is associated with a closed HAFA transaction.

2.8.9 Treasury System Reporting and Incentives

No later than the (4th) fourth business day of the month after the expiration of the 30-day dispute period, the servicer must cancel the loan in the HAMP Reporting Tool using reason code that corresponds with the reason cited in the Non-Approval or other notice of ineligibility (or in the

case of a HAFA transaction, using a reason code of “Other”). If as a result of the Alert clearance process, the servicer determines that any information in the HAMP Reporting Tool was incorrect, the servicer must concurrent with submitting the corrected information to the BE&C Portal in the manner described in the instructions found on the BE&C Portal, also submit corrected information to the HAMP Reporting Tool.

Treasury will recapture any servicer, borrower or investor incentives previously paid on a loan cancelled from the HAMP Reporting Tool as a result of borrower identity, owner-occupancy or Dodd-Frank non-compliance.

2.8.10 Interaction with Other EESA Programs

It is possible that a single borrower or loan could benefit from more than one EESA funded program at the same time. For example, a borrower whose loan was permanently modified under HAMP may also have a second lien modified through 2MP or receive assistance through an HHF unemployment assistance program.

In the event a borrower is found to be benefiting from another EESA funded program, Treasury will notify the servicer of the respective EESA funded program(s) that the person and applicable loan must be removed from participation in the other EESA funded programs within fifteen (15) calendar days from the date of the notification. Treasury will recapture any servicer, borrower or investor incentives previously paid on the loan under such other programs.

B. A new Section 2.3.2.5 of Chapter II is inserted in its entirety as follows:

2.3.2.5 Non-Approval Notice—Not Cleared Alerts

If the borrower is in an active TPP and the servicer has independently determined based on its own evaluation of an Alert received pursuant to Section 2.8 of Chapter I that a borrower has misrepresented his or her identity, or that the property is not owner occupied, if required by program rules, or the borrower or non-borrower occupant was convicted of a Disqualifying Crime, the servicer must, within ten (10) business days of the due date specified on the Alert notice provided to the borrower pursuant to Section 2.8.6 of Chapter I, or any extension thereof, send a Non-Approval Notice consistent with the following:

- If the Alert was based on owner-occupancy and owner-occupancy is required by program rules, the servicer will use language affiliated with reason code - Property Not Owner Occupied, which must be similar to the following – “We are unable to offer you a Home Affordable Modification because you do not live in the property as your primary residence.”
- If the Alert was based on borrower identity, the servicer will use language affiliated with reason code - Ineligible Borrower, which must be similar to the following – “We are unable to offer you a Home Affordable Modification because we have been unable to verify your identity.”

- If the Alert was based on potential Dodd-Frank Certification noncompliance by the borrower the servicer will use language affiliated with reason code - Dodd-Frank Certification such as that provided in the model clauses provided in Exhibit A.

In addition, the notice must explain that the borrower is not eligible to participate in any other EESA funded housing program.

II. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

The following guidance amends and supersedes the notated portions of the *Handbook*:

A. Section 1.7 of Chapter I is amended to add the following text in the last paragraph.

In addition, tenants or other non-borrower occupants who are required to vacate a rental property as a result of a HAFA short sale or DIL, may be eligible to receive the relocation incentive available under HAFA as described in Section 12.1 of Chapter IV. In order to receive the relocation incentive, the borrower must obtain and deliver to the servicer, a ~~Dodd-Frank Non-Owner Occupant~~ Certification executed by the tenant(s) or other occupant(s) in advance of closing. *Throughout this Handbook, unless otherwise indicated, the Dodd-Frank Certification and Non-Owner Occupant Certification shall be referred to as the “Dodd-Frank Certification”.*

B. Section 2.2 of Chapter I is amended to add the following as the new last bullet.

- *All policies and procedures related to clearing Dodd-Frank Certification, Borrower Identity and Owner-Occupancy Alerts and for addressing any potential irregularities that may be identified independently by the servicer, including the process the servicer will take to notify the borrower, methods for borrower communication, and the process to verify the accuracy of information disputed by a borrower.*

C. Section 4.2 of Chapter IV is amended to add the following text at the end of the section.

In addition, if the borrower is in a pending HAFA transaction and the servicer has independently determined based on its own evaluation of an Alert received pursuant to Section 2.8 of Chapter I that a borrower has misrepresented his or her identity or the borrower was convicted of a Disqualifying Crime, the servicer must, within ten (10) business days of the due date specified on the Alert notice provided to the borrower pursuant to Section 2.8.6 of Chapter I, or any extension thereof, send a notice of ineligibility consistent with the notice requirements of Section 2.3.2.5 of Chapter II.

If the borrower is in a pending HAFA transaction and the Alert was based on potential Dodd-Frank Certification noncompliance by a non-borrower occupant, the servicer will not send a notice of ineligibility but must notify the borrower in writing using language similar to the following – “We are unable to offer a HAFA relocation assistance incentive to a person who does not meet the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.”

D. Exhibit A, Model Clauses for Borrower Notices, item 2, is amended to add the following text related to borrower identity.

2. Ineligible Borrower. *We are unable to offer you a Home Affordable Modification because we have been unable to verify your identity.*