

Supplemental Directive 13-02

April 5, 2013

Making Home Affordable[®] Program –Administrative Clarifications

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program to stabilize the housing market and to help struggling homeowners obtain 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 13, 2012, Treasury issued version 4.1 of the *Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (Handbook)*, a consolidated resource for guidance related to the MHA Program for mortgage loans that are not owned or guaranteed by Fannie Mae and Freddie Mac (Non-GSE Mortgages).

This Supplemental Directive provides administrative clarifications and updates to the Home Affordable Modification Program[®] (HAMP) and the Home Affordable Foreclosure Alternatives[®] (HAFA) Program. 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 Supplemental Directive amends and supersedes the notated portions of the *Handbook*, and except as stated herein, is effective immediately.

This guidance does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac (GSEs) (except as noted herein), or insured or guaranteed by the Department of Veterans Affairs, the Department of Agriculture's Rural Housing Service (RHS) or the Federal Housing Administration (FHA).

This Supplemental Directive covers the following topics:

- HAMP[®] Updates
- *Handbook* Mapping Clean-Up

HAMP Updates

Servicing Transfer Reporting

The following guidance is effective August 1, 2013.

Pursuant to Section 1.4.1 of Chapter I of the *Handbook*, when a participating servicer transfers or assigns mortgage loans, or servicing rights relating to mortgage loans, that constitute Eligible Loans pursuant to the SPA, the transferee servicer must assume the transferor's obligations under the SPA with respect to the transferred Eligible Loans. Section 1.4.3 of Chapter I of the

Handbook provides that the transferor servicer must provide written notice to the Program Administrator of a transfer of Eligible Loans, or servicing rights relating to Eligible Loans, at least 30 calendar days in advance of the transfer or assignment for transfers other than those relating to mergers, acquisitions or other changes of control. Additionally, no later than 15 calendar days prior to the effective date of the transfer or assignment the transferor servicer must provide an executed assignment and assumption agreement, the form of which is attached as Exhibit D to the SPA (AAA) with a list of Eligible Loans attached.

This Supplemental Directive amends the guidance to remove the 30 day advance notice requirement. The HAMP Reporting Tool will be modified to allow servicers to provide notice of transfers by reporting the transaction and list of Eligible Loans to the HAMP Reporting Tool 15 calendar days prior to the effective date of the transfer or assignment. The guidance that servicers provide notice as soon as legally possible for transfers relating to mergers, acquisitions or other changes of control remains unchanged. The transfer process guidance, including instructions on how to provide the AAA and earlier notice of transfers relating to changes in control, will be available on www.HMPadmin.com.

Exception to Initial Package Notice Requirements

Section 2.2.3 of Chapter II of the *Handbook* provides that a servicer is not required to send an Initial Package if, as a result of discussions with the borrower or based on information in the servicer's possession, the servicer determines that the borrower's estimated monthly mortgage payment is less than 20 percent of the borrower's gross monthly income. Supplemental Directive 12-09 expanded the acceptable post-modification debt-to-income (DTI) range to ten percent at the low end and 55 percent at the high end (Expanded Acceptable DTI Range). It also provided servicers with the flexibility to select a DTI range suitable for their portfolio (Servicer's DTI Range), provided that the low end of the Servicer's DTI Range must be equal to or greater than ten percent but not more than 25 percent.

This Supplemental Directive updates the guidance in Section 2.2.3 of Chapter II of the *Handbook* to provide that a servicer is not required to send an Initial Package if, as a result of discussions with the borrower or based on information in the servicer's possession, the servicer determines that the borrower's estimated monthly mortgage payment is below (i) 20 percent of the borrower's gross monthly income or (ii) the lowest end of the Servicer's DTI Range, whichever is lower.

Non-Approval Reasons

The following guidance is effective June 1, 2013, however servicers may implement this guidance immediately.

Section 2.3.2 of Chapter II of the *Handbook* provides that a servicer may not conduct a foreclosure sale within the 30 calendar days after the date of a Non-Approval Notice or any longer period required to review supplemental material by the borrower in response to a Non-Approval Notice. Five non-approval reasons are excluded from this 30 day restriction,

specifically (1) ineligible mortgage, (2) ineligible property, (3) offer not accepted by borrower/request withdrawn, (4) previously modified under HAMP Tier 2, and (5) borrower not a natural person. Ineligible mortgage and ineligible property are categories that cover a number of non-approval reasons. Therefore this Supplemental Directive amends the guidance to delete the reference to ineligible mortgage and ineligible property, and adds the following reasons – (1) loan originated after January 1, 2009, not a first lien, or unpaid principal balance above program limit, (2) loan paid off, or charged off and borrower released from liability for repayment, (3) property condemned or more than four dwelling units, (4) loan subject to involuntary transfer to a non-participant. The reason code guidance for the HAMP Reporting Tool remains unchanged.

MHA Outreach and Borrower Intake Project

The following guidance is effective May 1, 2013.

Supplemental Directive 13-01 provided guidance to servicers regarding the acceptance of Initial Packages submitted through the Hope LoanPort[®] (HLP) in connection with the MHA Outreach and Borrower Intake Project. Specifically, within 30 calendar days from receipt of notification by HLP that the servicer has received an Initial Package with a Borrower Intake Code, the servicer must review the submission and accept or reject the package.

This Supplemental Directive expands that guidance to require that SPA servicers that are subscribers to HLP must, for packages submitted through HLP in connection with the MHA Outreach and Borrower Intake Project and upon completion of the underwriting determination, enter the appropriate termination status code in HLP to identify the status of the evaluation. Generally, this can be accomplished within the 30 day review period but in the event additional information is required from the borrower the status code reporting should occur at the time the borrower is notified of the underwriting determination.

Loans Repurchased from GSEs and Dodd-Frank Certification Requirement

Supplemental Directive 12-09 provided that the HAMP Reporting Tool would be modified to allow SPA servicers to (i) report loans that a SPA servicer is required to repurchase from a GSE either during a trial period plan or after being permanently modified under HAMP (each a HAMP Modified Loan) and change the investor codes as needed and (ii) report whether such loans were repurchased during the trial period plan or after conversion to a permanent modification. The changes in the HAMP Reporting Tool were implemented on April 1, 2013. Once a repurchase is completed in the servicer's system, servicers should follow normal monthly reporting timelines to complete repurchase reporting in the HAMP Reporting Tool.

Supplemental Directive 12-09 also provided that incentives on HAMP Modified Loans repurchased from the GSEs will only be paid with respect to modifications that comply with the eligibility, underwriting or other requirements set forth in the *Handbook*, including compliance with the requirements regarding Section 1481(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and Treasury's certification requirement thereunder (Dodd-Frank Certification). This Supplemental Directive clarifies that HAMP Modified Loans

repurchased from either GSE are subject to guidance described in Section 1.7 of Chapter I of the *Handbook*. Such guidance provides that all trial period plans and permanent modifications under HAMP or the Second Lien Modification ProgramSM, and offers relating to such trial period plans and permanent modifications, that were outstanding as of September 21, 2010 (i.e., the effective date of the Dodd-Frank Certification requirement), are not subject to the Dodd-Frank Certification requirement. Therefore servicers are not required to obtain a completed Dodd-Frank Certification from these borrowers prior to re-boarding such repurchased loans in the HAMP Reporting Tool.

If the servicer cannot confirm that a repurchased loan is exempt from the Dodd-Frank Certification requirement under the guidance in Section 1.7 of Chapter I of the *Handbook*, the servicer must obtain the Dodd-Frank Certification before boarding or re-boarding the loan as a modification of a Non-GSE Mortgage in the HAMP Reporting Tool.

Servicers must allow borrowers no less than 30 calendar days to return a Dodd-Frank Certification from the date of the servicer's initial request. If the completed Dodd-Frank Certification is not received by the specified date, a second notice should be sent, allowing the borrower at least 15 additional calendar days from the date of the second notice to return the certification. If the Dodd-Frank Certification is still not received by that date, the servicer may discontinue document collection efforts and cancel the loan in the HAMP Reporting Tool due to Dodd-Frank non-compliance. If the Dodd-Frank Certification is required and not obtained, no incentives will be paid.

In the event that any loan is cancelled in the HAMP Reporting Tool due to Dodd-Frank Certification non-compliance and the borrower subsequently provides the Dodd-Frank Certification, the servicer may, at its discretion, reinstate the trial period plan or permanent modification in the HAMP Reporting Tool. Servicers who wish to exercise this discretion must establish a policy identifying any conditions (e.g., timing of receipt of Dodd-Frank Certification, loan delinquency status, etc.) and ensure that it is applied consistently to all similarly situated borrowers.

Trial period plans or permanent modifications that are cancelled due to Dodd-Frank Certification non-compliance are not eligible for another HAMP modification in the same Tier. A borrower who was cancelled from HAMP Tier 1 could potentially be eligible for HAMP Tier 2; a borrower cancelled from HAMP Tier 2 is not eligible for another HAMP modification, but may later be considered for HAFA[®].

Servicing Transfer Reason Code and Model Clause

Section 1.4.5 of Chapter I of the Handbook provides guidance on servicing transfers, including when the servicing of an "Eligible Loan" is transferred from a SPA servicer to a non-participating servicer as a result of an involuntary transfer. If the investor does not permit the delayed transfer of loans that are in active trial periods, the transferor servicer must cancel the trial period plan in the HAMP Reporting Tool using the trial fallout reason code of "Ineligible Mortgage" and send the borrower a written notice explaining the impact of the transfer on the

borrower's participation in the MHA Program. This Supplemental Directive reflects updated reason code guidance to provide that the transferor servicer must use the trial fallout reason code of "Transfer to Non Participating Entity". A model clause is also provided in the attached Exhibit A.

New DTI Range Model Clause

Supplemental Directive 12-09 clarified that, to qualify for HAMP Tier 2, verified income documentation must confirm that the borrower's monthly mortgage payment ratio prior to the modification is greater than the lower end of the Expanded Acceptable DTI Range, or the Servicer's DTI Range, if different. A model clause for this non-approval reason is provided in the attached Exhibit A. Use of the model clause is optional; however it illustrates the level of specificity that is deemed to be in compliance with the language requirements of the *Handbook*.

Handbook Mapping Clean-Up and Clarifications

The mapping attached hereto as Exhibit A includes the following clean-up and clarification items to the *Handbook*.

- Section 1.4.1.4 of Chapter I of the *Handbook* is amended to replace the reference to the Short Sale Agreement and Alternative Request for Short Sale Agreement with a reference to the Short Sale Notice and Acknowledgement of Request for Short Sale, consistent with the changes in Supplemental Directive 12-07.
- Supplemental Directive 12-09 provided clarification to Section 5.1.9 of Chapter II of the *Handbook* regarding the underwriting of non-borrower household income that can be relied upon to support the household. This Supplemental Directive clarifies that the third sentence of the second paragraph is also deleted.
- Section 13.4 of Chapter II of the *Handbook* is amended to delete the reference to "changing the investor code". Servicers are not required to obtain the required Dodd-Frank Certification(s) prior to changing the investor code in the HAMP Reporting Tool. Pursuant to Section 11.7 of Chapter II of the *Handbook*, the investor code must be changed no later than the fourth (4th) business day of the month after the date of repurchase.
- Supplemental Directive 12-07 amended Section 3.3 of Chapter IV of the *Handbook* to ensure that within 30 days of receipt of a request for a pre-approved HAFA short sale, the borrower receives written notification of eligibility for the pre-approved sale and, if not, whether any type of HAFA, proprietary short sale or deed-in-lieu (DIL) action is available. This language has been revised to clarify that if a pre-approved HAFA short sale or DIL is not available for the borrower, the servicer must advise the borrower of any other short sale or DIL options available to the borrower and only send a non-approval notice if there are no other options available to the borrower.

- Supplemental Directive 12-07 revised Section 9.2 of Chapter IV of the *Handbook*. The reference to “short sale” in the seventh bullet is revised to “DIL”.

EXHIBIT A
MHA HANDBOOK MAPPING

I. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

The following guidance amends and supersedes the notated portions of the Handbook. Changed or new text is indicated in italics. Text that has been lined out has been deleted.

A. Section 1.4.1.4 of Chapter I is amended as follows:

1.4.1.4 HAFA Eligible Loans

With respect to the HAFA Program, a loan is considered to be an Eligible Loan when at the time of transfer or assignment (or such earlier date on which the population of loans to be transferred is finalized):

- (i) a HAFA transaction has been entered into the HAMP Reporting Tool;
- (ii) the servicer has sent a Short Sale *Notice Agreement* (SSNA), Deed-in-Lieu (DIL) Agreement, or an ~~executed Alternative Acknowledgment of Request for Short Sale Agreement~~ (ARSS~~Alternative RASS~~) to the borrower;
- (iii) the servicer has sent a HAFA solicitation to the borrower in accordance with Section 4 of Chapter IV and 14 days has not yet elapsed; or
- (iv) the servicer has received a request for a short sale or deed-in-lieu from the borrower whether in response to the servicer's solicitation or initiated by the borrower.

However, with respect to conditions (iii) and (iv) above, if subsequent to these actions the transferor servicer determines that the borrower does not meet the eligibility criteria for HAFA, the loan will no longer be considered an Eligible Loan.

B. The second paragraph of Section 1.4.3 of Chapter I is amended as follows:

The transferor servicer must provide written notice to the Program Administrator of a transfer of Eligible Loans, or servicing rights relating to Eligible Loans, in accordance with Section 8 of the SPA. For transfers relating to mergers, acquisitions or other changes of control, ~~such~~ notice must be provided *to the Program Administrator* as soon as legally possible. ~~For all other transfers, such notice must be provided at least 30 calendar days in advance of the transfer or assignment.~~ The transfer process guidance, ~~including the form on which this notice is to be provided,~~ will be available on www.HMPadmin.com. ~~In addition, the~~ *The* transferor servicer must provide an executed AAA ~~with~~ *and submit* a list of Eligible Loans ~~attached,~~ no later than 15 calendar days prior to the effective date of the transfer or assignment. Any revisions to the list of Eligible Loans must be provided to the Program Administrator within 5 business days after the effective date of the transfer or assignment. The transferor servicer must ensure that all data on the transferred loans reflected in the HAMP Reporting Tool, including the Official Monthly Report (OMR), is accurate, complete, and up-to-date before the loans are transferred.

C. The last sentence in the fourth paragraph of Section 1.4.5 of Chapter I is amended as follows:

If the investor does not permit the delayed transfer of loans that are in active trial periods, the transferor servicer must cancel the trial in the HAMP Reporting Tool using the trial fallout reason code of “~~Ineligible Mortgage~~Transfer to a Non Participating Entity” and send the borrower a notice in accordance with Section 1.4.5.1.

D. Section 2.2.3 of Chapter II is amended as follows:

2.2.3 Exception to Notice Requirement

The servicer is not required to send an Initial Package if, as a result of discussions with the borrower or based on information in the servicer’s possession, the servicer determines that the borrower does not meet the applicable eligibility criteria for HAMP as described in Section 1 or the servicer determines that the borrower’s estimated monthly mortgage payment as described in Section 6.1.2 is *below (a) less than 20 percent of the borrower’s gross monthly income or (b) the low end of the Servicer’s DTI Range for HAMP eligibility, whichever is lower.* If Right Party Contact is established and the borrower does not disclose financial information over the phone, but expresses an interest in HAMP, the servicer must send a written communication to the borrower via regular or electronic mail that clearly describes the Initial Package, per the requirements outlined in Section 2.2.2. A servicer may not base its determination that a borrower does not meet basic HAMP eligibility on the fact that the borrower chose not to provide financials orally. Such decision must be documented in the applicable mortgage file and/or servicing system.

E. The third paragraph of Section 2.3.2 of Chapter II is amended as follows:

The servicer may not conduct a foreclosure sale within the 30 calendar days after the date of a Non-Approval Notice or any longer period required to review supplemental material provided by the borrower in response to a Non-Approval Notice unless the reason for non-approval is (1) ~~ineligible mortgage~~ loan originated after January 1, 2009, not a first lien loan, or current unpaid principal balance above the program limit, (2) ~~ineligible property~~ loan paid off, or charged off and borrower released from liability for repayment, (3) property condemned or has more than four dwelling units, (4) loan subject to involuntary transfer to a non-participant, ~~(5)~~ offer not accepted by borrower / request withdrawn, ~~or~~ (46) the loan was previously modified under HAMP Tier 2, or (57) the borrower was not a natural person or permitted trust.

F. The last paragraph in Section 4.7.1 of Chapter II (as shown in Supplemental Directive 13-01) is amended as follows:

If all of the conditions listed immediately above are met, the servicer must accept the package through HLP by using the code used to denote a valid MHA Initial Package. Acceptance through HLP communicates to the housing counseling agency that the servicer has received all elements of the Initial Package, although additional documentation may be required before a decision on a

~~TPP trial period plan~~ is made by the servicer. Issuance of an acceptance through HLP does not constitute servicer approval for any MHA option. In addition to the requirements under this Section 4.7, servicers must still adhere to all other MHA guidance, including, but not limited to, acknowledging and evaluating borrower documentation for a possible MHA loss mitigation option and assigning a single point of contact. *Upon completion of the underwriting determination, the servicer must enter the appropriate termination status code into HLP.*

G. The second paragraph of Section 5.1.9 of Chapter II is amended as follows:

Servicers should include non-borrower household income in monthly gross income if it is voluntarily provided by the borrower and if, in the servicer's business judgment, that the income reasonably can continue to be relied upon to support the household. Non-borrower household income included in the monthly gross income must be documented and verified by the servicer using the same standards for verifying a borrower's income. ~~If income is being used for a nonborrower, the servicer should use only the income that the non-borrower will contribute to the mortgage.~~ The servicer must verify the occupancy of a non-borrower in the same manner it verifies the occupancy of a borrower under Section 5.3 after obtaining written authorization from the non-borrower to obtain the non-borrower's credit report.

H. Section 11.7 of Chapter II is amended as follows:

11.7 Reporting Requirements for HAMP Modified Loans Repurchased from GSEs

A GSE may require a SPA servicer to repurchase or buy back a mortgage loan under certain circumstances. The guidance in this section and in Section 13.4 applies with respect to loans that a SPA servicer is required to repurchase from a GSE either during a trial period plan or after being permanently modified under HAMP (each a HAMP Modified Loan). The HAMP Reporting Tool ~~will be~~ *has been* modified to allow SPA servicers to (i) report HAMP Modified Loans that have been repurchased and change the investor codes as needed and (ii) report whether such loans were repurchased during the TPP or after conversion to a permanent modification.

With respect to a HAMP Modified Loan that is in a trial period plan as of the effective date of the repurchase, ~~the HAMP Reporting Tool will be updated to allow~~ the servicer *has the ability* to report the loan as repurchased and to change the investor code. With respect to a HAMP Modified Loan that has been permanently modified as of the effective date of the repurchase, the servicer should cancel the permanent modification in the HAMP Reporting Tool. This will cause the modification to revert to trial status in the HAMP Reporting Tool so the servicer can report the loan as repurchased and change the investor code. The servicer should then re-board the loan in the HAMP Reporting Tool as a permanent modification subject to the guidance below *and in Section 13.4.*

~~Payment of incentives as described in Section 13.4 is dependent on the availability and functionality of the HAMP Reporting Tool. Accordingly, SPA servicers should not proceed with changing the investor code or cancellation and resubmission of a HAMP Modified Loan~~

~~pursuant to the guidance in this section until notified that such functionality is available.~~ Within 60 calendar days from *the HAMP Reporting Tool's April 1, 2013 implementation* such notification, servicers should *begin steps to cancel and change the investor codes in the HAMP Reporting Tool for all HAMP Modified Loans that the servicer repurchased on or before April 1, 2013* the notification date. With respect to HAMP Modified Loans repurchased after *April 1, 2013* such functionality is available, the servicer must *begin steps to cancel and change the investor code into the HAMP Reporting Tool no later than the fourth (4th) business day of the month after the date of the repurchase. Steps to cancel and change the investor code will vary depending on the status of the modification at time of repurchase and the current state of the loan in the HAMP Reporting Tool. Once a repurchase is completed in the servicer's system, servicers should follow normal monthly reporting timelines to complete repurchase reporting in the HAMP Reporting Tool.*

I. Section 13.4 of Chapter II is amended as follows:

13.4 Incentives Impact on HAMP Modified Loans Repurchased from GSEs

Incentives will only be paid with respect to modifications that comply with the eligibility, underwriting or other requirements set forth in this *Handbook*. This includes, but is not limited to, compliance with the Dodd Frank Act and Treasury's requirement for delivery of the Dodd-Frank Certification requirement *pursuant to Section 1.7 of Chapter I. Therefore servicers must obtain a Dodd-Frank Certification for each HAMP Modified Loan repurchased from a GSE unless the TPP or permanent modification, or an offer for such TPP or permanent modification, was outstanding as of the effective date of the Dodd-Frank Certification requirement. If the servicer cannot confirm whether a repurchased loan was a TPP or permanent modification, or subject to an offer for such TPP or permanent modification, as of the effective date of the Dodd-Frank Certification requirement, the servicer must obtain the Dodd-Frank Certification before boarding or re-boarding the loan as a modification of a non-GSE loan in the HAMP Reporting Tool.*

~~Accordingly, s~~ Servicers must, within 30 days of the repurchase date, send a Dodd-Frank Certification to all requisite parties with a request to sign and return the Dodd-Frank Certification as a condition of receipt of pay-for-performance incentives. *Servicers must allow borrowers no less than 30 calendar days to return a Dodd-Frank Certification from the date of the initial request. If the completed Dodd-Frank Certification is not received by the specified date, a second notice should be sent, allowing the borrower at least 15 additional calendar days from the date of the second notice to return the certification. If the Dodd-Frank Certification is still not received by that date, the servicer may discontinue document collection efforts and cancel the loan in the HAMP Reporting Tool due to Dodd-Frank non-compliance. Completed Dodd-Frank Certification(s) must be obtained from all requisite parties prior to changing the investor code or re-boarding loans repurchased from a GSE. If the Dodd-Frank Certification is required and not obtained, no incentives will be paid. Servicers must retain evidence of efforts to obtain Dodd-Frank Certifications.*

In the event that any loan is cancelled in the HAMP Reporting Tool due to Dodd-Frank Certification non-compliance and the borrower subsequently provides the Dodd-Frank Certification, the servicer may, at its discretion, reinstate the TPP or permanent modification in the HAMP Reporting Tool. Servicers who wish to exercise this discretion must establish a policy identifying any conditions (e.g., timing of receipt of Dodd-Frank Certification, loan delinquency status, etc.) and ensure that it is applied consistently to all similarly situated borrowers.

TPPs or permanent modifications that are cancelled due to Dodd-Frank Certification non-compliance are not eligible for another HAMP modification in the same Tier. A borrower who was cancelled from HAMP Tier 1 could potentially be eligible for HAMP Tier 2; a borrower cancelled from HAMP Tier 2 is not eligible for another HAMP modification, but may later be considered for HAFA.

J. The second and third paragraphs of Section 3.3 of Chapter IV (as shown in Supplemental Directive 12-07) are amended as follows:

If a borrower who is requesting (whether such request is in response to a servicer's solicitation under the first paragraph of Section 4 or initiated by the borrower) pre-approval for a HAFA short sale or DIL has previously submitted an executed Hardship Affidavit or RMA, the servicer must within 30 calendar days of such request consider the borrower for HAFA and provide written *(i) approval for HAFA notification of the borrower's eligibility for, and the terms of, a pre-approved HAFA short sale or DIL or, (ii) if the borrower is not eligible for a HAFA pre-approved short sale or DIL, provide written notification of other either (1) the borrower's eligibility for, and the terms of, a proprietary short sale or DIL options the borrower may be eligible for, if any, or (2) non-approval of any short sale or DIL.*

For a borrower that requests (whether in response to a servicer's solicitation under the first paragraph of Section 4 or initiated by the borrower) a short sale or DIL but has not previously executed a Hardship Affidavit or RMA and has a "Pre-Determined Hardship" (i.e., is delinquent on his or her mortgage by 90 days or more and has a FICO score below 620), the servicer must within 30 calendar days of receiving the request consider the borrower for HAFA and provide written *(i) approval for HAFA notification of the borrower's eligibility for, and the terms of, a pre-approved HAFA short sale or DIL or, (ii) if the borrower is not eligible for a HAFA pre-approved short sale or DIL, provide written notification of either (1) the borrower's eligibility for, and the terms of, a proprietary other short sale or DIL options the borrower may be eligible for, if any, or (2) non-approval of any short sale or DIL.* If a borrower is approved for a HAFA short sale or DIL, a Hardship Affidavit must be delivered to the borrower with instructions that it must be executed prior to and as a condition of the closing of the HAFA short sale or DIL transaction. If the servicer is unable to respond within the 30-calendar day period, the servicer must send a written status notice to the borrower on or before the 30th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide either an SSN or DIL Agreement, as applicable, or written notification that the borrower is eligible for a proprietary short sale or deed in lieu (if the borrower is not eligible under HAFA) or will not be offered a short sale or DIL under HAFA.

K. The seventh bullet in Section 9.2 of Chapter IV (as shown in Supplemental Directive 12-07) is amended as follows:

The amount of the monthly mortgage payment, if any, that the borrower will be required to pay until closing of the DIL. Notice that upon successful closing of a ~~short sale~~ DIL acceptable to the servicer, the servicer will record a mortgage lien release and the borrower will be released from all liability for repayment of the first mortgage debt.

L. Two new model clauses are inserted under “Model Clauses for Borrower Notices” in Exhibit A as follows:

***Pre-Modification DTI Below Acceptable Range.** We are unable to offer you a Home Affordable Modification Program Modification because in reviewing your income documentation we determined that your current monthly payment, which includes the monthly principal and interest payment on your first lien mortgage loan plus property taxes, hazard insurance premiums and homeowners dues (if any) is below [insert as appropriate:] [10%] OR [the lowest end of the Servicer’s DTI Range] of your monthly gross income (your income before taxes and other deductions) which we verified as \$_____. If you believe the verified income figure we have is incorrect, please contact us at the number provided below.*

***Involuntary Transfer of Loan to Non Participating Entity.** We are unable to offer you a Home Affordable Modification because your loan is being transferred to an investor or servicer that does not participate in the Home Affordable Modification Program.*