

Supplemental Directive 13-08

September 30, 2013

Making Home Affordable[®] Program – Borrower Post-Modification Counseling and Servicer Incentives

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 September 16, 2013, Treasury issued version 4.3 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 an effort to help borrowers under the Home Affordable Modification Program[®] (HAMP) stay current during their trial period plans and on their modified mortgage loans, Treasury is requiring certain servicers to offer financial counseling, as described in this Supplemental Directive, at no cost to the borrower.

The applicability of the guidance in this Supplemental Directive is as follows:

- Compliance with the section of this Supplemental Directive titled “Borrower Post-Modification Counseling Requirements” is required for all servicers that (i) are subject to the terms of a Servicer Participation Agreement and related documents (SPA), and (ii) either (a) have a “Program Participation Cap” of \$75,000,000 or more as of the date of this Supplemental Directive or (b) elect to adopt the guidance in such section. Treasury strongly encourages all servicers that are subject to a SPA to adopt this guidance.
- All servicers that are required to comply with the guidance under Section 4 of Chapter I of the *Handbook* must follow the guidance set forth in the section titled “Single Point of Contact Clarifications.”
- The guidance set forth in the section titled “Servicer Incentives for Completed Modifications” is applicable to all servicers that are subject to a SPA.

This Supplemental Directive amends and supersedes the notated portions of the *Handbook*. Except as stated herein, this Supplemental Directive is effective March 1, 2014 (Supplemental Directive Effective Date).

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, the Department of Agriculture’s Rural Housing Service (RHS) or the Federal Housing Administration (FHA).

This Supplemental Directive covers the following topics:

- Borrower Post-Modification Financial Counseling Requirements
- Single Point of Contact Clarifications
- Servicer Incentives for Completed Modifications

Borrower Post-Modification Financial Counseling Requirements

Under HAMP's Home Affordable Modification Agreement, borrowers agree to obtain credit counseling in connection with HAMP if the lender requires such counseling. In addition, pursuant to the Request for Mortgage Assistance form, each borrower consents to the servicer's disclosure of his or her personal information and the terms of any MHA notice, plan or agreement to any HUD-approved housing counselor. Currently, Section 6.7 of Chapter II of the *Handbook* requires a servicer to send a HAMP counseling letter to any borrower with a post modification back-end debt-to-income ratio of fifty five percent (55%) or more who is offered a trial period plan, and requires such borrower to agree in writing to obtain HUD-approved counseling as a condition of receiving the HAMP modification.

This Supplemental Directive eliminates the requirements under Section 6.7 of Chapter II of the *Handbook* and provides new guidance regarding borrower counseling. Under this Supplemental Directive, servicers must establish and implement a process to offer budget and debt management counseling ("financial counseling") to certain borrowers who have received a trial period plan or permanent modification under HAMP. The objective of the financial counseling is to assist the borrower in staying current on his or her modified mortgage loan. Although this guidance does not require a specific number of financial counseling sessions for each borrower, financial counseling must be offered either as a multi-staged approach or over multiple appointments such that a full counseling session for each borrower may span several months. The financial counseling offered must include the following components:

- Addressing the borrower's current overall financial situation;
- Addressing the hardship or other issue(s) that caused the borrower to default on his or her loan (as modified, if applicable) or necessitated a modification of the borrower's mortgage loan under HAMP;
- Ensuring that the borrower understands the terms of his or her HAMP modification (including any future rate resets) and, if applicable, any trial period plan; and
- Advising the borrower on how to adhere to the terms of the HAMP modification and, if applicable, any trial period plan.

Each servicer must select and engage a financial counseling vendor(s) to provide the financial counseling services required under this Supplemental Directive. The vendor must be a HUD-approved housing counseling agency with demonstrated expertise in providing the type of financial counseling described above, and must have sufficient capacity to manage the anticipated volume of referred borrowers. Servicers must engage additional HUD-approved housing counseling agencies as necessary or appropriate to meet the demand. Servicers may leverage their existing relationships with HUD-approved housing counseling agencies, or create

new relationships, if and as needed. Servicers are responsible for the cost of financial counseling and all related expenses. Furthermore, each servicer is responsible for monitoring the performance of its selected HUD-approved housing counseling agency under its agreements and ensuring that such performance is consistent with this Supplemental Directive as well as any policies and procedures established by the servicer in connection with this Supplemental Directive. The financial counseling services required under this Supplemental Directive must be provided at no cost to the borrower.

Solicitation of Borrowers

Borrowers Entering New HAMP Trial Period Plans

Any borrower with a trial period plan effective date on or after the Supplemental Directive Effective Date must be referred to financial counseling under this guidance at the start of the trial period plan. Servicers shall assign an employee, who understands the requirements of this Supplemental Directive, to serve as a “relationship manager” for purposes of this Supplemental Directive. In the case of servicers subject to Section 4.1 of Chapter I of the *Handbook*, such employee shall be the “relationship manager” described in such Section.

Servicers must provide written notice to borrowers entering a trial period plan on or after the Supplemental Directive Effective Date informing them of the financial counseling services available to them and the contact information for the servicer’s chosen HUD-approved housing counseling agency. Servicers should include this notice in the envelope with the trial period plan notice when it is sent to the borrower. In addition, a reasonable effort must be made to contact the borrower directly. For purposes of this Supplemental Directive, a “reasonable effort” consists of a minimum of four telephone calls to the last known phone numbers of record at different times of the day over at least 30 calendar days; provided, however, that efforts to contact the borrower may be halted before making four telephone calls when the borrower has been successfully contacted and has either accepted or declined the offer of financial counseling. Servicers must use one of the following two methods of contacting borrowers entering new HAMP trial period plans:

- A “warm transfer”: The relationship manager commences within 30 days of delivery of the trial period plan notice to use reasonable efforts to contact the borrower and, with the borrower’s agreement, connects the borrower to its designated HUD-approved housing counseling agency; or
- A “vendor outreach”: Within 30 days of sending the trial period plan notice, the servicer must send its designated HUD-approved housing counseling agency a file with basic contact information for the borrower entering the trial period plan, including borrower name, address and phone number (“inclusion file”), and require its HUD-approved housing counseling agency to commence within 30 days of receipt of the inclusion file to use reasonable efforts to contact the borrower. Servicers may consolidate multiple borrowers who enter into trial period plans contemporaneously into a single inclusion file.

The use of the warm transfer is preferable to vendor outreach. Only servicers that are not capable of conducting warm transfers should use vendor outreach.

Borrowers with Existing HAMP Permanent Modifications in Good Standing

Each servicer must establish and maintain written guidelines and policies identifying the characteristics of borrowers in the servicer's portfolio of HAMP permanent modifications in good standing that the servicer considers to be at a high risk of re-default. Servicers must provide copies of all such guidelines and policies to Treasury and its agents upon request. At a minimum, such guidelines and policies must require a monthly review and determination, commencing on the Supplemental Directive Effective Date for each borrower in the servicer's portfolio of HAMP permanent modifications in good standing, of whether the borrower is a "Risk of Default Borrower" which is defined as a borrower (i) who is delinquent on the date of determination and (ii) who was delinquent on his or her HAMP permanent modification payment at any other time during the 12 month period preceding the determination. Servicers are encouraged to define additional borrower characteristics in their written guidelines and policies that may indicate a high risk of re-default for inclusion in the monthly determination process.

Commencing with the Supplemental Directive Effective Date and each month thereafter, each servicer must identify the Risk of Default Borrowers in its portfolio and each Risk of Default Borrower must be offered financial counseling as set forth in this Supplemental Directive. Servicers also must offer the financial counseling described above to any borrower whose mortgage loan is in a HAMP permanent modification in good standing who contacts the servicer with concerns about their ability to make the modified mortgage payment.

Each month, or more frequently if the servicer chooses, the servicer will send its designated HUD-approved housing counseling agency an inclusion file of Risk of Default Borrowers identified that month and require the HUD-approved housing counseling agency to commence within 30 days of receipt of the inclusion file to use reasonable efforts (as defined above) to contact each identified Risk of Default Borrower. In addition, each Risk of Default Borrower identified by the servicer must be sent written notice referring them to the HUD-approved housing counseling agency and including the housing counseling agency's contact information. The letter should also provide contact information at the servicer where the borrower can call if they have any questions.

Notwithstanding the foregoing, servicers are not required to refer a borrower to financial counseling if the borrower (i) has received two prior referrals to financial counseling in accordance with this Supplemental Directive or (ii) has completed a full financial counseling engagement as described above. Servicers, however, should feel free to refer borrowers to financial counseling at any time in appropriate cases (such as changes in circumstance) despite these limitations. For purposes of this Supplemental Directive, a "referral" is deemed to have been made when a servicer or a HUD-approved housing counseling agency, as applicable, has satisfied the reasonable effort standard (as defined above) for contacting a borrower and offering financial counseling.

Post-Modification Financial Counseling Reports

Servicers are required to maintain reports of how many borrowers (i) are offered financial counseling pursuant to this Supplemental Directive, (ii) accept such financial counseling, and (iii) complete a full financial counseling engagement as described above, all of which must be provided to Treasury and its agents upon request. Servicers must also maintain such information as is necessary to monitor the borrower's performance under the modified loan after having received the financial counseling described above.

Single Point of Contact (SPOC) Clarifications

The following guidance is effective immediately.

Section 4 of Chapter I of the *Handbook* provides that the same relationship manager is responsible for managing the borrower relationship throughout the entire delinquency or imminent default resolution process, including any home retention and non-foreclosure liquidation options, and, if the loan is subsequently referred to foreclosure, must be available to respond to borrower inquiries regarding the status of the foreclosure. Section 4.2 of Chapter I also provides that each servicer must develop and implement a policy that identifies the appropriate caseload levels to ensure that relationship managers can successfully fulfill the requirements contained in Section 4.

This Supplemental Directive clarifies that the same relationship manager should be assigned to serve as the borrower's single point of contact through the entire delinquency or imminent default resolution process. However, in the event the caseload distribution necessitates re-assignment of a relationship manager, the servicer may do so, provided that it is in accordance with the servicer's policy on caseload management, and written notification of changed contact information is provided to the borrower within five business days of assignment of the new relationship manager in accordance with Section 4 of Chapter I.

Section 4 of Chapter I of the *Handbook* is also revised to provide that servicers are not required to provide such written notification within five business days of the assignment of a new relationship manager to borrowers for whom loss mitigation options have been exhausted as long as the relationship manager is no longer actively engaged in managing the borrower. However, servicers must provide the borrower written notification of any such assignment of a new relationship manager upon renewed oral or written contact from the borrower and determination by the servicer of the borrower's potential eligibility for a loss mitigation solution.

Servicer Incentive for Completed Modifications

For all HAMP permanent modifications, servicers receive completed modification incentives on a sliding scale, based on the number of days the mortgage loan is delinquent as of the effective date of the trial period plan. For all HAMP permanent modifications with a trial period plan effective date on or after the Supplemental Directive Effective Date, the new scale for servicer completed modification incentives is as follows:

No. of days delinquent at Trial Period Plan Effective Date	Incentive Amount
Less than or equal to 120 days delinquent (150 days from last full paid installment (LPI) date)	\$2,000
121 days or more delinquent to and including 210 days delinquent (151 to 240 days from LPI date)	\$1,600
Greater than 210 days delinquent (greater than 240 days from LPI date)	\$800

Servicer pay-for-success incentives and all borrower and investor incentives remain unchanged.

Updated HAMP payment processes implementing the terms of this Supplemental Directive are currently under development. Subsequent guidance on such processes will be provided on www.HMPadmin.com. Servicers with completed permanent HAMP modifications having trial period plan effective dates on or after the Supplemental Directive Effective Date should continue to report their HAMP modified loans. Until the payment processes implementing the terms of this Supplemental Directive are in place, servicers will receive compensation under the existing compensation matrix. Upon implementation of the new payment processes, the Program Administrator will make a one-time adjustment payment to the servicers to “true-up” the completed modification incentive payment for completed modifications with trial period plan effective dates on or after the Supplemental Directive Effective Date.

In the event the servicing of a loan subject to this incentive change is transferred prior to implementation of the updated HAMP payment processes implementing the terms of this Supplemental Directive, any adjustment to incentives will be paid to the servicer of record as of the date of such implementation.

EXHIBIT A MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTION

A new Section 8.1.1 of Chapter II is inserted in its entirety as follows:

8.1.1 Notice of Financial Counseling

For all borrowers entering a TPP on or after March 1, 2013, servicers must include in the envelope with the borrower's TPP Notice a notice of available servicer-funded financial counseling pursuant to Section 6.7.

II. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

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

A. The fourth paragraph of Section 4 of Chapter I is amended as follows:

In the event that it is necessary to change the relationship manager (e.g., relationship manager no longer employed, work responsibilities change, on extended leave) *before loss mitigation options have been exhausted*, the servicer must provide written notification of the changed contact information to the borrower within five business days of assignment of the new relationship manager. *Servicers are not required to provide such written notification within five business days of the assignment of a new relationship manager to borrowers for whom loss mitigation options have been exhausted as long as the relationship manager is no longer actively engaged in managing the borrower. However, servicers must provide the borrower written notification of any such assignment of a new relationship manager upon renewed oral or written contact from the borrower and determination by the servicer of the borrower's potential eligibility for a loss mitigation solution.*

B. The second paragraph of Section 4.1 of Chapter I is amended as follows:

Additionally, the relationship manager must be aware of MHA program requirements and timelines and must coordinate with the borrower and in-house and third-party servicer personnel to promote compliance with those requirements and timelines. *If the borrower is offered a TPP, the servicer must use reasonable efforts to contact the borrower to offer financial counseling at the start of the TPP in accordance with Section 6.7 of Chapter II.*

C. Section 4.2 of Chapter I is amended as follows:

Each servicer must develop and implement a policy that identifies experience and training requirements for the relationship manager position and the appropriate caseload levels to ensure

that relationship managers can successfully fulfill the requirements of this Section 4. The policy must include a provision for providing effective relationship management to borrowers whose primary language is other than English. The relationship manager must be supported by an organizational structure that is capable of carrying out the relationship manager’s responsibilities described in this Section 4 when the relationship manager is not available. *In the event the caseload distribution necessitates re-assignment of a relationship manager, the servicer may do so, provided that it is in accordance with the servicer’s policy on caseload management, and written notification of changed contact information is provided to the borrower within five business days of assignment of the new relationship manager in accordance with Section 4.*

D. The ninth row of the table in Section 1.2 of Chapter II is deleted:

HUD Counseling	Borrowers with back-end ratios of 55 percent or more must agree in writing to obtain HUD-approved counseling as a condition of receiving a permanent modification, even if they recently completed counseling. See Section 6.7 for more information.
----------------	---

E. Section 6.7 of Chapter II is amended as follows:

6.7 Counseling Requirement

Servicers that (i) are subject to the terms of a SPA and (ii) either (a) have a Program Participation Cap of \$75,000,000 or more as of September 30, 2013 or (b) elect to adopt the guidance set forth in this Section 6.7 must establish and implement a process to offer budget and debt management counseling (“financial counseling”) to certain borrowers who have received a trial period plan or permanent modification under HAMP pursuant to this Section 6.7. The objective of the financial counseling is to assist the borrower in staying current on his or her modified mortgage loan. Although this guidance does not require a specific number of financial counseling sessions for each borrower, financial counseling must be offered either as a multi-staged approach or over multiple appointments such that a full financial counseling session for each borrower may span several months. The financial counseling offered must include the following components:

- *Addressing the borrower’s current overall financial situation;*
- *Addressing the hardship or other issue(s) that caused the borrower to default on his or her loan (as modified, if applicable) or necessitated a modification of the borrower’s mortgage loan under HAMP;*
- *Ensuring that the borrower understands the terms of his or her HAMP modification (including any future rate resets) and, if applicable, any TPP; and*
- *Advising the borrower on how to adhere to the terms of the HAMP modification and, if applicable, any TPP.*

Each such servicer must select and engage a financial counseling vendor(s) to provide the financial counseling services required under this Section 6.7. The vendor must be a HUD-approved housing counseling agency with demonstrated expertise in providing the type of financial counseling described above, and must have sufficient capacity to manage the

anticipated volume of referred borrowers. Servicers must engage additional HUD-approved housing counseling agencies as necessary or appropriate to meet the demand. Servicers may leverage their existing relationships with HUD-approved housing counseling agencies, or create new relationships, if and as needed. Servicers are responsible for the cost of financial counseling and all related expenses. Furthermore, each servicer is responsible for monitoring its selected HUD-approved housing counseling agency's performance under its agreements and ensuring that such performance is consistent with the requirements of, and any policies and procedures established by the servicer in connection with, this Section 6.7. The financial counseling services required under this Section 6.7 must be provided at no cost to the borrower.

~~Borrowers with back end ratios of 55 percent or more must agree in writing to obtain HUD-approved counseling as a condition of receiving a HAMP modification, even if they recently completed counseling. Servicers use income and expense information from borrowers provided on the RMA and other sources to calculate the back end ratio. The borrower's total monthly debt ratio (back end ratio) is the ratio of the borrower's monthly gross expenses divided by the borrower's monthly gross income.~~

~~Servicers must send a HAMP Counseling Letter to borrowers with a post HAMP modification back end ratio equal to or greater than 55 percent. The HAMP Counseling Letter states that the borrower must work with a HUD-approved housing counselor on a plan to reduce their total indebtedness below 55 percent. The letter also describes the availability and advantages of counseling and provides a list of local HUD-approved housing counseling agencies and directs the borrower to the appropriate HUD Website where such information is located. The borrower must represent in writing in HAMP documents that he or she will obtain such counseling.~~

~~Face to face counseling is encouraged. However, telephone counseling is also permitted from HUD-approved housing counselors provided it covers the same topics as face to face sessions. Telephone counseling sessions provide flexibility to borrowers that are unable to attend face-to-face sessions or for those borrowers that do not have an eligible provider within their area.~~

6.7.1 Approved Counselors Solicitation of Borrowers

~~A list of approved housing counseling agencies is available at <http://www.hud.gov/offices/hsg/sfh/hcc/fe> or by calling the toll free housing counseling telephone referral service at 1-800-569-4287. Servicers must retain in the mortgage file and or servicing system evidence of the borrower notification.~~

6.7.1.1 Borrowers Entering New HAMP TPPs

Any borrower with a TPP Effective Date on or after March 1, 2013 must be referred to financial counseling under this Section 6.7 at the start of the TPP. Servicers shall assign an employee, who understands the requirements of this Section 6.7, to serve as a "relationship manager" for purposes of this Section 6.7. In the case of servicers subject to Section 4.1 of Chapter I, such employee shall be the "relationship manager" described in such Section.

Servicers must provide written notice to borrowers entering a TPP on or after March 1, 2013 informing them of the financial counseling services available to them and the contact information for the servicer's chosen HUD-approved housing counseling agency. Servicers should include this notice in the envelope with the TPP Notice when it is sent to the borrower. In addition, a reasonable effort must be made to contact the borrower directly. For purposes of this Section 6.7, a "reasonable effort" consists of a minimum of four telephone calls to the last known phone numbers of record at different times of the day over at least 30 calendar days; provided, however, that efforts to contact the borrower may be halted before making four telephone calls when the borrower has been successfully contacted and has either accepted or declined the offer of financial counseling. Servicers must use one of the following two methods of contacting borrowers entering new HAMP TPPs:

- A "warm transfer": The relationship manager commences within 30 days of delivery of the TPP Notice to use reasonable efforts to contact the borrower and, with the borrower's agreement, connects the borrower to its designated HUD-approved housing counseling agency; or*
- A "vendor outreach": Within 30 days of sending the TPP Notice, the servicer must send its designated HUD-approved housing counseling agency a file with basic contact information for the borrower entering the TPP, including borrower name, address and phone number ("inclusion file"), and require its HUD-approved housing counseling agency to commence within 30 days of receipt of an inclusion file to use reasonable efforts to contact the borrower. Servicers may consolidate multiple borrowers who enter into TPPs contemporaneously into a single inclusion file.*

The use of the warm transfer is preferable to vendor outreach. Only servicers that are not capable of conducting warm transfers should use vendor outreach.

6.7.1.2 Borrowers with Existing HAMP Permanent Modifications in Good Standing

Each servicer must establish and maintain written guidelines and policies identifying the characteristics of borrowers in the servicer's portfolio of HAMP permanent modifications in good standing that the servicer considers to be at a high risk of re-default. Servicers must provide copies of all such guidelines and policies to Treasury and its agents upon request. At a minimum, such guidelines and policies must require a monthly review and determination, commencing on March 1, 2013 for each borrower in the servicer's portfolio of HAMP permanent modifications in good standing, of whether the borrower is a "Risk of Default Borrower" which is defined as a borrower (i) who is delinquent on the date of determination and (ii) who was delinquent on his or her HAMP permanent modification payment at any other time during the 12 month period preceding the determination. Servicers are encouraged to define additional borrower characteristics in their written guidelines and policies that may indicate a high risk of re-default for inclusion in the monthly determination process.

Commencing on March 1, 2013 and each month thereafter, each servicer must identify the Risk of Default Borrowers in its portfolio and each Risk of Default Borrower must be offered financial counseling as set forth in this Section 6.7. Servicers also must offer the financial counseling described above to any borrower whose mortgage loan is in a HAMP permanent

modification in good standing who contacts the servicer with concerns about their ability to make the modified mortgage payment.

Each month, or more frequently if the servicer chooses, the servicer will send its designated HUD-approved housing counseling agency an inclusion file of Risk of Default Borrowers identified that month and require the HUD-approved housing counseling agency to commence within 30 days of receipt of the inclusion file to use reasonable efforts (as defined above) to contact each identified Risk of Default Borrower. In addition, each Risk of Default Borrower identified by the servicer must be sent written notice referring them to the HUD-approved housing counseling agency and including the HUD-approved housing counseling agency's contact information. The letter should also provide contact information at the servicer where the borrower can call if they have any questions.

Notwithstanding the foregoing, servicers are not required to refer a borrower to financial counseling if the borrower (i) has received two prior referrals to financial counseling in accordance with this Section 6.7 or (ii) has completed a full financial counseling engagement as described above. Servicers, however, should feel free to refer borrowers to financial counseling at any time in appropriate cases (such as changes in circumstance) despite these limitations. For purposes of this Section 6.7, a "referral" is deemed to have been made when a servicer or a HUD-approved housing counseling agency, as applicable, has satisfied the reasonable effort standard (as described above) for contacting a borrower and offering financial counseling.

6.7.2 ~~Paying for Counseling~~ Post-Modification Financial Counseling Reports

Servicers are required to maintain reports of how many borrowers (i) are offered financial counseling pursuant to this Section 6.7, (ii) accept such financial counseling, and (iii) complete a full financial counseling engagement as described above, all of which must be provided to Treasury and its agents upon request. Servicers must also maintain such information as is necessary to monitor the borrower's performance under the modified loan after having received the financial counseling described above.

~~There is no charge to either borrowers or servicers for HUD approved counseling. Servicers may, at their discretion, use a portion of the servicer incentive compensation to compensate counselors for counseling services provided in conjunction with HAMP.~~

F. Section 13.1.1 of Chapter II is amended as follows:

A servicer will receive compensation in accordance with the following chart for each completed modification under HAMP.

No. of days delinquent at TPP Effective Date	Incentive Amount
Less than or equal to 120 days delinquent (150 days from Last Paid Installment (LPI))	\$1,600 <i>\$2,000</i>
121 days or more delinquent to and including 210 days delinquent (151 to 240 days from LPI), or 210	\$1,200 <i>\$1,600</i>
Greater than 210 days delinquent (greater than 240 days from LPI)	\$400 <i>\$800</i>