

*Supplemental Directive 13-11*

*November 15, 2013*

***Making Home Affordable<sup>®</sup> Program – Handbook Mapping for CFPB Mortgage Servicing Regulations Guidance***

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program to stabilize the housing market and to 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 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).

On October 18, 2013, Treasury issued Supplemental Directive 13-09 providing updated guidance for the Home Affordable Modification Program<sup>®</sup> (HAMP), the Home Affordable Unemployment Program<sup>®</sup> (UP), and the Home Affordable Foreclosure Alternatives (HAFA) Program<sup>®</sup> related to certain mortgage servicing rules under Regulation X, implementing the Real Estate Settlement Procedures Act of 1974 issued by the Bureau of Consumer Financial Protection (CFPB) on January 17, 2013 and amended on September 13, 2013. This Supplemental Directive provides mapping of the *Handbook* for the guidance provided in Supplemental Directive 13-09. The changes to the *Handbook* are effective as of January 10, 2014.

This guidance applies to servicers that are subject to the terms of a Servicer Participation Agreement and related documents (SPA). 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).

**EXHIBIT A**  
**MHA HANDBOOK MAPPING**

**I. NEW HANDBOOK SECTIONS**

**A. A new Section 4.6.1 of Chapter II is inserted in its entirety as follows:**

**4.6.1 Complete Loss Mitigation Application**

The servicer must review and evaluate the borrower within 30 calendar days from the date a complete Loss Mitigation Application is received. If the borrower qualifies for HAMP, the servicer must send the borrower a TPP Notice. If the borrower does not qualify for HAMP, the servicer must send the borrower a Non-Approval Notice satisfying the requirements of Section 2.3.2 and applicable law and regulations. This need not be a separate notice, and may be included with or incorporated into another notice sent to the borrower.

A servicer may be required under the CFPB Regulations to determine a borrower's eligibility in the absence of documents and information required from third parties (such as a taxing authority or homeowners' association) and not in the borrower's control. In such cases, servicers are directed to exercise reasonable diligence in obtaining the missing documents and information within the 30-day evaluation period. To the extent possible, servicers should not allow the absence of such information to adversely affect a borrower who has delivered a complete Loss Mitigation Application.

If a servicer determines that the foregoing CFPB requirement does not apply, the servicer may delay a borrower's evaluation until the servicer has received the necessary third party documents or information. In such cases, the borrower's relationship manager, where applicable, or other servicer representative must contact the borrower by mail, email or phone within 30 calendar days of receipt of the Initial Package to describe the cause of the delay and provide a date, which shall be no more than 30 calendar days thereafter, by which the servicer expects to complete the evaluation and issue the HAMP decision. If by that later date, the servicer still has not received necessary third-party documentation, the servicer must contact the borrower every 30 days with an updated status and the expected date of resolution until a decision is reached. All such communications must be documented in the mortgage file and/or servicing system.

**B. A new Section 4.6.2 of Chapter II is inserted in its entirety as follows:**

**4.6.2 Incomplete Loss Mitigation Application**

If the servicer has exercised reasonable diligence in obtaining documents and information to complete a Loss Mitigation Application but the Loss Mitigation Application remains incomplete for a significant period of time under the circumstances without further progress by the borrower to make the Loss Mitigation Application complete, the servicer must take one of the following actions:

- If the borrower has provided all documentation or information necessary to evaluate the borrower for HAMP, the servicer must evaluate the borrower's eligibility for HAMP and send a TPP Notice or a Non-Approval Notice, as described above in Section 4.6.1.
- If the borrower has not provided all documentation or information necessary to evaluate the borrower for HAMP, the servicer may determine the borrower to be currently ineligible for HAMP. Such determination shall not preclude the borrower from being considered for HAMP in the future per program guidelines, including, but not limited to, the guidance related to changes in circumstance. If the servicer elects to make such a determination, the servicer must send the borrower a Non-Approval Notice satisfying the requirements of Section 2.3.2 and applicable law and regulations. This notice may be included with or incorporated into another notice sent to the borrower, and should inform the borrower of the circumstances, if any, under which the borrower may be eligible to be re-evaluated for HAMP in the future.

Each servicer must establish and maintain written policies that describe the servicer's methods of exercising reasonable diligence and how they will assess when a significant period of time under the circumstances without further progress by a borrower has elapsed for a given borrower, and must apply all such policies consistently to similarly situated borrowers. Servicers must provide copies of all such policies to Treasury and its agents upon request.

## **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. Section 2.2 of Chapter I is amended to add the following text as the fourth bullet:**

- *If applicable, documentation supporting the servicer's determination as to whether CFPB Regulations apply to a loan being evaluated for one or more MHA options. The term "CFPB Regulations" as used above and throughout this Handbook refers to those certain mortgage servicing rules issued by the CFPB under Regulation X, implementing RESPA and relating to the development of general servicing policies and procedures, early intervention with certain borrowers, continuity of contact and loss mitigation procedures.*

### **B. The first six paragraphs of Section 2.2 of Chapter II are amended as follows:**

Each servicer must have clear and comprehensive internal written policies for identification and solicitation of borrowers who are potentially eligible for HAMP based on information in the servicer's possession. These procedures should follow investor guidelines and comply with all contractual restrictions.

Servicers must pre-screen all first lien mortgage loans where two or more payments are due and unpaid to determine if they meet the following basic criteria for consideration under HAMP:

- One-to-four unit residential property,
- Not condemned or not in such poor physical condition that the property is not habitable even if not condemned,
- Loan originated on or before January 1, 2009,
- UPB does not exceed HAMP limits, and
- Not previously modified under HAMP.

Subject to the foregoing, servicers must proactively solicit for HAMP any borrower whose loan passes this pre-screen, unless the servicer has documented that the investor is not willing to participate in HAMP pursuant to the requirements outlined in Section 1.3 of Chapter I, except that services are not required to solicit borrowers who, prior to June 1, 2012:

- Were two or more payments delinquent and did not occupy the mortgage property as a principal residence;
- Were two or more payments delinquent and were already solicited in accordance with the “Reasonable Effort” requirement;
- Were evaluated and determined to be ineligible for HAMP; or
- Had a payment default on a TPP or lost good standing on a HAMP Tier 1 permanent modification.

Though proactive solicitation is not required, on and after June 1, 2012 and subject to the guidelines set forth in Section 1.2 under “Continued Eligibility due to Change in Circumstances,” all of these classes of borrowers may request consideration for HAMP and, upon submission of, an Initial Package ~~or, at a minimum, an RMA~~, must be evaluated for the appropriate HAMP Tier based on their eligibility. Furthermore, if any of such class of borrower cures the original delinquency that occasioned an initial solicitation or evaluation for HAMP and such borrower subsequently re-defaults, servicer must re-screen the borrower for HAMP as appropriate and in accordance with the guidance below in Section 2.2.1.

Solicitation is for general assistance under the MHA Program and need not be specific as to HAMP Tier 1 or Tier 2. Solicitation must include written communication clearly describing HAMP. Use of the form of solicitation letter available on [www.HMPadmin.com](http://www.HMPadmin.com) shall satisfy this requirement. The servicer’s HAMP solicitation may also identify other options potentially available to help the borrower cure the delinquency and retain homeownership.

Servicers may, but are not required to, proactively solicit for HAMP Tier 2 a borrower who defaulted on a HAMP Tier 1 TPP prior to June 1, 2012. However, upon receipt of, ~~at a minimum, an RMA or~~ an Initial Package, a servicer must consider for HAMP Tier 2 any borrower who previously defaulted on a HAMP Tier 1 TPP.

**C. Section 2.2.2 of Chapter II is amended as follows:**

Successful efforts by a servicer to communicate with the borrower or co-borrower about resolution of the delinquency are termed “Right Party Contact” for purposes of this *Handbook*. If Right Party Contact is established and the borrower 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, which is required to be submitted by the borrower to request a HAMP modification. The communication should:

- Describe the income evidence required to be evaluated for HAMP;
- Provide the RMA (or other proprietary financial information form substantially similar in content to the RMA and, if necessary, a Hardship Affidavit);
- Depending on the servicer's Verification Policy, either, (i) include an Internal Revenue Service (IRS) Form 4506T-EZ (or IRS Form 4506-T, if necessary) or (ii) if such form is not required by the servicer's Verification Policy, describe the requirement that the borrower deliver a copy of the borrower's tax return for the most recent tax year, including all applicable schedules and forms; servicers may request, but not require, the submission of both an IRS Form and a complete tax return for the most recent tax year; and
- Include the form of the Dodd-Frank Certification.

The communication should also include clear language stating that during the HAMP evaluation the home will not: (i) be referred to foreclosure; or (ii) be sold at a foreclosure sale if the foreclosure process has already been initiated. In the communication, the servicer must include a specific date by which the Initial Package ~~must~~ *should* be returned, which must be no less than 15 calendar days from the date of the communication.

If Right Party Contact is established prior to satisfaction of the Reasonable Effort standard, the servicer must continue to take steps to satisfy the Reasonable Effort standard until ~~the Initial Package~~ *at least one component of a Loss Mitigation Application (as defined in Section 4)* is submitted by the borrower.

If Right Party Contact is established, ~~but the borrower does not submit any documents in response to the Initial Package communication, at a minimum the RMA,~~ the servicer must resend the Initial Package communication ~~and may elect to follow the Incomplete Information Notice requirements set forth below in Section 2.3.3.~~ Again, the servicer must include a specific date by which the Initial Package ~~must~~ *should* be returned, which must be no less than 15 calendar days from the date of the second communication. If the borrower does not respond by providing *any component of an Initial Package, or, at a minimum, an RMA,* within the required time period set forth in the second communication, the servicer may determine the borrower to be currently ineligible for HAMP.

If Right Party Contact is established, ~~but and the borrower submits an RMA but not the other any components of the Initial Package Loss Mitigation Application within the required time period,~~ the servicer must *send an "Acknowledgement" and, to the extent applicable, comply with the "Incomplete Information Notice" requirements set forth below in Section 2.3.3 4.5.* ~~If the borrower does not respond to either the 30-day Incomplete Information Notice or the 15-day Incomplete Information Notice by providing an Initial Package within the required time period, the servicer may determine the borrower to be currently ineligible for HAMP.~~

~~Servicers must acknowledge receipt of the Initial Package within 10 business days per the requirements in Section 4.5 and determine within 30 calendar days whether to respond with an~~

~~Incomplete Information Notice (as outlined in Section 2.3.3), a TPP Notice (as outlined in Section 8.1) or a Non-Approval Notice (as outlined in Section 2.3.2). Such response must be sent within 10 business days of such determination.~~

**D. The first paragraph of Section 2.3 of Chapter II is amended as follows:**

A servicer must send a Borrower Notice to every borrower that has been evaluated for HAMP, but is not offered a TPP, is not offered a permanent modification or is at risk of losing eligibility for HAMP because they have failed to provide required financial documentation. A borrower has been “evaluated” for HAMP using verified information on or after June 1, 2010 if the borrower has submitted ~~an RMA or~~ an Initial Package to the servicer.

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

A Non-Approval Notice must be mailed no later than 10 business days following the date of the servicer’s determination that a TPP or a permanent HAMP modification will not be offered. ~~Such determination must be made within 30 calendar days of receipt of the Initial Package. Such determination must be made in accordance with the guidance provided under Section 4.6. This need not be a separate notice, and may be included with or incorporated into another notice sent to the borrower.~~

**F. Section 2.3.3 of Chapter II is amended as follows:**

~~2.3.3 Incomplete Information Notice Reserved~~

~~If the servicer receives an RMA but not a complete Initial Package, or receives a complete Initial Package but needs additional documentation from the borrower to verify the borrower’s eligibility and income, the servicer must send the borrower an Incomplete Information Notice that lists the additional documentation that the servicer requires to verify the borrower’s eligibility. The Incomplete Information Notice must include a specific date by which the documentation must be received, which must be no less than 30 calendar days from the date of the notice. If the documents are not received by the date specified in the notice, the servicer must make one additional attempt to contact the borrower in writing regarding the incomplete documents. This additional notice must include the specific date by which the documentation must be received, which must be no less than 15 calendar days from the date of the second notice. If a borrower is unresponsive to these requests for documentation, the servicer may discontinue document collection efforts and determine the borrower to be currently ineligible for HAMP. In such an instance, the servicer must send the borrower a Non-Approval Notice.~~

~~Notwithstanding the foregoing, if a borrower submits an incomplete Initial Package and the servicer can, based on the information and documentation submitted, determine that the borrower is not eligible for HAMP, then the servicer may issue a Non-Approval Notice to the borrower reflecting the reasons for non-approval, without requesting documents to complete the Initial Package.~~

**G. Section 4 of Chapter II is amended to add the following after the first paragraph:**

*A “Loss Mitigation Application” consists of (i) the “Initial Package” described above and (ii) to the extent a servicer is required under CFPB Regulations to consider a borrower for HAMP contemporaneously with all other loss mitigation options available to the borrower, those other documents and information the servicer requires in order to evaluate the borrower for such options. However, servicers are reminded that the first loss mitigation option considered by servicers for each borrower shall continue to be HAMP, in accordance with existing guidance.*

**H. Section 4.5 of Chapter II is amended as follows:**

~~4.5 Acknowledgment of Initial Package and Incomplete Information Notice~~

~~Within 10 5 business days following receipt of an Initial Package any component of a Loss Mitigation Application, the servicer must acknowledge in writing the borrower’s request for HAMP participation by sending the borrower confirmation that the Initial Package Loss Mitigation Application was received and inform the borrower whether their application is complete or incomplete (Acknowledgement). The Acknowledgement should also include a description of the servicer’s evaluation process and timeline. If the Initial Package Loss Mitigation Application is received from the borrower via e-mail, the servicer may e-mail the Acknowledgement. Servicers must maintain evidence of the date of receipt of the borrower’s Initial Package Loss Mitigation Application in its their records.~~

~~A single written communication sent within 10 business days of receipt of a borrower’s request for HAMP participation may also include, at the servicer’s discretion, the results of its review of the Initial Package.~~

~~If the Loss Mitigation Application is incomplete, the servicer must also send the borrower an incomplete information notice (Incomplete Information Notice) that lists the additional documents and information that the borrower must submit to complete the Loss Mitigation Application. The Incomplete Information Notice must include a specific date by which the documentation must be received, which must be no less than 30 calendar days from the date of the notice, except that the servicer may require a shorter period consistent with applicable law and the best interests of the borrower. The servicer must document in the mortgage file the reason(s) for any shorter time frame and the facts and circumstances supporting such determination. If a borrower is unresponsive to this request for documentation, the servicer should follow the guidance set forth in Section 4.6.2.~~

**I. Section 4.6 of Chapter II is amended as follows:**

~~4.6 Review of Initial Package Loss Mitigation Application~~

~~Within 30 calendar days from the date an Initial Package is received, the servicer must review the documentation provided by the borrower and if the servicer has sufficient documentation to make a determination, the servicer must evaluate the borrower’s eligibility for HAMP and either:~~

- ~~• Send the borrower a TPP Notice (see Section 8.1); or~~
- ~~• Make a determination that the borrower is not eligible for HAMP and communicate this determination to the borrower in accordance with the guidance in Section 2.3.2.~~

~~If the servicer receives either (i) an RMA but not an Initial Package or (ii) an Initial Package but needs additional documentation from the borrower to verify the borrower's eligibility and income, the servicer must send the borrower an Incomplete Information Notice in accordance with the guidance set forth in Section 2.3.3.~~

~~If the servicer cannot make a timely decision because it does not have documentation required from a party other than the borrower such as a taxing authority or home owners' association, the borrower's relationship manager, where applicable, or other servicer representative must contact the borrower by mail, email or phone within 30 calendar days of receipt of the Initial Package to describe the cause of the delay and provide a date, which shall be no more than 30 calendar days thereafter, by which the servicer expects to complete the evaluation and issue the HAMP decision. If by that later date, the servicer still has not received necessary third-party documentation, the servicer must contact the borrower every 30 days with an updated status and the expected date of resolution until a decision is reached. All such communications must be documented in the mortgage file and/or servicing system.~~

**J. Section 4.1 of Chapter III is amended as follows:**

A request for UP consideration may be made by phone, mail, fax or e-mail. Servicers must document the date of the UP request in the mortgage file and/or servicing system. Evidence of borrower submission must be provided by postmark or other independent indicator such as a date and time stamp (electronic or otherwise) evidencing submission by the borrower on or before December 31, 2015. Once the borrower requests consideration for UP, the servicer must send the borrower a written notice within ~~10~~ 5 business days confirming the receipt of the request and providing a list of the required documentation, including unemployment benefit information. The due date for the required documentation may not be less than 15 calendar days from the date of the servicer communication. The servicer must indicate in the mortgage file and/or servicing system when it determines all required documentation has been received.

After receiving the borrower's required documentation, the servicer must determine the borrower's eligibility for UP within 30 calendar days, including the determination that the borrower has met the hardship requirement in Section 2.1. The servicer must mail an FPN or, *to the extent permitted by CFPB Regulations*, a Non-Approval Notice, to the borrower within 10 business days following the date of the servicer's determination.

*Servicers should establish procedures for tracking borrowers' employment status and include any applicable borrower instructions in the FPN, as described below.*

**K. Section 4.2.1 of Chapter III is amended as follows:**

The minimum UP forbearance period is the lesser of 12 months or upon notification that the borrower has become re-employed. ~~Servicers should establish procedures for tracking borrowers' employment status and include any applicable borrower instructions in the FPN, as described below.~~

*Notwithstanding the foregoing, if a borrower has requested assistance consistent with MHA Program guidance but has not otherwise submitted a complete Loss Mitigation Application and the servicer has determined that CFPB Regulations do not permit the servicer to offer the minimum UP forbearance period described above, the servicer may limit the forbearance period under UP to the lesser of six months or the length of time from the beginning of the forbearance period until the servicer receives notification that the borrower has been re-employed. In such a situation, 30 days prior to the expiration of the six-month forbearance period, the servicer must contact the borrower to determine if the borrower wishes to complete the Loss Mitigation Application and proceed with a full loss mitigation evaluation.*

There is no maximum forbearance period; however, servicers are not required to offer forbearance for a term that would cause the dollar amount of the borrower's delinquency to exceed 12 months of the borrower's scheduled monthly mortgage payment (which includes taxes and insurance for those loans where such expenses are escrowed). *The submission of a complete Loss Mitigation Application during a forbearance period offered based on an incomplete Loss Mitigation Application initiates the 30-day period during which the servicer evaluates the borrower as required under Section 4.6.1 of Chapter II.*

**L. Section 4.2.2 of Chapter III is amended to add the following after the first paragraph:**

*If (i) the servicer determines that it must offer a six-month forbearance period pursuant to the second paragraph of Section 4.2.1 above and the borrower's Loss Mitigation Application remains incomplete at the expiration of such initial six-month forbearance period, (ii) if a servicer reassessment indicates that extending the forbearance period is the best option for the borrower, and (iii) the borrower continues to meet the eligibility requirements under UP, then the servicer must extend the initial six month forbearance period for one additional six month period. At the end of the second six month forbearance period, the servicer may extend the forbearance in additional increments at the servicer's discretion. Notwithstanding the foregoing, any UP forbearance period shall expire earlier upon the borrower's re-employment. If the servicer determines based on its reassessment that extending the forbearance period is not the best option for the borrower or if the borrower no longer meets the eligibility requirements for UP, the servicer should follow the guidance in Chapter II, Section 4.6.2.*

**M. The first paragraph of Section 4.3 of Chapter III is deleted:**

~~As described above in Section 4.1, after receiving the borrower's required documentation, the servicer is required to determine the borrower's eligibility for UP and send the borrower either an FPN or a Non Approval Notice. For existing UP forbearance plans, at least 30 days prior to~~

~~the expiration date, the servicer is required to determine if an extension will be provided and mail an FPN, as applicable, within 10 business days following the determination. A Non-Approval Notice is not required when an extension is not granted.~~

**N. The first paragraph of Section 5.2 of Chapter III is amended as follows:**

~~At the earlier of 30 days following notification that the borrower has found employment or 30 days prior to expiration of the forbearance period, the servicer must provide a HAMP eligible borrower with an Initial Package of HAMP documents and, upon receipt of an Initial Package (as defined in Section 4 of Chapter II) from the borrower, determine if the borrower wishes to submit a complete Loss Mitigation Application. If the borrower does wish to submit a complete Loss Mitigation Application, the servicer must send the borrower the Initial Package communication as described in Chapter II, Section 2.2.2. If the borrower submits a complete Loss Mitigation Application, the servicer must evaluate the borrower in accordance with ~~for~~ HAMP. Both the borrower and the servicer must adhere to the timing and notice requirements in Section 4.5 and Section 4.6.1 of Chapter II. The servicer may extend the forbearance period by a maximum of 30 days as needed to allow the borrower time to submit the needed documentation.~~

A borrower that has obtained employment during or after an UP forbearance plan or Non-MHA Unemployment Assistance, but still has a financial hardship and otherwise meets HAMP eligibility criteria, must be considered for HAMP (Tier 1 and/or Tier 2) prior to consideration of other loss mitigation alternatives.

**O. Section 3 of Chapter IV is amended as follows:**

Servicers may not solicit a borrower for HAFA until the borrower has been evaluated for HAMP in accordance with the requirements of Chapter II or has declined the offer of HAMP consideration. Borrowers that meet the eligibility criteria for HAMP but who are not offered a TPP, do not successfully complete a TPP, default on a permanent HAMP modification or decline the offer of HAMP consideration should first be considered for other loan modification or retention programs offered by the servicer prior to being evaluated for HAFA. There is no occupancy requirement for HAFA and no limit on the number of properties owned by a borrower that may be approved under HAFA.

*Notwithstanding the foregoing, CFPB Regulations may require a servicer to consider a borrower for HAFA contemporaneously with considering the borrower for HAMP and other home retention options. Where an offer of HAFA is made in a case where the servicer determines that CFPB Regulations so require, the servicer's offer of HAFA may be made subject to receipt of information not in the borrower's possession.*

**P. The first sentence of Section 4.1 of Chapter IV is amended as follows:**

If a borrower 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 and has not previously executed a Hardship Affidavit, and does not satisfy the Pre-Determined Hardship parameters, the servicer must, within ~~40~~ 5 business days following receipt of either a request for a short sale or DIL or a

request for approval of an executed short sales contract before the servicer has pre-approved a HAFA short sale, send written confirmation to the borrower acknowledging the request.

**Q. The second sentence in the first paragraph of Section 8 of Chapter IV is amended as follows:**

Within 10-5 business days of receipt of an executed sales contract, the servicer must send to the borrower written acknowledgement of the receipt of the borrower's request for approval of an executed sales contract using the Acknowledgement of Request for Short Sale (ARSS) in the form posted on [www.HMPadmin.com](http://www.HMPadmin.com) or another written acknowledgement similar in content.

**R. The fourth paragraph of Section 8 of Chapter IV is deleted:**

~~If the servicer is unable to respond within the applicable 30 calendar days 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 a written response to the borrower's request.~~