

Supplemental Directive 14-01

March 3, 2014

Making Home Affordable[®] Program – Handbook for Servicers Version 4.4 and Administrative Clarifications

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program, a plan to stabilize the housing market and help struggling homeowners get relief and avoid foreclosure. In March 2009, the U.S. Department of the Treasury (Treasury) issued uniform guidance for loan modifications by participants in MHA[®] across the mortgage industry and subsequently updated and expanded that guidance in a series of Supplemental Directives, frequently asked questions (FAQs) and waivers.

In this Supplemental Directive, Treasury is issuing Version 4.4 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 or Freddie Mac (Non-GSE Mortgages). Servicers of mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac (GSE) should refer to any relevant guidance issued by the applicable GSE. In addition to the applicable guidance in the *Handbook*, servicers of mortgage loans insured or guaranteed by a federal agency, such as the Federal Housing Administration or Rural Housing Service, should refer to any relevant guidance issued by the applicable agency.

Issuance of Version 4.4 of Handbook

Generally, Version 4.4 of the *Handbook* includes revisions to existing sections of Version 4.3 of the *Handbook* that have been issued in Supplemental Directives with effective dates after the publication of Version 4.3 of the *Handbook* and as of the date of this Supplemental Directive.

Version 4.4 of the *Handbook* incorporates and supersedes in their entirety Supplemental Directives 13-07, 13-08, 13-09, 13-10, 13-11, and 13-12.

The *Handbook* will be updated periodically with new policy or procedural changes as they are announced. To the extent that any Supplemental Directive, FAQ or waiver has not been incorporated into and superseded by the *Handbook*, it continues to apply, and any references in such documents to guidance that has been incorporated into the *Handbook* are deemed to refer to the applicable Chapter and Section of the *Handbook* containing such guidance.

The *Handbook* is available on www.HMPadmin.com.

Administrative Clarifications Incorporated into Version 4.4 of the *Handbook*

In addition, Version 4.4 of the *Handbook* incorporates administrative clarifications into several sections of Version 4.3 of the *Handbook*. These clarifications are effective immediately and include the following:

Making Home Affordable Outreach and Borrower Intake Project

Section 4.7 of Chapter II of the *Handbook* provides guidance to servicers subscribed to Hope LoanPort[®] (HLP) regarding the acceptance or rejection of an Initial Package that has been submitted by a participating housing counseling agency on behalf of a borrower via HLP. This Supplemental Directive revises Section 4.7 to conform to recent updated guidance to the Home Affordable Modification Program[®] related to certain mortgage servicing rules issued by the Bureau of Consumer Financial Protection (CFPB), as set forth in Supplemental Directives 13-09 and 13-11.

Specifically, Section 4.7.2 of Chapter II in Version 4.4 of the *Handbook* clarifies that entry of a rejection code through HLP does not constitute a denial of a borrower for MHA consideration and only denotes that the submission is not eligible for funding under the Making Home Affordable Outreach and Borrower Intake Project.

In addition, Section 4.7.3 of Chapter II in Version 4.4 of the *Handbook* clarifies that, if a borrower is determined to be ineligible for any MHA program, servicers must follow the guidance set forth in Section 4.6 regarding the review of a Loss Mitigation Application. Similarly, Section 4.7.4 now refers servicers to the Incomplete Information Notice guidance set forth in Section 4.5 in the event that an Initial Package received by the servicer through HLP is not complete.

Suspension of a Referral to Foreclosure

Supplemental Directive 13-12 provided that if a borrower submits an incomplete Loss Mitigation Application, the servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice as required under Section 4.5 of Chapter II of the *Handbook* (as amended in Supplemental Directives 13-09 and 13-11), and provided the borrower's Loss Mitigation Application remains incomplete on the date of referral.

This Supplemental Directive provides that the additional condition set forth above is also applicable to a servicer's consideration of a borrower for the Home Affordable Unemployment Program and the Home Affordable Foreclosure Alternatives[®] Program. Section 3.1 of Chapter III and Section 5 of Chapter IV, respectively, have been revised in Version 4.4 of the *Handbook* to reflect this guidance.

Post-Modification Counseling Solicitation Requirement for Borrowers in or Discharged from Bankruptcy

Supplemental Directive 13-08 required servicers to offer financial counseling to certain borrowers who have received a trial period plan or permanent modification under HAMP. In particular, servicers were required to make a “reasonable effort” to contact such borrowers, and Section 6.7.1.3 of Chapter II of the *Handbook* (amended by Supplemental Directive 13-12) describes circumstances when the solicitation requirement is satisfied.

This Supplemental Directive clarifies that servicers are not required to solicit borrowers in active Chapter 7 or Chapter 13 bankruptcy cases for the financial counseling described in Supplemental Directive 13-08. However, such borrowers must be offered the financial counseling if the borrower, borrower’s counsel or bankruptcy trustee requests it.

In addition, this Supplemental Directive clarifies that servicers are not required to make the four telephone calls described in Supplemental Directive 13-08 with respect to any borrower who received a Chapter 7 bankruptcy discharge in a case where he or she did not reaffirm the first lien mortgage debt. However, the servicer must provide the written notice described in Supplemental Directive 13-08 referring the borrower to the HUD-approved housing counseling agency and include the contact information.

Handbook Mapping Clean-Up and Clarifications

- Sections 6.7.1.2 and 6.7.1.3 of Chapter II of the *Handbook* (as added in Supplemental Directive 13-08) are amended to specify that the reasonable effort standard for contacting a borrower and offering financial counseling is defined in Section 6.7.1.1 of Chapter II.
- The Incomplete Information Notice model clause has been revised to delete the reference to the date of a second Incomplete Information Notice, consistent with the changes in Supplemental Directives 13-09 and 13-11.

EXHIBIT A
MHA HANDBOOK MAPPING

I. CONFORMING 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 4.7.2 of Chapter II is amended as follows:

If, during the 30 day review period described in Section 4.7.1, the servicer determines that (i) it does not service the applicable loan; (ii) the borrower has already submitted an Initial Package that includes the required elements (either directly to the servicer, through another housing counseling agency or other third party); (iii) the borrower has already been evaluated for HAMP and, under the servicer's policy governing reconsiderations, the borrower is not eligible for re-evaluation for HAMP; or (iv) the Initial Package was received after midnight of the seventh business day prior to a scheduled foreclosure sale, the servicer must enter the appropriate rejection code into HLP. *The entry of a rejection code through HLP does not constitute a denial of MHA consideration, rather, only that the submission is not eligible for funding under the MHA Outreach and Borrower Intake Project.* No further action is required by the servicer on that HLP submission. Borrowers or housing counseling agencies, on behalf of borrowers, who disagree with the decision may escalate through the escalation process described in Section 3 of Chapter I of this Handbook.

B. Section 4.7.3 of Chapter II is amended as follows:

If, during the 30 day review period described in Section 4.7.1, the servicer determines that the borrower does not meet the basic eligibility criteria for any MHA program as defined in Section 1.1.1, the servicer must enter the appropriate rejection code into HLP ~~and the appropriate Trial Not Approved/Not Accepted code into the HAMP Reporting Tool.~~ The servicer must also follow the guidance regarding ~~Non-Approval Notices~~ *the review of a Loss Mitigation Application* set forth in Section ~~2.3.2~~ 4.6.

C. Section 4.7.4 of Chapter II is amended as follows:

If the Initial Package received by the servicer through HLP is not complete or any document therein has not been executed by the borrower as applicable, the servicer must *follow the guidance regarding Incomplete Information Notices set forth in Section 4.5.* *The servicer must also, within the 30 day review period described in Section 4.7.1, enter the appropriate rejection code into HLP.* ~~Contemporaneously, the servicer, as appropriate, should send the borrower an "Incomplete Information Notice" as provided in Section 2.3.3.~~ If the Initial Package is resubmitted through HLP and accepted, the counseling agency that submitted the accepted Initial Package can receive compensation.

D. The first sentence in the last paragraph of Section 6.7.1.2 of Chapter II (as provided by Supplemental Directive 13-08 and amended by Supplemental Directive 13-12) is amended as follows:

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~~ *in Section 6.7.1.1*) to contact each identified Risk of Default Borrower.

E. Section 6.7.1.3 of Chapter II (as provided by Supplemental Directive 13-08 and amended by Supplemental Directive 13-12) is amended as follows:

Notwithstanding the foregoing, servicers are not required to offer a borrower the financial counseling described in Section 6.7 if the borrower (i) has received two prior referrals to financial counseling in accordance with Section 6.7 (including any referral made under Section 6.7.1.1) 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, 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~~ *defined in Section 6.7.1.1*) for contacting a borrower and offering financial counseling.

Servicers are not required to solicit borrowers in active Chapter 7 or Chapter 13 bankruptcy cases for the financial counseling described in Section 6.7. However, such borrowers must be offered the financial counseling if the borrower, borrower’s counsel or bankruptcy trustee requests it.

In addition, servicers are not required to make the four telephone calls described in Section 6.7.1.1 with respect to any borrower who received a Chapter 7 bankruptcy discharge in a case where he or she did not reaffirm the first lien mortgage debt. However, the servicer must provide the written notice described in Section 6.7 referring the borrower to the HUD-approved housing counseling agency and include the contact information.

F. The second paragraph of Section 3.1 of Chapter III is amended as follows:

In addition, if the borrower submits an incomplete Loss Mitigation Application (as defined in Section 4 of Chapter II), the servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice as required under Section 4.5 of Chapter II, and provided the borrower’s Loss Mitigation Application remains incomplete on the date of referral.

~~In addition,~~s Servicers must *also* follow the solicitation and foreclosure provisions in Section 2.2 and Section 3.4 of Chapter II, respectively.

G. A new paragraph is inserted after the first paragraph in Section 5 of Chapter IV:

In addition, if the borrower submits an incomplete Loss Mitigation Application (as defined in Section 4 of Chapter II), the servicer may not refer the loan to foreclosure unless and until the later of (i) the 120th day of delinquency or (ii) at least 30 calendar days have passed since the date the servicer sent the borrower an Incomplete Information Notice as required under Section 4.5 of Chapter II, and provided the borrower's Loss Mitigation Application remains incomplete on the date of referral.

H. The last paragraph of the Incomplete Information Notice model clause under "Model Clauses for Borrower Notices" in Exhibit A is amended as follows:

- You have requested consideration for a Trial Period Plan, however, we need additional documentation to complete the review of your loan. If we do not receive the required documents by [insert date no less than 30 days from the date of the letter, or *shorter period if consistent with applicable law and in the best interest of the borrower*, ~~if it's the second notice, insert date no less than 15 days from the date of the letter~~] we ~~may~~ will consider that you have withdrawn your request for a modification and may resume other means to collect any amounts due on your account. The documents we need are: [Insert list of required documents. To the extent the borrower has submitted a document but it is inadequate, provide a reason for the request for the submission.]