

Supplemental Directive 14-04

October 30, 2014

Making Home Affordable[®] Program –Program Updates

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program to stabilize the housing market and 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 March 3, 2014, Treasury issued 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).

This Supplemental Directive provides program updates and administrative clarifications 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, as stated herein, is effective January 1, 2015 and February 1, 2015.

This guidance does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac (each, a GSE), insured or guaranteed by the Department of Veterans Affairs, the Department of Agriculture's Rural Housing Service or the Federal Housing Administration.

This Supplemental Directive covers the following topics:

- HAMP Tier 2 Interest Rate Adjustment
- HAFA[®] Relocation Assistance
- HAFA Investor Reimbursement of Subordinate Lien Releases
- HAFA Reporting

HAMP Tier 2 Interest Rate Adjustment

The following guidance is effective January 1, 2015.

As described in Section 6.3.2.2 of Chapter II of the *Handbook*, under Step 2 of the HAMP Tier 2 Standard Modification Waterfall, the NPV model adjusts the interest rate to a fixed rate based on the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming loans rounded up to the nearest 0.125 percent plus an adjustment. Supplemental Directive 14-02, which became effective on July 1, 2014, reduced the interest rate adjustment to zero basis points. With this Supplemental Directive, Treasury is notifying servicers that the interest rate adjustment is reduced to -50 basis points.

HAFAs Relocation Assistance

Section 6.2.5 of Chapter IV of the *Handbook* provides that a borrower, tenant or other non-borrower occupant who occupies the property as a principal residence and is required to vacate as a condition of the HAFAs short sale or deed-in-lieu of foreclosure (DIL) may be eligible to receive relocation assistance of \$3,000 at closing.

This Supplemental Directive increases the amount of relocation assistance to \$10,000 for a HAFAs short sale or DIL that closes on or after February 1, 2015.

HAFAs Investor Reimbursement of Subordinate Lien Releases

The following guidance is effective February 1, 2015.

As stated in Section 12.3 of Chapter IV of the *Handbook*, investors are eligible for reimbursement of two dollars for every three dollars of short sale proceeds paid to subordinate mortgage lien holders not to exceed a total of \$5,000. This Supplemental Directive increases the investor reimbursement to provide that, for a HAFAs short sale or DIL that closes on or after February 1, 2015, the investor will be reimbursed two dollars for every three dollars of short sale proceeds paid to a subordinate lien holder, up to a maximum of \$8,000.

In addition, per Section 6.2.4.2, up to \$8,500 of gross sales proceeds may be paid to subordinate mortgage lien holders in exchange for a release of the lien and full release of borrower liability. This Supplemental Directive eliminates the aggregate cap that subordinate mortgage lien holders may be paid and provides that servicers may establish an aggregate cap with regard to the amount of gross sales proceeds such lien holders may be paid in exchange for a release of the lien and full release of borrower liability, provided such cap is not less than \$12,000. If the servicer elects to establish an aggregate cap, the cap must be specified in both the servicer's HAFAs Policy and HAFAs Matrix, as required under Sections 3.1 and 3.2, respectively.

HAFAs Reporting

Updated HAFAs reporting and payment processes implementing the terms of this Supplemental Directive are currently under development by the Program Administrator. Subsequent guidance on such processes will be provided on HMPadmin.com.

EXHIBIT A
MHA HANDBOOK MAPPING

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 6.3.2.2 of Chapter II (as provided in Supplemental Directive 14-02) is amended as follows:

In the second step, the NPV model adjusts the interest rate to the current “Tier 2 Rate” which will be a fixed rate based on the weekly PMMS Rate (defined in Section 9.3.6) for 30 year fixed rate conforming loans, rounded up to the nearest 0.125 percent plus *an risk* adjustment expressed in basis points *(-50 basis points, as of January 1, 2015)*~~(zero basis points, as of July 1, 2014)~~. Treasury will notify servicers of any changes to ~~the~~*this* risk adjustment.

B. Section 3.1 of Chapter IV is amended as follows:

Each participating servicer must develop a written policy, consistent with investor guidelines, that describes the basis on which the servicer will offer HAFA to borrowers (HAFA Policy). A servicer’s HAFA Policy must: (i) identify the circumstances under which the servicer will require monthly mortgage payments and how that payment will be determined, in accordance with applicable laws, rules and regulations; (ii) describe the basis on which the minimum acceptable net proceeds will be determined; (iii) describe how subordinate lien holders will be paid, whether by percentage of the UPB of their loan or some other determination; (iv) *specify the aggregate cap with regard to the amount of gross sale proceeds paid to subordinate mortgage lien holders, if servicer has elected to establish a cap* ~~(v)~~; (v) describe if and when the servicer will require income documentation; ~~(vi)~~ if servicer has a program with an option for deed-for-lease or an opportunity for the borrower to repurchase the property at some future time, describe such program and conditions; ~~(vii)~~ describe if and when a borrower that was determined to be ineligible for HAFA prior to February 1, 2011 will be re-evaluated; ~~(viii)~~ identify the procedures the servicer will follow to periodically re-evaluate property value and to reconcile discrepancies between the servicer’s independent assessment of value and market value data provided by a borrower or the borrower’s real estate broker; ~~(ix)~~ if relocation assistance will be requested in accordance with Sections 6.2.5 and 12.1, identify the evidentiary materials that the servicer will accept to validate that the property is occupied by the borrower, or in the case of a rental property (as defined in Section 1.1.3 of Chapter II), a tenant or other non-borrower occupant who will be required to vacate as a condition of the HAFA transaction; and ~~(x)~~ may incorporate such factors as:

- The severity of the loss involved;
- Local market conditions,
- The timing of pending foreclosure actions;
- Borrower motivation and cooperation;

- Customary transactional costs of short sales and DILs; and
- The amounts that may be required to release any subordinate liens on the property.

The date and outcome of the HAFA consideration must be documented in the servicer's file.

C. The first paragraph of Section 3.2 of Chapter IV is amended as follows:

Each servicer must complete and post to its website a matrix that identifies the servicer's unique HAFA eligibility criteria and program rules (HAFA Matrix). The HAFA Matrix must also include the servicer's process for re-evaluation of property value as more fully described in Section 6.1.2, *and, if applicable, the servicer's aggregate cap with regard to the amount of gross sale proceeds subordinate mortgage lien holders may be paid as described in Section 6.2.4.2*, as well as requirements for receipt of relocation assistance as described in Section 6.2.5. A template of the HAFA Matrix is located on www.HMPAdmin.com. The topics and language in the template HAFA Matrix are provided only as an example of what a servicer might include as an aspect of its HAFA Policy that is unique. Each servicer must draft the language in its HAFA Matrix to be consistent with its HAFA Policy and any specific investor requirements or prohibitions.

D. Section 6.2.4.2 of Chapter IV is amended as follows:

It is the responsibility of the borrower to deliver clear marketable title to the purchaser or investor and to work with the listing broker, settlement agent and/or lien holders to clear title impediments. The servicer may, but is not required to, negotiate with subordinate lien holders on behalf of the borrower. The servicer, on behalf of the investor, will authorize the settlement agent to allow a portion of the gross sale proceeds to be used as payment(s) to subordinate mortgage/lien holder(s) in exchange for a lien release and full release of borrower liability. All subordinate lien holders will be paid in order of priority. *Servicers may establish an aggregate cap with regard to the amount of gross sales proceeds such lien holders may be paid, provided such cap is not less than \$12,000. If the servicer elects to establish an aggregate cap, the cap must be specified in both the servicer's HAFA Policy and HAFA Matrix, as required under Sections 3.1 and 3.2, respectively.* ~~Subordinate mortgage lien holders with subordinate liens secured by a mortgage on the subject property may paid no more than an aggregate cap of \$8500. Such cap does not apply to non-mortgage subordinate lien holders with subordinate liens not secured by a mortgage on the subject property, such as mechanics' liens or liens associated with assessments owing to homeowner's associations.~~ Payments will be made at closing from the gross sale proceeds and must be reflected on the HUD-1 Settlement Statement.

E. The first paragraph of Section 6.2.5 of Chapter IV is amended as follows:

A borrower who occupies the property as a principal residence and is required to vacate as a condition of the HAFA short sale or DIL may be eligible to receive ~~\$3,000~~*10,000* in relocation assistance at closing. In addition, a borrower requesting a HAFA short sale or DIL with respect to a rental property (as defined in Section 1.1.3 of Chapter II) may be able to claim relocation assistance for a tenant that occupies the rental property as a principal residence, or the borrower's legal dependent, parent or grandparent that occupies the rental property as a principal residence with no rent charged or collected, if such parties are required to vacate as a condition of the HAFA

short sale or DIL. In the case of a rental property occupied by a tenant or other non-borrower occupant, the entire ~~\$3,000~~10,000 in HAFAs relocation assistance must be paid to the tenant or other non-borrower occupant (assuming the conditions of such payment are satisfied), must be reflected on the HUD-1, and may not be reduced to pay any costs and expenses of the tenant or other non-borrower occupant. No portion of the ~~\$3,000~~10,000 may be retained by a borrower. A borrower may exercise his or her discretion in allocating the incentive among tenants or other non-borrower occupants who otherwise satisfy the conditions of payment. Servicers must notify borrowers of the availability of relocation assistance.

F. The first sentence of Section 12.1 of Chapter IV is amended as follows:

Upon the successful closing of a short sale or DIL, a borrower, tenant or other non-borrower occupant who occupies the property as a principal residence and is required to vacate as a condition of the HAFAs short sale or DIL shall be eligible to receive relocation assistance of ~~\$3,000~~10,000 per HAFAs transaction (regardless of the number of occupants who will vacate), subject to the requirements in Section 6.2.5.

G. The third, fourth and fifth paragraphs of Section 12.1 of Chapter IV are amended as follows:

In the case of a rental property occupied by a tenant or other non-borrower occupant, the entire ~~\$3,000~~10,000 must be paid to the tenant or other non-borrower occupant at closing and may not be reduced by other expenses. If relocation assistance is being paid, the HUD-1 Settlement Statement must show the full ~~\$3,000~~10,000 as a credit to the borrower, tenant or other non-borrower occupant, as applicable, and show any authorized transaction costs paid out of the relocation assistance in accordance with the foregoing guidance as charges to the borrower.

If the servicer conducts a formal closing for a DIL transaction where relocation assistance will be paid and the borrower, tenant or other non-borrower occupant, as applicable, has already vacated the property, the relocation assistance of ~~\$3,000~~10,000 must be paid at closing and reflected on the HUD-1 Settlement Statement. If, at the time of a closing where relocation assistance will be paid, the borrower, tenant or other non-borrower applicant (as applicable) has not vacated the property, the servicer must mail a check to the prior occupant within five business days of vacancy and delivery of keys to the servicer or the servicer's agent. Similarly, if the DIL transaction where relocation assistance will be paid is not conducted as a formal closing, the servicer must mail a check to the prior occupant within five business days from the later of the borrower's execution of the deed or vacancy and delivery of keys to the servicer or servicer's agent.

Servicers will be reimbursed for the ~~\$3,000~~10,000 relocation assistance after the HAFAs transaction is reported in the HAMP Reporting Tool, provided that the servicer has obtained the requisite proof of occupancy and Dodd-Frank Certification(s) and, if applicable, Non-Owner Occupant Certification(s) as required under Section 6.2.5 and the other applicable requirements of this Chapter IV are satisfied.

H. Section 12.3 of Chapter IV is amended as follows:

The investor will be paid a maximum of \$5,0008,000 for allowing a portion of the short sale proceeds to be distributed to or paid to subordinate mortgage lien holders. This reimbursement will be earned on a two-for-three matching basis for amounts paid from the gross sale proceeds to subordinate mortgage lien holder(s). For each three dollars an investor pays to secure release of a subordinate mortgage lien, the investor will be entitled to two dollars of reimbursement up to the maximum reimbursement of \$5,0008,000. To receive an incentive, subordinate lien holders must agree to release their subordinate mortgage liens and waive all future claims against the borrower. The servicer is not responsible for any future actions or claims against the borrower by such subordinate mortgage lien holders. No investor will be paid for allowing a portion of the short sale proceeds to be paid to subordinate non-mortgage lien holders.