

Supplemental Directive 15-01

January 29, 2015

Making Home Affordable® Program – MHA 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 included guidance relating to the Home Affordable Modification Program for Non-GSE Mortgages (Treasury HAMP).

Fannie Mae and Freddie Mac, each a government sponsored enterprise (GSE), have each published guidance with respect to the Home Affordable Modification Program for GSE Loans (as defined in the servicer participation agreement (SPA)) (GSE HAMP).

This Supplemental Directive expands eligibility for certain “pay for performance” incentives offered under Treasury HAMP to include certain GSE Loans modified under GSE HAMP, as described in more detail below. Servicers of GSE Loans should also refer to relevant guidance issued by the applicable GSE with respect to the matters discussed herein. For all other matters relating to GSE Loans, servicers of GSE Loans should continue to look to the GSEs’ respective servicing guides, announcements and bulletins, such as eligibility and underwriting for HAMP trial period plans and permanent modifications.

This Supplemental Directive applies only to servicers of GSE Loans that are subject to (i) the terms of a SPA which has been amended to provide for services with respect to certain GSE Loans (such amendment is a GSE SPA Amendment; and together with the SPA is a GSE Amended SPA), and (ii) Service Schedule A-1 to the SPA, under which the servicer elected to provide services with respect to HAMP.

This guidance does not apply to (i) servicers who are not subject to a GSE Amended SPA, (ii) Non-GSE Mortgages, or (iii) mortgage loans that are 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 amends and supersedes the notated portions of the *Handbook* and is effective April 1, 2015.

This Supplemental Directive covers the following topics:

- GSE Authorization of GSE SPA Services
- Servicer Participation with Respect to GSE Loans
- Eligibility for \$5,000 Pay for Performance Incentive under a GSE Amended SPA
- Data Collection and Reporting
- Compliance

GSE Authorization of GSE SPA Services

Treasury has worked with the GSEs and the Federal Housing Finance Agency (FHFA), the conservator and financial safety and soundness regulator of the GSEs, to obtain authorization from the GSEs for servicers to execute the GSE Amended SPA and to perform those Services under and as defined in the SPA as specified in this Supplemental Directive. As set forth more specifically in Freddie Mac Bulletin No. 2015-1 and Fannie Mae Lender Letter LL-2015-01, and in related updates to the GSE servicing guides, this authorization is limited to the following Services (GSE SPA Services):

- (i) Determine which borrowers of GSE Loans are in good standing under HAMP as of the sixth anniversary of their HAMP trial period plan effective date (Sixth Anniversary Date);
- (ii) Receive a Dodd-Frank Certification or Fannie Mae/Freddie Mac Form 720, *Real Estate Fraud Certification Form*, from potentially eligible borrowers in accordance with documentation requirements established by Treasury for purposes of determining which of those borrowers are eligible to receive a one-time sixth year \$5,000 pay for performance incentive funded through Treasury's Troubled Asset Relief Program (TARP);
- (iii) Apply the one-time sixth year \$5,000 pay for performance incentive funded through TARP to the borrower's mortgage account and, to the extent such incentive exceeds the outstanding mortgage debt, remit any excess to the borrower;
- (iv) Comply with reporting requirements and other requests for information issued by Treasury or the Program Administrator that are related to the GSE SPA Services set forth in clauses (i) through (iii) above, in accordance with applicable law; and
- (v) Comply with any compliance or audit review related requests from Treasury, or any third party that Treasury has designated to perform such reviews, that relate to the GSE SPA Services set forth above in clauses (i) through (iii), in accordance with applicable law.

No additional GSE SPA Services are contemplated.

Servicer Participation with Respect to GSE Loans

Pursuant to Section 1.1 of Chapter I of the *Handbook*, servicer participation agreements and service schedules were required to be executed on or before October 3, 2010. This Supplemental Directive applies only to those servicers that execute a GSE SPA Amendment on or before March 15, 2015.

In addition, for the sake of clarity, the following Sections of the *Handbook* apply with respect to all Services provided by the servicer under a SPA, including GSE SPA Services under a GSE Amended SPA: Section 1.5 (Program Participation Caps), Section 1.6 (Compliance with Applicable Laws), Section 2.6 (Annual Certification), and Section 2.7 (Internal Quality Assurance).

Eligibility for \$5,000 Pay for Performance Incentive under a GSE Amended SPA

Pursuant to Section 13.2.1 of Chapter II of the *Handbook*, as amended by Supplemental Directive 14-05 (MHA Program Updates), an eligible borrower with a non-GSE Loan that has a HAMP Tier 1 permanent modification will earn a pay for performance principal balance reduction payment of \$5,000 in the sixth year after the modification, as long as the loan is in good standing and has not been paid in full as of the date the incentive is payable. The incentive will be payable as of the Sixth Anniversary Date.

This Supplemental Directive provides that borrowers with GSE Loans that have been permanently modified under GSE HAMP are also eligible to earn the \$5,000 pay for performance incentive with respect to the Sixth Anniversary Date, provided that the following requirements are met:

- (i) as of the Sixth Anniversary Date, the loan is in good standing (as defined in Section 9.4 of Chapter II of the *Handbook*) and has not been paid in full;
- (ii) the servicer has obtained either an executed Dodd-Frank Certification, as required by Section 1.7 of Chapter I of the *Handbook*, or an executed Fannie Mae/Freddie Mac Form 720, *Real Estate Fraud Certification Form*, which is available on www.hmpadmin.com, from the borrower, on or before the later of (a) the Sixth Anniversary Date, or (b) September 1, 2015; and
- (iii) the servicer of record in the HAMP Reporting Tool at the time of payment is subject to a GSE Amended SPA.

The \$5,000 pay for performance incentive will be paid to the servicer of record in the HAMP Reporting Tool at the time of payment, as long as the requirements set forth above are met, and the servicer must apply the incentive in accordance with the applicable GSE requirements.

¹ Throughout this Supplemental Directive, the Dodd-Frank Certification and the Fannie Mae/Freddie Mac Form 720, *Real Estate Fraud Certification Form*, shall be referred to collectively as the “Dodd-Frank Certification”.

In the event the related GSE Loan is subsequently cancelled in the HAMP Reporting Tool, or a correction is made which renders the GSE Loan ineligible for the \$5,000 pay for performance incentive, the \$5,000 pay for performance incentive will be recovered from the servicer of record at the time of such cancellation or correction; provided, however, if the servicer of record at the time of cancellation or correction is not subject to a GSE Amended SPA, then such incentive will be recovered from the servicer to whom the \$5,000 pay for performance incentive was originally paid.

Data Collection and Reporting

With respect to any GSE Loan for which the \$5,000 pay for performance incentive was paid under a GSE Amended SPA, servicers must maintain the following in the mortgage file and/or servicing system:

- (i) evidence of the borrower's monthly payments to retain good standing as of the Sixth Anniversary Date;
- (ii) a copy of the date-stamped and executed Dodd-Frank Certification; and
- (iii) all documents and information related to receipt of the incentive payment and application thereof to the applicable GSE Loan or its remission to the borrower.

Servicers are required to maintain reports of the receipt of the executed Dodd-Frank Certification, which must be provided to Treasury and its agents upon request. Updated HAMP payment and reporting processes implementing the terms of this Supplemental Directive are currently under development by the Program Administrator. Upon implementation of the new payment processes, a true-up of incentives will be paid as appropriate for permanent modifications that have passed their Sixth Anniversary Date. Subsequent guidance on such processes will be provided on HMPadmin.com.

Compliance

Treasury and its agents will evaluate servicer compliance with the requirements in this Supplemental Directive with respect to any GSE HAMP borrower receiving the \$5,000 pay for performance incentive under a GSE Amended SPA as follows: (i) confirming that as of the Sixth Anniversary Date, the GSE Loan is in good standing and has not been paid in full; (ii) assessing the accuracy, timeliness and application of the \$5,000 pay for performance incentive with respect to the Sixth Anniversary Date, (iii) confirming receipt of the executed Dodd-Frank Certification, and (iv) performing Dodd-Frank Certification compliance activities as set forth in Section 2.8 of Chapter I of the *Handbook*.

The GSEs have established and will maintain policies and procedures for servicer compliance with respect to GSE HAMP. Nothing in this Supplemental Directive alters those policies and procedures. Please refer to the servicing contracts of the respective GSE and related servicer guidance.

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

A. A new Section 1.1.1 of Chapter I is inserted in its entirety as follows:

1.1.1 GSE Authorization of GSE SPA Services

Treasury has worked with the GSEs and the Federal Housing Finance Agency (FHFA), the conservator and financial safety and soundness regulator of the GSEs, to obtain authorization from the GSEs for servicers to execute the GSE Amended SPA and to perform those Services under and as defined in the SPA as specified in this Section. As set forth more specifically in Freddie Mac Bulletin No. 2015-1 and Fannie Mae Lender Letter LL-2015-01, and in related updates to the GSE servicing guides, this authorization is limited to the following Services (GSE SPA Services):

- (i) Determine which borrowers of GSE Loans are in good standing under HAMP as of the sixth anniversary of their HAMP TPP effective date (Sixth Anniversary Date);
- (ii) Receive a Dodd-Frank Certification or Fannie Mae/Freddie Mac Form 720, *Real Estate Fraud Certification Form*, from potentially eligible borrowers in accordance with documentation requirements established by Treasury for purposes of determining which of those borrowers are eligible to receive a one-time sixth year \$5,000 pay for performance incentive funded through Treasury's Troubled Asset Relief Program (TARP);
- (iii) Apply the one-time sixth year \$5,000 pay for performance incentive funded through TARP to the borrower's mortgage account and, to the extent such incentive exceeds the outstanding mortgage debt, remit any excess to the borrower;
- (iv) Comply with reporting requirements and other requests for information issued by Treasury or the Program Administrator that are related to the GSE SPA Services set forth in clauses (i) through (iii) above, in accordance with applicable law; and
- (v) Comply with any compliance or audit review related requests from Treasury, or any third party that Treasury has designated to perform such reviews, that relate to the GSE SPA Services set forth above in clauses (i) through (iii), in accordance with applicable law.

No additional GSE SPA Services are contemplated.

B. A new Section 2.9 of Chapter I is inserted in its entirety as follows:

2.9 Compliance for GSE Loans under a GSE Amended SPA

Treasury and its agents will evaluate servicer compliance with respect to any GSE HAMP borrower receiving the \$5,000 pay for performance incentive under a GSE Amended SPA as follows: (i) confirming that as of the Sixth Anniversary Date, the GSE Loan is in good standing and has not been paid in full; (ii) assessing the accuracy, timeliness and application of the \$5,000 pay for performance incentive with respect to the Sixth Anniversary Date, (iii) confirming receipt of the executed Dodd-Frank Certification, and (iv) performing Dodd-Frank Certification compliance activities as set forth in Section 2.8.

With respect to any GSE Loan for which the \$5,000 pay for performance incentive was paid under a GSE Amended SPA, servicers must maintain the following in the mortgage file and/or servicing system:

- (i) evidence of the borrower's monthly payments to retain good standing as of the Sixth Anniversary Date;
- (ii) a copy of the date-stamped and executed Dodd-Frank Certification; and
- (iii) all documents and information related to receipt of the incentive payment and application thereof to the applicable GSE Loan or its remission to the borrower.

The GSEs have established and will maintain policies and procedures for servicer compliance with respect to GSE HAMP. Nothing in this Handbook alters those policies and procedures. Please refer to the servicing contracts of the respective GSE and related servicer guidance.

C. A new Section 13.2.4 of Chapter II is inserted in its entirety as follows:

13.2.4 "Pay for Performance" Incentive for GSE Loans under a GSE Amended SPA

Borrowers with GSE Loans that have been permanently modified under GSE HAMP are also eligible to earn the \$5,000 pay for performance incentive with respect to the Sixth Anniversary Date, provided that the following requirements are met:

- (i) as of the Sixth Anniversary Date, the loan is in good standing (as defined in Section 9.4) and has not been paid in full;
- (ii) the servicer has obtained an executed Dodd-Frank Certification, as required by Section 1.7 of Chapter I on or before the later of (a) the Sixth Anniversary Date, or (b) September 1, 2015; and
- (iii) the servicer of record in the HAMP Reporting Tool at the time of payment is subject to a GSE Amended SPA.

The \$5,000 pay for performance incentive will be paid to the servicer of record in the HAMP Reporting Tool at the time of payment, as long as the requirements set forth above are met, and the servicer must apply the incentive in accordance with the applicable GSE requirements.

In the event the related GSE Loan is subsequently cancelled in the HAMP Reporting Tool, or a correction is made which renders the GSE Loan ineligible for the \$5,000 pay for performance incentive, the \$5,000 pay for performance incentive will be recovered from the servicer of record at the time of such cancellation or correction; provided, however, if the servicer of record at the time of cancellation or correction is not subject to a GSE Amended SPA, then such incentive will be recovered from the servicer to whom the \$5,000 pay for performance incentive was originally paid.

II. 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. The second paragraph of the Foreword is amended as follows:

The Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (Handbook) is intended to provide a consolidated resource for programmatic guidance related to the MHA Program for mortgage loans that are not owned, *securitized* or guaranteed by Fannie Mae or Freddie Mac (Non-GSE Mortgages). *In addition, certain provisions of this Handbook may apply with respect to certain loans owned, securitized or guaranteed by Fannie Mae and Freddie Mac (GSE Loans), to the extent a servicer has executed a GSE SPA Amendment (as more particularly set forth in Section 1.1 of Chapter I).* Servicers of mortgage loans that are owned, *securitized* or guaranteed by Fannie Mae or Freddie Mac should refer to any relevant guidance issued by the applicable GSE. In addition to the applicable guidance in this 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.

B. The first paragraph of Section 1.1 of Chapter I is amended as follows:

To participate in MHA for Non-GSE Mortgages, the servicer must register and execute a Servicer Participation Agreement, related documents, and, if applicable, one or more Service Schedules (SPA) with the Program Administrator on or before October 3, 2010. The SPA governs servicer participation in MHA for all Non-GSE Mortgages. *In addition, certain SPAs may apply with respect to certain GSE Loans if the servicer executes an amendment thereto (GSE SPA Amendment; the SPA with the GSE SPA Amendment is referred to herein as the GSE Amended SPA). Only if a servicer executes the GSE SPA Amendment on or before March 15, 2015 will the SPA apply with respect to such GSE Loans.*

C. The first paragraph of Section 1.5 of Chapter I is amended as follows:

The amount of funds available to pay servicer, borrower and investor compensation in connection with each servicer's Services are capped pursuant to each servicer's SPA and pursuant to this Handbook (Program Participation Cap). *For the sake of clarity, the Program Participation Cap applies with respect to all Services performed by a servicer under a SPA, including, if applicable, GSE SPA Services performed under a GSE Amended SPA, and the related financial incentive payments.* Treasury established each servicer's Program Participation Cap as of September 30, 2010 using an allocation methodology by estimating the number of Services expected to be performed by each servicer during the term of the SPA. Notwithstanding anything to the contrary in the SPA, the Program Participation Cap can be adjusted (1) upwards or downwards, pursuant to a model (Servicer Cap Model) to be applied to all servicers currently participating in MHA or (2) downwards, based on Treasury's full book analysis of the servicer's loans.

D. Section 1.6 of Chapter I is amended to add the following beneath the table in such Section:

For the sake of clarity, this Section 1.6 applies with respect to all Services performed by a servicer under a SPA, including, if applicable, GSE SPA Services performed under a GSE Amended SPA.

E. The first two rows of the table in Section 1.7 of Chapter I are amended as follows:

HAMP*	Obtain completed Dodd-Frank Certification prior to permanent HAMP modification	Obtain completed Dodd-Frank Certification as part of Initial Package prior to offering TPP to borrower For bankrupt borrowers where trial period is waived, obtain completed Dodd-Frank Certification prior to permanent HAMP modification
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2MP	If not obtained in connection with related HAMP evaluation, obtain completed Dodd-Frank Certification prior to permanent 2MP modification or extinguishment	If the related first lien modification is identified as a HAMP GSE Modification or GSE Standard Modification in the LPS match file, obtain completed Dodd-Frank Certification prior to 2MP trial period plan or prior to permanent 2MP modification or prior to extinguishment, as applicable [‡]
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**With respect to loans modified under GSE HAMP that may be eligible to receive the \$5,000 pay for performance incentive, the servicer must obtain either an executed Dodd-Frank Certification or an executed Fannie Mae/Freddie Mac Form 720, Real Estate Fraud Certification Form, from the borrower, on or before the later of (a) the Sixth Anniversary Date, or (b) September 1, 2015.*

[‡]When a matched first lien is identified as a HAMP Modification (rather than a HAMP GSE Modification or a GSE Standard Modification) in the LPS match file, 2MP servicers may reasonably conclude that the Dodd-Frank Certification was obtained in connection with that first lien as required by this guidance, and is not required to verify that it has been obtained.

F. The last paragraph of Section 1.7 of Chapter I is amended as follows:

In addition, tenants or other non-borrower occupants who are required to vacate a rental property as a result of a HAFA short sale or DIL, may be eligible to receive the relocation incentive available under HAFA as described in Section 12.1 of Chapter IV. In order to receive the relocation incentive, the borrower must obtain and deliver to the servicer, a Non-Owner Occupant Certification executed by the tenant(s) or other occupant(s) in advance of closing.

Throughout this Handbook, unless otherwise indicated, the Dodd-Frank Certification, *Fannie Mae/Freddie Mac Form 720, Real Estate Fraud Certification Form*, and Non-Owner Occupant Certification shall be referred to as the “Dodd-Frank Certification”.

G. The first paragraph of Section 2.6 of Chapter I is amended as follows:

The SPA requires a servicer to submit an annual certification (Annual Certification) as to its continuing compliance with, and the truth and accuracy of, the representations and warranties set forth in the SPA beginning on June 1, 2010 and again on June 1 of each year thereafter during the term of the SPA. The original form of Annual Certification is attached as an exhibit to the SPA and is available on www.HMPAdmin.com. The guidance in this Section amends and restates the original form of Annual Certification and the related delivery requirements and requires servicers to sign and deliver the initial and subsequent certifications to MHA-C within 90 calendar days of the effective date of the applicable certification. *For the sake of clarity, this Section 2.6 applies with respect to all Services performed by a servicer under a SPA, including, if applicable, GSE SPA Services performed under a GSE Amended SPA.*

H. The first paragraph of Section 2.7 of Chapter I is amended as follows:

Each servicer must develop, document and execute an effective quality assurance (QA) program that includes independent reviews of each MHA program (e.g., HAMP, UP, 2MP, PRA, HAFA, Treasury FHA-HAMP, RD-HAMP and FHA2LP) in which the servicer is participating pursuant to an executed SPA to ensure that the servicer's implementation and execution of such program(s) conforms to the requirements of the SPA and this Handbook. *For the sake of clarity, this Section 2.7 applies with respect to all Services performed by a servicer under a SPA, including, if applicable, GSE SPA Services performed under a GSE Amended SPA.*

I. The first paragraph of Section 2.8 of Chapter I is amended as follows:

Loans will be selected for Vendor review from loans entered into the HAMP Reporting Tool from the following programs: HAMP, Treasury FHA-HAMP, RD-HAMP, 2MP and HAFA. Selection will include loans in active TPPs, those that have been permanently modified, and loans in connection with pending or completed HAFA transactions. Dodd-Frank Certification compliance will only be conducted on loans with TPP Effective Dates on or after September 22, 2010, 2MP modifications that have modification dates on or after September 22, 2010 and corresponding GSE first lien modifications, or HAFA transactions that were entered into the HAMP Reporting Tool on or after September 22, 2010. *In addition, effective April 1, 2015, borrower identity and Dodd-Frank Certification compliance will be conducted on GSE HAMP loans that have received the \$5,000 pay for performance incentive under a GSE Amended SPA.*

J. Section 11.3 of Chapter II is amended to add the following as the last paragraph:

Servicers are required to maintain reports of the receipt of the executed Dodd-Frank Certification for GSE Loans that have received the \$5,000 pay for performance incentive under a GSE Amended SPA, which must be provided to Treasury and its agents upon request. Updated reporting processes related to the \$5,000 pay for performance incentive under the GSE Amended SPA are currently under development by the Program Administrator. Subsequent guidance on such processes will be provided on HMPadmin.com.

K. The first paragraph of Section 13.2 of Chapter II (as amended by Supplemental Directive 14-05) is amended as follows:

Borrower incentive payments will be paid to the mortgage servicer to be applied first towards reducing the interest bearing UPB on the mortgage loan and then to any principal forbearance amount (if applicable). Any applicable prepayment penalties on partial principal prepayments made by the government must be waived. In the event the borrower is delinquent, but still in good standing, the borrower's incentive should continue to be applied as a curtailment to the interest-bearing UPB. *Notwithstanding the foregoing, servicers must apply the \$5,000 pay for performance incentive for loans modified under GSE HAMP in accordance with the applicable GSE requirements.*

L. The title of Section 13.2.3 of Chapter II (as amended by Supplemental Directive 14-05) is amended as follows:

13.2.3 Recast of *Non-GSE Mortgages* ~~Loans~~ Modified Under HAMP