

Supplemental Directive 15-08

September 24, 2015

Making Home Affordable Program – Administrative Clarifications

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 June 1, 2015, Treasury issued version 4.5 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 administrative updates and clarifications to the Home Affordable Modification Program® (HAMP). 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 does not apply to 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 and, except as stated herein, mortgage loans that are owned, securitized or guaranteed by Fannie Mae or Freddie Mac (each, a GSE).

This Supplemental Directive amends and supersedes the notated portions of the *Handbook* and, except as stated herein, is effective immediately.

This Supplemental Directive covers the following topics:

- Evaluation of Loss Mitigation Application
- HAMP Tier 2 Standard Modification Waterfall
- Property Valuation
- “Pay for Performance” Incentive for GSE Loans under a GSE Amended SPA
- Dodd-Frank Certification Compliance Review of GSE Loans under a GSE Amended SPA
- Streamline HAMP Offer
- Streamline HAMP Protections Against Unnecessary Foreclosure
- Survey Reporting
- *Handbook* Mapping Clean-Up and Clarifications

Evaluation of Loss Mitigation Application

Section 4.6.1 of Chapter II of the *Handbook* requires that a servicer must review and evaluate the borrower within 30 calendar days from the date a complete Loss Mitigation Application is received. This Supplemental Directive provides that in certain circumstances in which the servicer initially determines an application to be complete and has notified the borrower of such, but upon subsequent review determines that additional information and/or documentation is required from the borrower to complete the evaluation, the servicer may extend the evaluation period beyond the 30 calendar days to provide sufficient time to allow for the necessary information and/or documentation to be received from the borrower. In such cases, the borrower's relationship manager, where applicable, or other servicer representative must contact the borrower promptly by mail, e-mail or phone to describe the cause of the delay and identify the missing information and/or documentation. The servicer must provide a date, which shall be no less than 30 calendar days thereafter, by which the information and/or documents must be received to complete the evaluation and issue the HAMP decision. Evidence of such borrower contact must be documented in the mortgage file and/or servicing system.

HAMP Tier 2 Standard Modification Waterfall

The following guidance is effective January 1, 2016.

Section 6.3.2.4 of Chapter II of the *Handbook* provides that Step 4—Principal Forbearance of the Tier 2 Standard Modification Waterfall is applied if the loan's pre-modification mark-to-market loan-to-value (LTV) ratio is greater than 115 percent. This Supplemental Directive amends this guidance such that a loan's estimated post-modification mark-to-market LTV ratio (after applying Steps 1 through 3) will be used by the net present value (NPV) model to calculate a principal forbearance amount beginning January 1, 2016. Re-coded versions of the NPV model must employ functionality that allows for this change in accordance with the Base NPV Model.

Updated reporting processes implementing the terms of this Supplemental Directive are currently under development. Subsequent guidance on such processes will be provided on www.HMPAdmin.com.

Property Valuation

Section 6.8 of Chapter II of the *Handbook* provides that servicers must obtain an assessment of the current value of the property securing the mortgage loan being evaluated for HAMP. The property valuation used cannot be more than 90 days old as of the date the servicer first evaluates the borrower for a trial period plan using the NPV model. This Supplemental Directive amends this guidance such that, in situations where a servicer is unable to complete a HAMP evaluation solely due to the property valuation being older than 90 days, the servicer may use such property valuation, provided that the valuation is not older than 120 days from the date the servicer begins the evaluation.

“Pay for Performance” Incentive for GSE Loans under a GSE Amended SPA

Section 13.2.4 of Chapter II of the *Handbook* provides that borrowers with GSE HAMP Loans are eligible to earn a \$5,000 pay for performance incentive with respect to the sixth anniversary of the HAMP trial period plan effective date (Sixth Anniversary Date), provided that, among other things, the servicer has obtained an executed Dodd-Frank Certification or Fannie Mae/Freddie Mac Form 720, Real Estate Fraud Certification Form (collectively referred to as the “Dodd-Frank Certification”), from the borrower on or before the later of (a) the Sixth Anniversary Date, or (b) September 1, 2015. This Supplemental Directive amends this guidance by extending the September 1, 2015 date to January 1, 2016, in this Section and in Section 1.7 of Chapter I of the *Handbook*, in order to allow borrowers more time to submit the required documentation.

Dodd-Frank Certification Compliance Review of GSE Loans under a GSE Amended SPA

Supplemental Directive 15-03 states that MHA-C’s vendor will conduct a criminal background check through public records on borrowers with selected GSE HAMP loans for which Treasury has funded the \$5,000 pay for performance incentive under a GSE Amended SPA (Treasury Funded GSE HAMP Loans), to identify potential inaccuracies with respect to the individual’s attestation in his or her Dodd-Frank Certification for the ten year period preceding the date of their signed Dodd-Frank Certification. This Supplemental Directive revises this guidance such that the background check will be conducted on selected GSE HAMP Loans under a GSE Amended SPA once the Dodd-Frank Certification has been received and reported in the HAMP Reporting Tool, regardless of funding by Treasury.

Supplemental Directive 15-03 also provides that, in cases selected for review, research and analysis will first be conducted to identify potential borrower identity discrepancies before conducting a review for Dodd-Frank Certification compliance. This Supplemental Directive clarifies that, with regard to GSE HAMP Loans under a GSE Amended SPA, borrower identity review will only be conducted on GSE HAMP Loans under a GSE Amended SPA selected for review for Dodd-Frank Certification compliance.

Streamline HAMP Offer

Supplemental Directives 15-06 and 15-07 provide guidance to servicers for implementation of Streamline HAMP, and requires that on or before January 1, 2016, each servicer subject to the guidance must (1) develop and implement its Streamline HAMP Policy and (2) evaluate the portion(s) of its servicing portfolio that satisfy the Streamline HAMP eligibility criteria. The Supplemental Directives further provide that the servicer must send the borrower a Streamline HAMP trial period plan offer (Streamline HAMP Offer) within 15 calendar days of a determination that the loan is eligible for Streamline HAMP based on guidance in the Supplemental Directive and the servicer’s Streamline HAMP Policy. This Supplemental Directive amends this guidance, such that, for the initial population of loans evaluated for Streamline HAMP, servicers have up to 60 calendar days after the determination that the loan is eligible for Streamline HAMP based on guidance in the Supplemental Directive and the servicer’s Streamline HAMP Policy to provide borrowers with the Streamline HAMP Offer. For the sake of clarity, the extension to 60 calendar days is applicable only to the first evaluation of each portion of the

servicer's servicing portfolio in connection with the implementation of the servicer's Streamline HAMP Policy. Servicers must comply with the 15 calendar day requirement for subsequent populations.

Streamline HAMP Protections Against Unnecessary Foreclosure

Supplemental Directives 15-06 and 15-07 provide that a servicer may not refer a loan to foreclosure or conduct a scheduled foreclosure sale after a borrower has accepted a Streamline HAMP Offer, and for the duration of the trial period, while the borrower is making timely payments. This Supplemental Directive provides that in the event a servicer offers a Streamline HAMP modification after the loan has been referred to foreclosure, the servicer must modify the Streamline HAMP Offer Letter to notify the borrower that, if a foreclosure sale has been scheduled, he or she must make the first trial period plan payment before the scheduled foreclosure sale (or by such earlier date as the servicer may in its discretion specify in the Streamline HAMP Offer Letter) in order to accept the Streamline HAMP Offer.

Survey Reporting

Supplemental Directive 15-06 provides that servicers are required to maintain reports of the number of Streamline HAMP Offers made, including those offers accepted and not accepted. This Supplemental Directive recognizes that select servicers are required to provide summary level data to the Program Administrator on several aspects of HAMP that are not captured in the HAMP Reporting Tool, including, but not limited to, borrower eligibility, mortgage modification requests, debt-to-income evaluations, forecasts and current disposition of homeowners who did not receive or defaulted on a HAMP modification. Therefore the guidance in Supplemental Directive 15-06, as incorporated into the *Handbook*, is revised to be applicable to HAMP more generally. For questions regarding specific survey requirements, contact the Program Administrator at hamp_servicer_survey@fanniemae.com.

Handbook Mapping Clean-Up and Clarifications

The mapping attached hereto as Exhibit A includes the following clean-up and clarification items to the *Handbook*.

- Section 10.2 of Chapter II of the *Handbook* provides that language regarding deferred principal reduction terms is included in the trial period plan notice, however, the current trial period plan notice does not contain such language. This Supplemental Directive removes the references to trial period plan notice in this section.
- Section 9.2 of Chapter IV of the *Handbook* states that the written communication detailing terms of a deed-in-lieu of foreclosure (DIL) must include that, upon successful closing of a DIL transaction, a borrower, tenant or other non-borrower occupant who will be required to vacate the property as a result of a DIL will be entitled to a relocation assistance of \$3,000 subject to the requirements of Section 6.2.5 of Chapter IV. This Supplemental Directive corrects the reference from \$3,000 to \$10,000 in accordance with the guidance in Section 6.2.5.

EXHIBIT A
MHA HANDBOOK MAPPING

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. The footnote corresponding to the first row of the table in Section 1.7 of Chapter I is amended as follows:

*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~~*January 1, 2016*.

B. The fifth paragraph of Section 2.8 of Chapter I (including as amended in Supplemental Directive 15-03) is further amended as follows:

With respect to *GSE HAMP Loans for which Treasury has funded the \$5,000 pay for performance incentive under a GSE Amended SPA in respect of which the Dodd-Frank Certification has been received and reported in the HAMP Reporting Tool* (~~Treasury Funded GSE HAMP Loans~~), if an Alert is not ultimately “Cleared” by the servicer, the servicer must update the reporting in the HAMP Reporting Tool to reflect that a valid Dodd-Frank Certification was not received and any Treasury-funded incentives with respect to *any of such loans for which Treasury has funded the \$5,000 pay for performance incentive in year 6 (Treasury Funded GSE HAMP Loans)* will be recaptured.

C. Section 2.8.2 of Chapter I (including as amended in Supplemental Directive 15-03) is further 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 for which Treasury has funded the \$5,000 pay for performance incentive under a GSE Amended SPA (Treasury Funded GSE HAMP Loans)~~*selected GSE HAMP Loans under a GSE Amended SPA once the Dodd-Frank*

Certification has been received and reported in the HAMP Reporting Tool, regardless of funding by Treasury.

Borrower identity and owner occupancy review, when applicable, on all new TPPs, 2MP modification with corresponding GSE first lien modifications and HAFA transactions reported to the HAMP Reporting Tool during the current month's reporting cycle will be performed. Disqualifying Crime review will be performed on a random sample of those loans.

For the sake of clarity, the guidance in this Section 2.8 applies only to ~~Treasury Funded GSE HAMP Loans~~ *GSE HAMP Loans under a GSE Amended SPA in respect of which the Dodd-Frank Certification has been received and reported in the HAMP Reporting Tool*, and does not apply to other GSE HAMP Loans in trial period plans or HAFA transactions on GSE Loans. Disqualifying Crime review will be performed on a sample of *GSE HAMP Loans under a GSE Amended SPA once the Dodd-Frank Certification has been received and reported in the HAMP Reporting Tool*, regardless of trial period plan effective date. *Borrower identity review will only be conducted on GSE HAMP Loans under a GSE Amended SPA selected for review for Dodd-Frank Certification compliance.*

D. The first paragraph of Section 2.4.2 of Chapter II (as provided in Supplemental Directive 15-07) is amended as follows:

If a servicer determines that a loan is eligible for Streamline HAMP based on the eligibility criteria described in Section 1.1.4, the servicer must send the borrower a Streamline HAMP TPP offer (Streamline HAMP Offer) within 15 calendar days of such determination. *For the initial population of loans evaluated for Streamline HAMP, servicers have up to 60 calendar days after the determination that the loan is eligible for Streamline HAMP to provide borrowers with a Streamline HAMP Offer. For the sake of clarity, the 60 calendar day period is applicable only to the first evaluation of each portion of the servicer's servicing portfolio in connection with the implementation of the servicer's Streamline HAMP Policy. Servicers must comply with the 15 calendar day requirement for subsequent populations.* Servicers, however, are not required to offer a Streamline HAMP modification within 60 calendar days prior to a scheduled foreclosure sale date.

E. The last paragraph of Section 2.4.2 of Chapter II (as provided in Supplemental Directive 15-07) is amended as follows:

A form of the Streamline HAMP Offer is available on www.HMPAdmin.com. *In the event a servicer offers a Streamline HAMP modification after the loan has been referred to foreclosure, the servicer must modify the Streamline HAMP Offer Letter to notify the borrower that, if a foreclosure sale has been scheduled, he or she must make the first trial period plan payment before the scheduled foreclosure sale (or by such earlier date as the servicer may in its discretion specify in the Streamline HAMP Offer Letter) in order to accept the Streamline HAMP Offer.*

F. The following is inserted as a new second paragraph of 4.6.1 of Chapter II:

In certain circumstances in which the servicer initially determines an application to be complete and has notified the borrower of such, but upon subsequent review determines that additional information and/or documentation is required from the borrower to complete the evaluation, the servicer may extend the evaluation period beyond the 30 calendar days to provide sufficient time to allow for the necessary information and/or documentation to be received from the borrower. In such cases, the borrower's relationship manager, where applicable, or other servicer representative must contact the borrower promptly by mail, e-mail or phone to describe the cause of the delay and identify the missing information and/or documentation. The servicer must provide a date, which shall be no less than 30 calendar days thereafter, by which the information and/or documents must be received to complete the evaluation and issue the HAMP decision. Evidence of such borrower contact must be documented in the mortgage file and/or servicing system.

G. The first paragraph of Section 6.3.2.4 of Chapter II (as provided in Supplemental Directive 15-07) is amended as follows:

If the loan's ~~prepost~~-modification mark-to-market LTV ratio is greater than 115 percent (after applying Steps 1 through 3), the NPV model calculates principal forbearance in an amount equal to the lesser of (i) an amount that would create a post-modification mark-to-market LTV ratio of 115 percent using the interest bearing principal balance or (ii) an amount equal to 30 percent of the gross post-modified UPB of the mortgage loan (inclusive of capitalized arrearages). The principal forbearance amount is noninterest bearing and non-amortizing. Unlike HAMP Tier 1, there is no excessive forbearance limit in HAMP Tier 2.

H. The second paragraph of Section 6.8 of Chapter II is amended as follows:

If a GSE AVM or the servicer AVM is unable to render a value with a reliable confidence score, the servicer must obtain an assessment of the property value utilizing a BPO, an appraisal or a property valuation method acceptable to the servicer's Federal regulatory supervisor. Such assessment must be rendered in accordance with the Interagency Appraisal and Evaluation Guidelines (as if such guidelines apply to loan modifications). ~~In all cases, the~~ *The* property valuation used cannot be more than 90 days old as of the date the servicer first evaluates the borrower for a TPP using the NPV model. *However, in situations where a servicer is unable to complete a HAMP evaluation solely due to the property valuation being older than 90 days, the servicer may use such property valuation, provided that the valuation is not older than 120 days from the date the servicer begins the evaluation.* The information will remain valid for the duration of the TPP and does not need to be updated for any subsequent NPV evaluation. Servicers should follow regulatory and investor guidance when selecting the appropriate valuation method to determine the mark-to-market value of the property and use this value for both the NPV model and the PRA mark-to-market LTV ratio calculation.

I. The last sentence of Section 7.3 of Chapter II is amended as follows:

Re-coded versions of the NPV model must also employ functionality that allows for a HAMP Tier 2 interest rate adjustment below the PMMS Rate (as defined in Section 9.3.6) *and uses a loan's estimated post-modification mark-to-market LTV ratio to calculate a principal forbearance amount (as provided in Section 6.3.2.4)*, in accordance with the Base NPV Model.

J. The second sentence of Section 10.2 of Chapter II is amended as follows:

However, ~~the TPP Notice~~, the Modification Agreement Cover Letter, the Modification Agreement and the Modification Agreement document summary were modified to include language regarding the deferred principal reduction terms.

K. The second paragraph of Section 10.2 of Chapter II is amended as follows:

In addition, ~~the TPP Notice and~~ the Modification Agreement Cover Letter must explain that the borrower may decline any offered principal reduction and include a phone number the borrower may use to decline the offer.

L. Section 11.8 of Chapter II (as provided in Supplemental Directive 15-07) is amended as follows:

11.8 Streamline HAMP Survey Reporting

Select servicers are required to provide summary level data to the Program Administrator on several aspects of HAMP that are not captured in the HAMP Reporting Tool, including, but not limited to, borrower eligibility, mortgage modification requests, debt-to-income evaluations, forecasts and current disposition of homeowners who did not receive or defaulted on a HAMP modification.

~~Servicers are required to maintain reports of the number of Streamline HAMP Offers made, including those offers accepted and not accepted. With respect to Streamline HAMP Offers, servicers are also required to maintain reports of the number of borrowers who have submitted an Initial Package but whose eligibility for HAMP has not yet been determined.~~

For questions regarding specific survey requirements, contact the Program Administrator at hamp_servicer_survey@fanniemae.com.

M. The second romanette in the first paragraph of Section 13.2.4 of Chapter II is amended as follows:

- (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~~ *January 1, 2016*; and

N. The fourth bullet in Section 9.2 of Chapter IV is amended as follows:

An agreement that upon successful closing of the DIL transaction, a borrower, tenant or other non-borrower occupant who will be required to vacate the property as a result of the DIL will be entitled to a relocation assistance of ~~\$3,000~~ *\$10,000* subject to the requirements of Section 6.2.5.