

Supplemental Directive 17-02

December 21, 2017

Making Home Affordable Program – Handbook for Servicers Version 5.2 and Administrative Clarifications

In February 2009, the Federal Government 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.

In this Supplemental Directive, Treasury is issuing version 5.2 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, securitized or guaranteed by Fannie Mae or Freddie Mac (Non-GSE Mortgages). In addition, certain provisions of the Handbook may apply with respect to certain mortgage loans owned, securitized or guaranteed by Fannie Mae and Freddie Mac (each, a GSE), as noted therein. Servicers of mortgage loans owned, securitized or guaranteed by a GSE should also 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 5.2 of the *Handbook*

Generally, Version 5.2 of the *Handbook* includes revisions to existing sections of Version 5.1 of the *Handbook* that have been issued in Supplemental Directives with effective dates after publication of Version 5.1 of the *Handbook*.

Version 5.2 of the *Handbook* incorporates and supersedes in its entirety Supplemental Directive 17-01 and concurrently incorporates the guidance set forth in this Supplemental Directive.

The *Handbook* may 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 To the extent that any Supplemental Directive, FAQ or waiver has not been incorporated into and superseded by the *Handbook*, it continues to apply, and any references in such documents to guidance that has been incorporated into the *Handbook* are deemed to refer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 5.2 of the Handbook

In addition, Version 5.2 of the *Handbook* incorporates updates and clarifications to the Home Affordable Modification ProgramSM (HAMP[®]), the Home Affordable Foreclosure Alternatives[®] (HAFA[®]) Program, the Second Lien Modification ProgramSM (2MPSM), Treasury Federal Housing Administration HAMP (Treasury FHA-HAMP) and Rural Development HAMP (RD-HAMP). Unless otherwise noted, the following clarifications are effective immediately.

Borrower Eligibility & Compliance Portal and Alert Process

As described under Section 2.8 of Chapter I of the *Handbook*, the Eligibility and Compliance Portal (BE&C Portal) was established to facilitate the exchange of information between Treasury, its contractor (or Vendor) and servicers regarding individuals applying for, or receiving assistance under MHA with respect to borrower identity and owner-occupancy status and the accuracy of their Dodd-Frank Certification. This Supplemental Directive informs servicers that final Alerts will be posted to the BE&C Portal on or before April 1, 2018. Servicers are required to report a final status of “Cleared,” “Not Cleared” or “Non-Approval Notice” for all Alerts, before July 1, 2018. On and after July 1, 2018, servicers will no longer have access to the BE&C Portal, and any Alerts for which a final status was not reported will be considered to have a final status of “Not Cleared.”

Notwithstanding the closing of the BE&C Portal, Treasury, the MHA Program Administrator and MHA-C may continue to evaluate compliance with MHA requirements related to borrower identity, owner occupancy and Dodd-Frank Certifications, and recapture incentives as a result of non-compliance with such requirements. Servicers are required to retain documentation sufficient to justify the final status reported for each Alert posted to the BE&C Portal.

Federally Declared Disasters

Forbearance Plans under HAMP and 2MP

Section 5.3 of Chapter I of the *Handbook* states that, in order to receive forbearance as a result of a Federally Declared Disaster (FDD), a borrower must request consideration on or before December 30, 2016, and the servicer must also offer the borrower an FDD forbearance plan on or before such date. In addition, the servicer must provide verbal or written notification to borrowers to indicate that HAMP and/or 2MP may no longer be available at the end of an FDD forbearance period that begins on or after September 1, 2016.

This Supplemental Directive clarifies that the cited guidance does not prohibit servicers from offering new FDD forbearance plans altogether after December 30, 2016. Rather, the guidance required servicers to process those requests for FDD forbearance that had been received before such date and to communicate to those borrowers who entered an FDD forbearance on or after September 1, 2016, and who were not then in a permanent HAMP or 2MP modification, that HAMP and 2MP may no longer be available at the end of their forbearance period. In all cases, servicers should offer FDD forbearance plans with respect to trial period plans or permanent

modifications under HAMP or 2MP, on the terms and conditions set forth in the *Handbook*, as modified by this Supplemental Directive.

In addition, this Supplemental Directive clarifies that the *Handbook* only contains guidance relating to the issuance and reporting impacts of FDD forbearance plans on Treasury's MHA programs. Accordingly, servicers should continue to follow their standard practices with respect to the evaluation of borrowers for disaster-related forbearances and the documentation of such forbearance plans, as applicable, under investor guidelines, applicable laws and other requirements outside of Treasury's MHA programs.

FDD Forbearance Plans During or Following Offer of a HAMP or 2MP Trial Period Plan

Section 5.3.1.1 of Chapter 1 states that, if a borrower who is currently in a HAMP or 2MP trial period plan is offered and accepts an FDD forbearance plan, the HAMP or 2MP trial period plan must be cancelled and, in the case of HAMP, the servicer must submit a Trial Fallout reason code indicating that the borrower is entering an FDD forbearance plan. This Supplemental Directive eliminates the requirement that a servicer must cancel a HAMP or 2MP trial period plan upon acceptance of a FDD forbearance offer, provided the borrower has accepted, or has been offered, such trial period plan by September 1, 2017. Upon acceptance of an FDD forbearance offer in such instance, servicers must also accept and consider timely, regardless of the date due or received: (1) all trial period plan payments (including the first payment due under such plan, indicating acceptance of the trial period plan offer) and (2) any final modification documents (including the executed Modification Agreement), provided that all required trial period plan payments and permanent modification documents are received no later than April 1, 2018.

The required trial payments need not be consecutive and may be remitted prior to and/or following, the forbearance period, as long as the borrower makes all three payments by April 1, 2018. In all such cases, the servicer should retain all effective dates communicated in the original trial period plan offer, including the Trial Period Plan Effective Date and Modification Effective Date.

With respect to borrowers in a permanent modification under HAMP or 2MP who are offered and accept an FDD forbearance plan, Section 5.3.2 of Chapter 1 requires that any mortgage payments that were not paid during the forbearance period must be paid by the borrower or forborne, forgiven or added to the end of the loan's term as a term extension such that the borrower retains good standing under HAMP and 2MP, as applicable. This Supplemental Directive expands the previous guidance such that, if a borrower meets all eligibility criteria for HAMP or 2MP at the conclusion of the FDD forbearance plan (including remittance of three monthly trial payments, as applicable, and executed permanent modification documents), and is able to address all mortgage payment amounts that were not paid during the forbearance period using one or more of the means described above, the borrower's loan should be converted to a permanent modification under HAMP or 2MP.

If the borrower fails to meet the applicable eligibility criteria for HAMP or 2MP and it is not possible to convert the borrower to a permanent modification, the servicer should evaluate the borrower for any other loss mitigation alternatives. In addition, the servicer must cancel the trial and, in the case of HAMP, the servicer must submit the appropriate Trial Fallout reason code. The

servicer must also send the borrower a Non-Approval Notice, in accordance with Sections 2.3.2.2 or 2.3.2.6 of Chapter II, as applicable.

Matured Loans

Section 1.2 of Chapter II states that balloon loans that have matured or mature during the HAMP trial period are eligible for HAMP, subject to investor guidelines. This Supplemental Directive clarifies and expands this guidance such that, any delinquent loan, whether balloon or fully amortizing, that is past its original maturity date may be considered for HAMP or 2MP, provided such loan otherwise meets all applicable eligibility criteria.

Borrower Solicitation

Section 2.2 of Chapter II provides that, as of September 1, 2016, servicers are no longer required to include references specific to MHA or MHA-related programs, pay for performance incentives, or MHA logos or branding, in written solicitation materials sent to borrowers but must retain references to the HOPE™ Hotline number in such materials. This Supplemental Directive amends the cited guidance such that, as of April 18, 2017, servicers are no longer required to include references to the HOPE™ Hotline number in any borrower notices.

Borrower Notices

Section 2.3 of Chapter II requires a servicer to send a Borrower Notice, providing information about other loss mitigation options, if the servicer is in receipt of an Initial Package on or before December 30, 2016, but has determined that it will be unable to complete a permanent modification such that the Modification Effective Date is on or before December 1, 2017. This Supplemental Directive clarifies that such notice should only be sent in instances in which the borrower did not receive a permanent modification due to extenuating circumstances beyond the servicer's control (e.g., active litigation, bankruptcy, etc.). If a Borrower Notice is sent, the servicer must retain all evidence of the applicable extenuating circumstances in the servicing file.

Post-Modification Counseling Solicitation During an FDD Forbearance

Section 6.7.1.2 of Chapter II of the *Handbook* requires certain servicers, or their designated HUD-approved housing counseling agency, to use reasonable efforts to contact each borrower identified as a "Risk of Default Borrower" and offer such borrower financial counseling. Servicers, however, are not required to solicit borrowers in active Chapter 7 or Chapter 13 bankruptcy cases for financial counseling.

Similarly, this Supplemental Directive provides that servicers are not required to solicit a borrower determined to be a "Risk of Default Borrower" while such borrower is in an active FDD forbearance plan. However, once the forbearance period ends, servicers must continue reasonable efforts until the solicitation requirement is satisfied in accordance with Section 6.7.1.3.

Official Monthly Reporting

With respect to HAMP, Section 11.3 of Chapter II states that an Official Monthly Report is due by the fourth business day each month for any permanent modification with a Modification Effective Date at least one month prior. Servicers also have until the eighth business day of the month to clear up any edits and to report a final Official Monthly Report to the Program Administrator. Beginning with the May 2018 reporting cycle, this Supplemental Directive updates the current guidance to allow until the sixth business day of each month for servicers to report a final Official Monthly Report.

As the noted reporting deadlines also apply to permanent modifications under 2MP, as well as those under Treasury FHA-HAMP and RD-HAMP, this guidance has also been incorporated into Section 9.2.2 of Chapter V and Section 3.3 of Chapter VII, respectively.

EXHIBIT A MHA HANDBOOK MAPPING

I. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

The following guidance amends and supersedes the noted portions of the *Handbook*. Changed or new text is indicated in italics. Text that has been lined out has been deleted.

A. Section 2.8.5 of Chapter I is amended to add the following as the last two paragraphs:

Final Alerts will be posted to the BE&C Portal on or before April 1, 2018. Servicers are required to report a final status of “Cleared,” “Not Cleared” or “Non-Approval Notice” for all Alerts, as described below, before July 1, 2018. On and after July 1, 2018, servicers will no longer have access to the BE&C Portal, and any Alerts for which a final status was not reported will be considered to have a final status of “Not Cleared.”

Notwithstanding the closing of the BE&C Portal, Treasury, the MHA Program Administrator and MHA-C may continue to evaluate compliance with MHA requirements related to borrower identity, owner occupancy and Dodd-Frank Certifications, and recapture incentives as a result of non-compliance with such requirements. Servicers are required to retain documentation sufficient to justify the final status reported for each Alert posted to the BE&C Portal.

B. The last paragraph of Section 5.3 of Chapter I is amended as follows:

~~In order to receive forbearance as a result of an FDD,~~ *If a borrower must requests consideration for an FDD forbearance on or before December 30, 2016, the servicer must also offer the borrower an FDD forbearance plan on or before such date. In addition, for those borrowers who enter a forbearance on or after September 1, 2016, and who are not then in a permanent HAMP or 2MP modification, the servicer must provide verbal or written notification to a borrower to indicate that HAMP and/or 2MP may no longer be available at the end of ~~an~~ the FDD forbearance period ~~that begins on or after September 1, 2016.~~ In all cases, servicers should offer FDD forbearance plans with respect to trial period plans or permanent modifications under HAMP or 2MP, on the terms and conditions set forth in this Handbook.*

As the MHA Handbook contains guidance relating only to the issuance and reporting impacts of FDD forbearance plans on Treasury’s MHA programs, ~~S~~servicers should continue to follow their standard practices with respect to the evaluation of borrowers for disaster-related forbearances and the documentation of ~~FDD~~ such forbearance plans, as applicable, under investor guidelines, applicable laws and other requirements outside of Treasury’s MHA programs.

C. Section 5.3.1.1 of Chapter I is amended as follows:

If a borrower who is currently in a HAMP TPP or 2MP trial period accepts the FDD forbearance plan, the HAMP TPP or 2MP trial period must be cancelled ~~and for~~ *For a cancelled HAMP trial period, the servicer must submit a Trial Fallout reason code indicating that the borrower is entering an FDD forbearance plan. For a cancelled 2MP trial period, no action is required in the HAMP Reporting Tool when cancelling a 2MP trial period.*

Effective September 12, 2017, a servicer is not required to cancel a HAMP or 2MP trial period plan upon acceptance of a FDD forbearance offer, provided the borrower has accepted, or has been offered, such trial period plan by September 1, 2017. Upon acceptance of an FDD forbearance offer in such instance, servicers must also accept and consider timely, regardless of the date due or received: (1) all trial period plan payments (including the first payment due under such plan, indicating acceptance of the trial period plan offer) and (2) any final modification documents (including the executed Modification Agreement), provided that all required trial period plan payments and permanent modification documents are received no later than April 1, 2018.

The required trial payments need not be consecutive and may be remitted prior to and/or following, the forbearance period, as long as the borrower makes all three payments by April 1, 2018. In all such cases, the servicer should retain all effective dates communicated in the original trial period plan offer, including the Trial Period Plan Effective Date and Modification Effective Date.

If a borrower meets all eligibility criteria for HAMP or 2MP at the conclusion of the FDD forbearance plan (including remittance of three monthly trial payments, as applicable, and the executed permanent modification documents), and is able to address all mortgage payment amounts that were not paid during the forbearance period using any combination of borrower contributions, forbearance, forgiveness or term extension, the borrower's loan should be converted to a permanent modification under HAMP or 2MP.

If the borrower fails to meet the applicable eligibility criteria for HAMP or 2MP and it is not possible to convert the borrower to a permanent modification, the servicer should evaluate the borrower for any other loss mitigation alternatives. In addition, the servicer must cancel the trial and, in the case of HAMP, the servicer must submit the appropriate Trial Fallout reason code. The servicer must also send the borrower a Non-Approval Notice, in accordance with Sections 2.3.2.2 or 2.3.2.6 of Chapter II, as applicable.

D. The fifth row of the table in Section 1.2 of Chapter II is amended as follows:

Balloon Matured loans	Balloon Subject to investor guidelines, a delinquent Loans loan—whether balloon or fully amortizing—that have has matured or that matures during the HAMP trial period are is eligible for HAMP, subject to investor guidelines provided that all other applicable eligibility criteria are met.
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E. The seventh paragraph of Section 2.2 of Chapter II is amended as follows:

Effective September 1, 2016, servicers are no longer required to include references specific to MHA or MHA-related programs, pay for performance incentives, or MHA logos or branding, in written solicitation materials sent to borrowers. However, servicers must retain references to the HOPE™ Hotline number and, if requested by a borrower, provide the RMA (or other proprietary financial information form substantially similar in content to the RMA, and, if not included, a Hardship Affidavit and Dodd-Frank Certification). *Effective April 18, 2017, servicers are no longer required to include references to the HOPE™ Hotline number in any borrower notices.*

F. The last paragraph of Section 2.3 of Chapter II is amended as follows:

When a servicer has had contact with a borrower in connection with HAMP but is not in receipt of the Initial Package on or before December 30, 2016, the servicer is not required to send a Borrower Notice informing the borrower that he or she cannot be considered for HAMP. However, a servicer must send such Borrower Notice, providing information about other loss mitigation options, if the servicer is in receipt of an Initial Package on or before December 30, 2016 but has determined that it will be unable to complete a permanent modification such that the Modification Effective Date is on or before December 1, 2017. *Such notice should only be sent in instances in which the permanent modification was not completed due to extenuating circumstances beyond the servicer's control (e.g., active litigation, bankruptcy, etc.). If a Borrower Notice is sent, the servicer must retain all evidence of the applicable extenuating circumstances in the servicing file.* This notice need not be a separate notice, and may be included with or incorporated into another notice sent to the borrower.

G. The second paragraph of Section 6.7.1.3 of Chapter II is amended as follows:

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. *Similarly, servicers are not required to solicit a borrower determined to be a "Risk of Default Borrower" (as defined in Section 6.7.1.2) for financial counseling while such borrower is in an active FDD forbearance plan.* However, ~~such~~ *once the forbearance period ends, servicers must continue reasonable efforts until the solicitation requirement is satisfied.* *Notwithstanding the foregoing,* borrowers must be offered the financial counseling if the borrower, borrower's counsel or bankruptcy trustee requests it.

H. The second paragraph of Section 11.3 of Chapter II is amended as follows:

The Program Administrator will work with servicers during each reporting cycle to resolve any edits that arise in the OMR reporting process. Servicers have until the eighth (8th) business day of the month to clear up any edits and to report a final OMR to the Program Administrator *through the April 2018 reporting cycle. Beginning with the May 2018 reporting cycle, servicers are allowed until the sixth business day of each month to report a final OMR.* For specific dates, servicers should refer to the Operational Reporting calendar, which is located on www.HMPAdmin.com.

I. The following is appended to the end of the table in Section 3.2 of Chapter V:

<i>Matured loans</i>	<i>Subject to investor guidelines, a delinquent second lien that is past its maturity date is eligible for 2MP, provided that all other applicable eligibility criteria are met.</i>
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J. The last paragraph of Section 9.2.2 of Chapter V is amended as follows:

2MP servicers are required to report activity in the HAMP Reporting Tool until the earliest of the following occurs: (i) the 2MP loan loses good standing and the associated first lien either loses good-standing or is paid off, (ii) the 2MP loan is paid off, (iii) the 2MP loan is cancelled in the HAMP Reporting Tool, in accordance with MHA guidelines, or (iv) the 2MP is re-modified outside of MHA. 2MP servicers must not cease reporting for the 2MP if the first lien loan loses good standing or is paid in full. However, with respect to (i), if more than five years have passed since the effective date of the 2MP modification, the servicer is not required to continue reporting on a 2MP loan that loses good-standing, even if the associated first lien is still in good standing. *The Official Monthly Report (OMR) is due by the fourth business day each month for any 2MP modification with a Modification Effective Date at least one month prior. For example, if the Modification Effective Date is July, the first loan activity report is due by the fourth business day of August for July activity. The monthly reporting attributes are posted on www.HMPAdmin.com.*

The Program Administrator will work with servicers during each reporting cycle to resolve any edits that arise in the OMR reporting process. Servicers have until the eighth business day of the month to clear up any edits and to report a final OMR to the Program Administrator through the April 2018 reporting cycle. Beginning with the May 2018 reporting cycle, servicers are allowed until the sixth business day of each month to report a final Official Monthly Report. For specific dates, servicers should refer to the Operational Reporting calendar, which is located on www.HMPAdmin.com.

K. Section 3.3 of Chapter VI is amended to insert the following as the second and third paragraphs:

The Official Monthly Report (OMR) is due by the fourth business day each month for any Treasury FHA-HAMP or RD-HAMP modification with a Modification Effective Date at least one month prior. For example, if the Modification Effective Date is July, the first loan activity report is due by the fourth business day of August for July activity. The monthly reporting attributes are posted on www.HMPAdmin.com.

The Program Administrator will work with servicers during each reporting cycle to resolve any edits that arise in the OMR reporting process. Servicers have until the eighth business day of the month to clear up any edits and to report a final OMR to the Program Administrator through the April 2018 reporting cycle. Beginning with the May 2018 reporting cycle, servicers are allowed until the sixth business day of each month to report a final Official Monthly Report. For specific dates, servicers should refer to the Operational Reporting calendar, which is located on www.HMPAdmin.com.